

**CITY OF LEXINGTON  
LEXINGTON, NEBRASKA**

A Regular Meeting of the Lexington City Council was held Tuesday, October 28, 2008, at the Lexington Municipal Building, located at 406 E. 7<sup>th</sup> Street, Lexington, Nebraska at 5:30 p.m. Members of the Council present were Mayor John Fagot, Steve Tomasek, John Salem and Linda Miller. Councilmember Joni Bennett was absent. City Officials present were City Manager Joe Peplitsch, Assistant City Manager Dennis Burnside, City Attorney Will Weinhold, Finance Director Barb Mills and Deputy City Clerk Pamela Berke. The press was represented by the Lexington Clipper-Herald. Also present were Tom Nelson, Don Price, Dana Petersen, Sharon Andersen, John and Pamela Knapple, Curt Rickertsen and Kathy Thomsen.

**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 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. 7<sup>th</sup> Street, Lexington, Nebraska. Mayor Fagot acknowledged the members of the Dawson Area Development Leadership class who were in attendance at the meeting and wished them luck in their class.

**MINUTES – REGULAR MEETING 10-14-08** Minutes of the Regular meeting held Tuesday, October 14, 2008, were presented for Council approval. Moved by Tomasek, seconded by Miller, to approve Minutes as presented. Roll Call. Voting “aye” were Salem, Miller, Tomasek, Fagot. Motion carried.

**MINUTES – PLANNING SESSION 10-18-08** Minutes of the Planning session held Saturday, October 18, 2008 were presented for Council approval. Moved by Tomasek, seconded by Miller, to approve Minutes as presented. Roll call. Voting “aye” were Salem, Miller, Tomasek, Fagot. Motion carried.

**CLAIMS & BILLS:** Claims and Bills in the amount of \$876,891.96 were presented for Council’s consideration and approval. Upon review of the Claims and Bills as listed, moved by Salem, seconded by Tomasek, to approve the Claims and Bills as listed, and authorize the City Treasurer to transfer \$316,861.88 from the General Fund, \$4,042.50 from ED Reuse, \$49,121.26 from Housing Reuse, \$432,585.05 from LEXUS, \$28,275.26 from Sanitation, \$315.93 from Ambulance Fund, \$42,119.92 from Health Fund, and \$3,570.16 from Meals on Wheels to the City of Lexington’s Operating Account. Roll call. Voting “aye” were Miller, Bennett, Tomasek, Salem, Fagot. Motion carried.

CITY OF LEXINGTON  
ACCOUNTS PAYABLE  
October 28, 2008

All Points Cooperative	Fuel	102.55
American Water Works Association	Membership Dues	295.00
Audio Editions	Books	626.10

