

**CITY OF LEXINGTON
LEXINGTON, NEBRASKA**

A Regular Meeting of the Lexington City Council was held Tuesday, September 11, 2007, at the Lexington Municipal Building, located at 406 E. 7th Street, Lexington, Nebraska at 5:30 p.m. Members of the Council present were Mayor John Fagot, Steve Tomasek, Linda Miller and Joni Bennett. Council Member John Salem arrived at 5:50 pm. City Officials present were City Manager Joe Pepplitsch, Assistant City Manager Dennis Burnside, City Attorney Will Weinhold, Finance Director Barb Mills, and Deputy City Clerk Pam Berke. Members of the press included Harry Perkins of Kearney Hub and Malena Ward of the Clipper-Herald. Tydd Rohrbough, Cornhusker Energy Lexington, was also in attendance.

NOTICE: Notice of the meeting was given in advance, thereof by publication in the Lexington Clipper-Herald, the designated method for giving notice, as shown by the Affidavit of Publication attached to these Minutes. Notice of this meeting was simultaneously given to the Mayor and all members of the Council, and a copy of their Acknowledgment of Receipt of Notice and the Agenda is attached to these Minutes. Availability of the Agenda was communicated in advance notice and in the notice to the Mayor and Council of this Meeting. The proceedings hereafter shown were taken while the convened meeting was open to the attendance of the public. All items presented and discussed on the Agenda were available for public inspection.

CALL TO ORDER: The meeting was called to order by Mayor John Fagot. Fagot informed the public that the Open Meetings Act is posted in the Meeting Room at the Lexington Municipal Building, located at 406 E. 7th Street, Lexington, Nebraska.

MINUTES – REGULAR MEETING 8-28-07 Minutes of the Regular meeting held Tuesday, August 28, 2007, were presented for Council approval. Moved by Tomasek, seconded by Bennett, to approve Minutes as presented. Roll Call. Voting “aye” were Miller, Bennett, Tomasek, Fagot. Motion Carried.

CLAIMS & BILLS: Claims and Bills in the amount of \$2,472,100.92 were presented for Council’s consideration and approval. Upon review of the Claims and Bills as listed, moved by Miller, seconded by Tomasek, to approve the Claims and Bills as listed, and authorize the City Treasurer to transfer \$234,939.06 from the General Fund, \$9,320.43 from TIF Fund, \$2,154,910.14 from LEXUS, \$10,000.00 from Sanitation, \$4,058.00 from Landfill, \$5,668.21 from Ambulance Fund, \$50,458.76 from Health Fund, and \$2,746.32 from Meals on Wheels to the City of Lexington’s Operating Account. Roll call. Voting “aye” were Bennett, Tomasek, Miller, Fagot. Motion carried.

CITY OF LEXINGTON
ACCOUNTS PAYABLE
September 11, 2007

Ackerman, Terry	Tree Removal	2,165.00
AFLAC	Premium	975.46
All-American Sewer LLC	GGC Service	250.00
All Points Cooperative	Fertilizer/Insecticide/Fuel	3,351.22
Alltel	Cellphone Service	144.46
Automotive Sales & Service Co., Inc.	Central Garage Supplies	40.08
Axis Capital	Mail Machine Payment	527.37
B & D Office City	Office Supplies	164.87
Barco Municipal Products	WR Supplies	966.01
Better Homes & Gardens	Book	29.91