B. A. B. Inc.	New Soccer Field Seeding	15,120.25
B & D Office City	Office Supplies	97.96
Brown Transfer Company	Meter Repair	71.23
Business Card	Postage	39.15
Card Center/Orscheln	Supplies	230.29
Career Services Inc.	Able Housing Projects	49,121.26
Cash-Wa Distributing	Food & Supplies	820.21
Central Garage Fund	Service & Repair	4,002.47
Certified Laboratories	Central Garage Supplies	471.67
Coca Cola/Dr. Pepper of Kearney	Beverages	50.00
Corpro Waterworks	Service Agreement	1,335.00
Country Sampler	Subscription	24.00
Davis Energy, Inc.	Fuel	2,394.12
Dawson Area Development	Membership Dues	12,000.00
Dawson Pest Control	GGC Service	27.00
Dept. of HHS/Regulation & Licensure	Certificate Renewal	94.00
Double Tree Hotel & Exec Meeting Center	Conference	366.95
Downey Drilling Inc.	Rec Complex/Well #10 Service	12,531.10
Eakes Office Plus	Copies	77.25
Eilers Machine & Welding	WWTP Repair	1,300.52
Electric Fixture	Supplies	31.67
Fastenal	ST Supplies	84.24
Gale Group, The	Book	22.72
Graybar	NPPD Promotion	3,282.62
Hach Company	WWTP Supplies	289.32
Health Claims Fund	Claims	40,009.44
Hearst Corporation, The	Subscription	12.97
Holbein, Dahlas D.	Maint. & Cleaning	1,000.00
Ingram Library Services	Books	1,292.48
Jim Phillips Const.	ST Repair/Main Break Repair	8,419.00
JMS Millwright & Repair	WWTP Supplies	552.50
Laminator.com	Lib. Supplies	58.68
League of Nebraska Municipalities	Membership Dues	672.00
Lexicon Bilingual Resources	Books	44.00
Lexington Family Eyecare	Safety Glasses	300.00
Lexington Newspapers, Inc.	Publications	24.94
Lexington True Value	Police Supplies	103.99
Lexington Utilities System	Utilities	20,315.07
Payroll	Wages	98,961.08
Social Security	Employer Portion / FICA Med	7,362.76
First National Bank	Employer Portion / Pension	3,220.01
First National Bank	Police Pension	1,600.01
ICMA	City Manager Pension	399.23
Lynn Peavey Company	Police Supplies	65.80
Mead Lumber & Rental-Lexington	Fire/WWTP/ST Supplies	556.24
Michael Todd & Company, Inc.	WR Supplies	20.08
Miller & Associates	CED Add./ Trail/Retainer Serv.	10,259.00
Morgan Plastic Fabrication	WWTP Supplies	243.00
Mr. Automotive	Central Garage Supplies	14.40
Municipal Supply	WR Supplies	1,526.83
N W E A	Conference	160.00
Nebr. Conf Building Officials/Inspectors	Conference	200.00
NE Department of Environmental Quality	Certificate Renewal Fee	150.00
Nebraska Library Commission	Lib. Supplies	308.68
Nebraska Machinery	Central Garage Supplies	473.60
NE Public Health Environmental Lab	WR Testing	184.00
Nelson, Margie L.	Cleaning Service	75.00

Neopost	Postage	1,500.00
Nutrition Action Healthletter	Subscription	15.00
Overton Community Center	Meals On Wheels	100.00
Paulsen, Inc.	Concrete/Gravel	842.70
Peak Interests LLC	Food	46.47
Pinnacle Agency, The	Insurance Premium	140,945.00
Platte Valley Auto Mart	WWTP Repair/CG Supplies	82.26
Plum Creek Auto Spa	Car Washes	13.00
Plum Creek Market Place	Food	254.28
Plum Creek Telephone Systems	Service	65.00
Price's Tree Service	Tree Removal	2,800.00
Quality Inn & Suites	Conference	1,323.00
Reiman Publications	Subscription	24.98
Roberts Dairy Company	Beverages	242.15
S & W Auto Parts, Inc.	Fire Dept/Central Garage Supplies	518.37
Service Master Mid Nebraska	Lib./GGC Cleaning Service	2,027.50
State Electrical Division	License Renewal	25.00
Steve's Lock & Key	Repair	62.21
TASC	Premium	151.80
Thompson Co., The	Food & Supplies	886.76
Thomsen, Kathleen	Conference	236.55
TierOne-Lib. Petty Cash	Postage/Books	42.74
U-Save Business Equipment	Postage/Central Garage Supplies	175.60
W P C I	Drug Test	100.00
Wal-Mart	Supplies	750.05
Ward Laboratories	Lab Tests	304.80
Willard Weinhold Law Office	Expense Reibursement	601.09
All Points Cooperative	Fuel/Insecticide	186.77
Alltel	Cellphones	192.20
American Fence Company, Inc.	New Soccer Field Supplies	584.72
B & D Office City	Office Supplies	25.56
Bailey, William	Electric Rebate	425.00
Brown, Donnie	Electric Rebate	425.00
Central States Group	WWTP Supplies	277.67
Cooper, Sherry	Utility Refund	3.31
Dan's Sanitation	Sanitation Fees	28,275.26
Davis Energy, Inc.	Fuel	1,096.00
Eakes Office Plus	Copies	378.52
Gale Group, The	Books	131.88
Galls, Inc.	Police Supplies	244.46
Health Claims Fund	Claims	1,858.68
Holbein, Dahlas	Lawn Care	330.00
League of Nebraska Municipalities	Seminar	175.00
Lexington, City of	Franchise/Service Fees	52,294.03
Lexington Health Fund	Self-Funding	32,265.58
Lexington Newspapers, Inc.	Publications	293.36
Lexington True Value	Lib. Supplies	10.98
Linda's Stitches & Creations	ST/WR/PK Uniform Expense	946.86
Martinez, Yolanda	Electric Rebate	125.00
Mead Lumber & Rental-Lexington	ST Supplies	18.49
NE Department of Economic Development	Orthman's CDBG Pmt.	4,042.50
Nebraska Public Power District	Capital Projects	291,254.11
Peck, Ed	Electric Rebate	425.00
Platte Valley Auto Mart	Police Supplies	16.22
Plum Creek Market Place	Food	14.54
Prado, Jose	Utility Refund	63.01
Rodolfo, Roman	Electric Rebate	125.00