Builders Warehouse	Library Supplies	55.26
Business Professional Credit Management	Collection Fees	135.58
Card Center/Orscheln	Supplies	126.67
Cash-Wa Distributing	Food	599.96
Central Garage Fund	Repairs/Service/Fuel	13,934.87
Central Tire & Tread	Repair	24.00
Contryman Associates, P. C.	Consultation Services	500.00
Corporate Benefit Services of America	Premium	16,511.57
Culligan Water Conditioning Co.	Soft Water Supplies	129.54
Dan's Sanitation	Sanitation Fees	11,215.00
Dawson County Clerk	Dispatch Fees	24,955.00
Dawson County Register of Deeds	Filing Fees	114.50
Dawson Pest Control	GGC Service	27.00
Delta Dental of Nebraska	Premium	1,087.10
Demco	Library Supplies	103.85
Depository Trust Co.	2002/2004 Utility Bond Payments	981,228.75
Diamond Vogel Paint	Rec Supplies	75.89
Dowling, Michael	EL Rebate	1,525.00
Dunrite, Inc.	WWTP Supplies	185.37
Ecolab	WWTP/Polymer	1,600.41
Electric Fixture	Library Supplies	325.07
Electronic Gaming Monthly	Subscription	24.97
EMS Billing Services, Inc.	Ambulance Service	1,730.28
Fagot Refrigeration & Electric	WWTP Service	200.98
Farmer Brothers Coffee	Food & Supplies	204.66
Fastenal	WWTP Supplies	46.50
Fifth Street Automotive	Ambulance Repair/Service	57.15
FYR-TEK	Ambulance/Fire Supplies/Repair	2,355.83
G & V Inc.	Tree Removal	3,280.00
Gale Group, The	Books	44.14
General Binding Corporation	Library Supplies	89.97
Gengenbach, Kevin	Rental	165.00
Haines-Wadkins LLC	EL Rebate	900.00
Health Claims Fund	Claims	11,259.52
Hometown Leasing	Copier Payments	451.39
Houlden Refrigeration	WWTP Repair	1,467.60
Husker Ag Sales	Central Garage Supplies	255.95
Jim Phillips Const.	GGC Parking Lot/ST Repair	6,890.00
Jones Plumbing & Heating	WR/WWTP/ST Supplies/Repairs	325.41
Knapp Electric	Pool Repair	243.36
Kratzer Electric, Inc.	EL/PK Service/Repair	198.53
Lexington Animal Clinic	Animal Care	887.75
Lexington Area Solid Waste Agency	Landfill	1,491.18
Lexington Health Fund	Self-funding	30,887.30
Lexington Lawn Care	Weed Removal	60.00
Lexington Newspapers, Inc.	Publications	207.40
Lexington Postmaster	Postage	150.00
Lexington True Value	Ambulance/Fire Supplies	16.38
Lexington Volunteer Fire Dept.	Conference/Seminars	723.60
Lexington, City of	Franchise/Service Fees	46,190.40
Lexington City Payroll Account		
Payroll	Wages	93,817.60
Social Security	Employer Portion/FICA Med	6,949.26
First National Bank	Employer Portion/Pension	2,860.50
First National Bank	Police Pension	1,426.53
ICMA	City Manager Pension	380.00

Magnet Street	Library Supplies	340.00
McCookNet Internet Service	Service	139.00
Mead Lumber & Rental-Lexington	PK/ST/WWTP Supplies	352.12
Melody House	Books	52.85
Mid-Nebraska Printing	GGC Copies/Supplies	253.50
Milco Environmental Services, Inc.	Water Analysis/Disposal Site	4,058.00
Mr. Automotive	Central Garage Supplies	62.19
Municipal Supply	ST Supplies	2,135.30
Nebraska Mosquito & Vector Control Assn.	Membership Dues	30.00
Nebraska Public Power District	Power Purchase/O&M/Service	976,977.48
Nebraska Rural Water Association	Membership Dues	250.00
Nebraska Waste Handlers	Sludge Removal	5,832.70
Nelson, Margie L.	Cleaning Service	500.00
Neopost	Postage	1,500.00
Overton Sand & Gravel	Gravel	195.73
Paulsen, Inc.	Concrete/Gravel	401.07
Peak Interest	Food	42.37
Platte Valley Auto Mart	Central Garage Supplies	9.98
Platte Valley Communications	Repairs/Maint./Supplies	2,138.83
Plum Creek Market Place	Food	1.50
Plum Creek Motors	Fire Dept. Repair	296.56
Plum Creek Promotions	Soccer Shirts	2,072.00
Protective Products International	Police Supplies	49.35
QA Balance Services	WWTP Service	95.00
Recorded Books	Books	136.20
Roberts Dairy Company	Beverages	102.87
S & W Auto Parts, Inc.	Central Garage Supplies	256.81
Service Master Mid Nebraska	Cleaning Service	807.50
Sensus Metering Systems	Software Support	1,200.00
Simmerman Electric	WWTP Service	150.30
Specialty Electric	EL Service/Repair	1,295.20
St. Paul Travelers	Premium	4,175.00
T. O. Haas Tire Co., Inc.	Tires/Repair	261.12
TASC	Premium	170.20
Team Detail & Quicklube	Car Washes	43.98
Technical Maintenance & Service	WWTP Computer	2,226.80
Telegraph	Subscription	137.75
Thomas Bouregy & Company, Inc.	Books	138.50
Thompson Co., The	Food & Supplies	621.27
TierOne-Lib. Petty Cash	Postage	24.52
Total Lawn Care	Lawn Care	2,550.00
Tri-City Tribune	Publications	240.00
Tri-County Hospital	Wellness/Ambulance Supplies	569.00
Tyler Technologies	Hardware/Software Maintenance	13,935.00
U-Save Business Equipment	Postage/Office Supplies	180.43
Van Diest Supply Company	Anvil/Mosquito Spray	1,740.00
Wal-Mart	Supplies	534.90
Weathercraft Companies	EL Repair	128.70
Willard Weinhold Law Office	Fees	2,394.00
Aesseal, LLC	WWTP Supplies	647.60
Anderson Graphics	Library Supplies	12.50
Associated Pool Builders, Inc.	Pool Repairs/Service	17,208.31
Beringer Ciaccio Dennell Mabrey	GGC Architect	245.41
Brecks, Bill	Lawn Care	150.00
Business Card	Central Garage Supplies	117.16
Card Center/Orscheln	WWTP/Park Supplies	60.51