Source Gas, LLC	Gas Service	327.41
State Wide Collections	Collection Fees	76.12
Sutton, Rusty	Electric Rebate	450.00
Thornburg, Marvin	Electric Rebate	1,025.00
TierOne-City Petty Cash	Postage/Food/Seminar/Supplies	142.01
TierOne-Library Petty Cash	Postage	22.72
Tyler Technologies	Professional Services	480.00
U-Save Business Equipment	Postage	4.80
Wal-Mart	Supplies	216.44
Ward Laboratories	Lab Tests	13.00
	<b>TOTAL CLAIMS:</b>	<b>876,891.96</b>

**NELSON SUBDIVISION:**

Tom Nelson requested Council approval of a rezoning and subdivision application for property located at 75861 Road 432, Lexington. He indicated that his daughter's family desires to build a house on a portion of his property, which would require a subdivision and a zoning change.

Mayor Fagot opened the public hearing regarding the rezoning application requesting a change from A-1 Agricultural to R-1 Single Family Residential. Following discussion, the public hearing was closed.

Peplitsch reviewed the proposed subdivision agreement. Following discussion, Resolution No. 08-19 was read. Moved by Salem, seconded by Miller, to approve Resolution No. 08-19 as presented. Roll call. Voting "aye" were Tomasek, Miller, Salem, Fagot. Motion carried.

**RESOLUTION NO. 08-19  
NELSON SUBDIVISION**

**BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF LEXINGTON, NEBRASKA, AS FOLLOWS:**

The plat of NELSON SUBDIVISION, Being a part of the Southwest Quarter of the Northeast Quarter of Section 24, Township 10 North, Range 22 West of the 6th P.M. Dawson County, Nebraska, duly made out, acknowledged and certified to be, and the same hereby is approved, ordered, filed and recorded in the office of the Register of Deeds of Dawson County, Nebraska..

PASSED AND APPROVED October 28, 2008.

CITY OF LEXINGTON, NEBRASKA

BY: John Fagot, Mayor

ATTEST: Pamela Berke, Deputy City Clerk

An ordinance entitled "AN ORDINANCE TO REZONE LOTS 1 AND 2, NELSON SUBDIVISION, FROM A-1 AGRICULTURAL TO R-1 SINGLE FAMILY RESIDENTIAL 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 by title. Moved by Tomasek, seconded by Salem, to approve Ordinance on first reading. Roll call. Voting "aye" were Miller, Salem, Tomasek, Fagot. Motion carried.