Cash-Wa Distributing	Food & Supplies	585.24
Community Redevelopment Authority	TIF/Wilkinson Development	9,320.43
Converse, Dave	EL Rebate	1,025.00
Culligan Water Conditioning Co.	Soft Water Supplies	110.80
Dawson County Public Power	Power Purchase	9,425.18
Electric Fixture	EL Supplies	34.69
Fagot Refrigeration & Electric	Repair	443.38
Falleson, Byron	EL Rebate	1,475.00
Gnirk Lawn Care, Inc.	Lawn Care	75.00
Gonzalo, Vega	EL Rebate	125.00
Health Claims Fund	Claims	38,053.58
Hearst Corporation, The	Subscription	19.97
Husker Ag Sales	Central Garage Supplies	9.80
Kinder Morgan	Gas Service	3,471.84
Lexington Newspapers, Inc.	Publications	189.75
Linweld	Ambulance Supplies	144.86
Lopez, Estella	EL Rebate	900.00
Lundeen-Isaacson Inc.	Premium	57.00
McCookNet Internet Services	Repair/Service	230.58
Mead Lumber & Rental-Lexington S	T/ Bldg. Insp. Supplies	89.47
Nebraska Department of Revenue	Sales & Use Tax	49,520.95
Nebraska Machinery	Central Garage Supplies	437.54
Nebraska Tech & Telecomm, Inc.	Telephone Expense	1,332.76
Nielsen, Dale	EL Rebate	1,025.00
Paulsen, Inc.	GGC Renovations	21,462.32
Plum Creek Cleaners	Supplies	200.50
Plum Creek Market Place	Food	74.12
Roberts Dairy Company	Beverages	184.08
Service Master Mid Nebraska	Cleaning Service	78.75
Suhr, Rocky	EL Rebate	1,025.00
Thompson Co., The	Food & Supplies	260.70
TierOne-City Petty Cash	Postage/Food/Testing Supplies	46.99
TierOne-Lib. Petty Cash	Postage	11.70
U-Save Business Equipment	Office Supplies	67.96
Wright, Gary	EL Rebate	1,025.00
	TOTAL CLAIMS:	2,472,100.92

ORDINANCE:

An ordinance entitled “AN ORDINANCE TO REZONE LOTS 11 AND 12, MACCOLL AND LEFLANG’S ADDITION TO THE CITY OF LEXINGTON, FROM M-2 HEAVY INDUSTRIAL DISTRICT TO C-3 HIGHWAY COMMERCIAL DISTRICT; TO REPEAL ALL ORDINANCES OR SECTIONS OF ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE FOR AN EFFECTIVE DATE AND FOR PUBLICATION IN PAMPHLET FORM” was read. Motion by Bennett, seconded by Miller, to suspend the rules regarding reading of ordinance on three separate occasions. Roll call. Voting “aye” were Tomasek, Miller, Bennett, Fagot. Motion carried.

Ordinance No. 2238 was read by title. Motion by Miller, seconded by Bennett, to approve Ordinance No. 2238 on final reading. Roll call. Voting “aye” were Tomasek, Bennett, Miller, Fagot. Motion carried.

INDUCEMENT RESOLUTION:

Tydd Rohrbough, Cornhusker Energy Lexington, presented information on a memorandum of agreement regarding industrial development bonds that the company would like City assistance in order to issue as a financing mechanism for their pending plant expansion. He noted that such bonds are approved through procedures at the state level and would not be an obligation of the City, but the City

would need to act as a conduit issuer. Resolution No. 07-27 was read. Motion by Tomasek, seconded by Miller, to approve Resolution No. 07-27. Roll call. Voting “aye” were Bennett, Miller, Tomasek, Fagot. Motion carried.

Resolution No. 07-27

Authorizing the Execution of a Memorandum of Agreement by and between the City of Lexington, Nebraska and Cornhusker Energy Lexington, LLC in connection with the Issuance of Revenue Bonds and Related Matters.

Whereas, the City of Lexington, Nebraska (the “Issuer”), is authorized, pursuant to the provisions of Chapter 13, Article 11 of the Revised Statutes of Nebraska, as amended (the “Act”), to issue revenue bonds to defray the cost of constructing, acquiring or improving any project suitable for use by any manufacturing or industrial enterprise; and,

Whereas, Cornhusker Energy Lexington, LLC (the “Company”) has requested an expression of intent from the Issuer that it will issue revenue bonds and the proceeds of the sale of one or more issues of revenue bonds of the Issuer in an aggregate amount sufficient to finance the costs of sewage and/or solid waste disposal facilities (the “Project”) at the Ethanol Plant to be owned and operated by the Company and located within the jurisdiction of the Issuer, currently estimated not to exceed \$40,000,000, will be made available to the Company subject to necessary approvals and proceedings by the Mayor and City Council and approval of the City’s legal counsel; and ,

Whereas, the Issuer deems it necessary and advisable that it take such actions as may be required under the Act to express its intent to issue one or more issues of its revenue bonds to finance costs of the Project, currently estimated not to exceed \$40,000,000 subject to necessary approvals and proceedings by the Mayor and City Council and approval of the City’s legal council; and,

Whereas, a form of agreement, designated as a “Memorandum of Agreement”, has been prepared under which the Issuer has stated its intent to issue one or more issues of its revenue bonds under the Act to finance costs of the Project, currently estimated not to exceed \$40,000,000, and the Company has stated its agreement to enter into a lease or other financing agreement with the Issuer with respect to the Project, under which the Company will be obligated to make basic installment payments sufficient to pay the principal of, and interest and redemption premium, if any, on the bonds as and when the same shall become due and payable, such agreement to contain such other provisions as may be required by the Act and such other provisions as shall be mutually acceptable to the Issuer and the Company; and,

Whereas, it is intended that this resolution shall constitute a declaration of official intent for the reimbursement of Project costs within the meaning of §1.150-2 of the Federal Income Tax Regulations.

Therefore, Be It Resolved by the City Council of the City of Lexington, Nebraska, as follows:

Section 1. That in order to ensure the acquisition, improvement, construction and installation of the Project, with the resulting public benefits which will flow therefrom, the City expresses its intent, subject to necessary approvals and proceedings by the City Council and approval of the City’s legal counsel, that revenue bonds be issued under the Act in an amount sufficient to finance costs of the Project, currently estimated not to exceed \$40,000,000, and that the

Memorandum of Agreement hereinafter referred to be approved and executed for and on behalf of the Issuer.

Section 2. That the Memorandum of Agreement by and between the Company and the Issuer attached as Exhibit A hereto is hereby approved and authorized.

Section 3. That the Mayor is hereby authorized and directed to execute, and the City Clerk is hereby authorized and directed to attest, the Memorandum of Agreement set forth in Exhibit A attached hereto.

Section 4. That all resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Adopted and approved September 11, 2007.

John Fagot, Mayor

[Seal] Joe Peplitsch, City Clerk

BUDGET HEARING:

Mayor Fagot opened a public hearing to consider the proposed 2007-2008 fiscal year budget. Peplitsch reviewed the proposed budget. Following discussion, the public hearing was closed.

RESTRICTED FUNDS:

Peplitsch requested approval to increase the base of restricted funds by an additional 1%. Following discussion, moved by Miller, seconded by Tomasek to increase the base of restricted funds by an additional 1% for FY 2008. Roll call. Voting "aye" were Salem, Bennett, Tomasek, Miller, Fagot. Motion carried.

TAX REQUEST HEARING:

Mayor Fagot opened a public hearing to consider setting the FY 2008 final tax request at a different amount than the prior year request. Following discussion, the public hearing was closed. Resolution 07-28 was read before Council. Moved by Tomasek, seconded by Bennett, to approve Resolution 07-28. Roll Call. Voting "aye" were Salem, Miller, Bennett, Tomasek, Fagot. Motion carried.

RESOLUTION NO. 07-28

A RESOLUTION SETTING THE PROPERTY TAX REQUEST FOR FISCAL YEAR 2007-2008 AT A DIFFERENT AMOUNT THAN THE PRIOR YEAR REQUEST.

WHEREAS, Nebraska Revised Statute 77-1601.02 provides that the property tax request for the prior year shall be the property tax request for the current year for purposes of the levy set by the County Board of Equalization unless the Governing Body of the city of Lexington passes by a majority vote a resolution or ordinance setting the tax request at a different amount; and

WHEREAS, a special public hearing was held as required by law to hear and consider comments concerning the property tax request; and

WHEREAS, it is in the best interests of the Municipality that the property tax request for the current year be a different amount than the property tax request for the prior year.

NOW, THEREFORE, the Governing Body of the city of Lexington by a majority vote resolves that:

1. The 2007-2008 property tax request is set at \$703,326.00.
2. A copy of this resolution shall be certified and forwarded to the County Clerk prior to October 13, 2007.

PASSED AND APPROVED this 11th day of September 2007.

John Fagot, Mayor

ATTEST: Pamela Berke, Deputy City Clerk

APPROPRIATION ORDINANCE: Council considered adoption of the annual appropriation bill for FY 2008. An ordinance entitled "AN ORDINANCE TO ADOPT THE BUDGET STATEMENT FOR FISCAL YEAR 2007-2008. TO PROVIDE FOR AN EFFECTIVE DATE AND FOR PUBLICATION IN PAMPHLET FORM" was read. Following discussion, moved by Salem, seconded by Miller to suspend rules regarding the reading of an ordinance on three separate occasions. Roll call. Voting "aye" were Tomasek, Bennett, Miller, Salem, Fagot. Motion carried.

Ordinance No. 2239 was read by title. Moved by Salem, seconded by Miller, to adopt Ordinance No. 2239 on final reading. Roll call. Voting "aye" were Bennett, Tomasek, Miller, Salem, Fagot. Motion carried.

JOINT RESOLUTION: Council considered a joint resolution directing the transfer of current and future Library Memorial Funds to the Lexington Community Foundation. Resolution No. 07-29 was read. Moved by Miller, seconded by Bennett, to approve Resolution No. 07-29. Roll call. Voting "aye" were Salem, Tomasek, Bennett, Miller, Fagot. Motion carried.

JOINT RESOLUTION NO. 07-29

WHEREAS, the City of Lexington, Nebraska, and the Library Board of the City of Lexington have previously entered into a Cooperative Agreement dated September 11, 2001; and

WHEREAS, the parties wish to amend such Agreement and make provision for transfer of the Library Memorial Fund to the Lexington Foundation, for investment and for disbursement of funds pursuant to the direction of the Library Board.

It is therefore jointly resolved by the City Council of the City of Lexington, Nebraska, and the Library Board of the City of Lexington, Nebraska, as follows:

1. That Paragraph 3 of the Cooperative Agreement dated September 11, 2001 relating to "private donations," is hereby amended to provide as follows:

The existing "Library Memorial Fund" held by the City of Lexington, Nebraska, together with any subsequent private donations to the Library Board or library, shall be delivered to and held by the Lexington Foundation. Said fund, together with any earnings from the investment and reinvestment of said fund shall be held for the benefit of the Lexington Public

Library. Expenditures from such fund shall be made at the direction of the Library Board of the City of Lexington, Nebraska, by Resolution adopted at a properly called meeting of said Library Board.

2. That the City Financial officer is directed and authorized to transfer the entire balance of said Library Memorial Fund to the Lexington Foundation, and that upon such transfer, the City of Lexington, Nebraska shall have no further responsibility for the maintenance or distribution of such funds.

Passed and approved September 11, 2007.
City of Lexington, Nebraska

By: John Fagot, Mayor
Attest: Pamela Berke, Deputy City Clerk

PARKS 5-YEAR PLAN:

Burnside presented a 5-year Park Capital Improvement Plan developed by the Park Improvement Committee. The plan offers a guide to park renovation and development. Following discussion, moved by Tomasek, seconded by Salem, to accept the Park 5-Year Capital Plan. Roll call. Voting "aye" were Miller, Bennett, Salem, Tomasek, Fagot. Motion carried.

ROUNDTABLE:

Miller wanted to thank the Dawson Area Development Leadership Class for their work on the Welcome Sign. Burnside noted that a ribbon cutting is being planned.

Pepplitsch noted that he and Burnside would be attending the League of Nebraska Municipalities annual conference in Gering next week.

ADJOURNMENT:

There being no further business to come before the Council, Fagot declared the meeting adjourned.

John Fagot
Mayor

Pamela Berke
Deputy City Clerk

I, the undersigned Deputy City Clerk for the City of Lexington, Nebraska, hereby certify that all of the subjects included in the foregoing proceedings were contained in the Agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk during regular business hours prior to said meeting; that the Minutes of the Mayor and Council of the City of Lexington, Nebraska, from which the foregoing proceedings have been extracted were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meeting of said body were provided advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

Deputy City Clerk