**PRICE’S THIRD ADDITION:**

Dana Petersen presented a rezoning request and subdivision plat on behalf of Don E Price for Price’s Third Addition. Petersen gave an overview of the plans for Price’s Third Addition and noted the intent to apply for a special use permit in the future for mobile home park use.

Mayor Fagot opened the public hearing for the rezoning request from R-1 Single Family Residential to R-4 Mobile Home District.

John Knapple, spoke in opposition of granting the request due to various concerns, including: paving, drainage, traffic, lack of park space, child safety, and congestion hazards.

Sharon Anderson, spoke in opposition of the change in zoning for the area. She reiterated Knapple’s concerns, and thought existing trash and noise in the area would only increase. She felt there is no further need for mobile homes in the area.

Pam Knapple reiterated previous concerns, as well as impact on the local elementary school by adding 20 households to the area. She requested the application be postponed for further review.

Miller questioned the ratio of green space required for a mobile home park. Burnside noted that the city code calls for 300 square feet per unit and should be free of any traffic hazards. The public hearing was closed.

Pepplitsch reviewed the proposed subdivision agreement for Price’s Third Addition. Items discussed were paving, area drainage, and utility easements. Weinhold noted that there is some confusion as to whether this is proposed to be a new mobile home park or an extension of the existing park no longer owned by Price.

Following further Council discussion, moved by Tomasek, seconded by Miller, to table the subdivision and rezoning applications to the November 25, 2008 meeting so that staff and Mr. Price can clarify certain issues. Roll call. Voting “aye” were Salem, Miller, Tomasek, Fagot. Motion carried.

**PAY REQUEST:**

Pepplitsch presented Pay Request #6 from Cement Products Inc for the Pedestrian/Bike Trail in the amount of \$150,465.11. Following a brief update of the project, moved by Salem, seconded by Miller, to approve the pay request as presented. Roll call. Voting “aye” were Tomasek, Miller, Salem, Fagot. Motion carried.

**RESOLUTION:**

Barb Mills presented an Identity Theft Prevention program as mandated, noting that many of the policies and procedures are already in place within the City. Following her presentation, Resolution No. 08-20 was read. Moved by Miller, seconded by Salem, to approve Resolution 08-20 as presented. Roll call. Voting “aye” were Tomasek, Salem, Miller, Fagot. Motion carried.

**RESOLUTION 08-20**

A RESOLUTION ADOPTING AN IDENTITY THEFT PREVENTION PROGRAM AS REQUIRED BY THE FAIR AND ACCURATE CREDIT TRANSACTION ACT OF 2003.

WHEREAS, Public Law 108-159 went into effect on December 4, 2003 and amends the Fair Credit Reporting Act; and

WHEREAS, such amendment, known as the FACT Act, requires creditors, including utilities, to comply with the Act no later than November 1, 2008; and

WHEREAS, the City of Lexington is, as defined under 15 U.S.C. Section 1681a(r)(5), a creditor that maintains and offers accounts for which there is a reasonably foreseeable risk of identity theft; and

WHEREAS, compliance with the Act requires a creditor to create and implement a written Identity Theft Prevention Program; and

WHEREAS, that said Identity Theft Prevention Program is appropriate to the size and complexity of the City of Lexington and the scope of its activities, that the Program is reasonably calculated to identify and detect relevant Red Flags indicating a potential risk of identity theft, and that the Program includes appropriate responses to such Red Flags that will mitigate and prevent identity theft.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Lexington, Nebraska, that the attached City of Lexington Identity Theft Prevention Program is hereby adopted.

PASSED AND APPROVED THIS 28TH DAY OF OCTOBER, 2008.

City of Lexington, NEBRASKA

John Fagot, Mayor

ATTEST: Pamela Berke, Deputy City Clerk

**FINANCIAL REPORT:**

Pepplitsch reviewed the financial report for September 2008. Following discussion, moved by Salem, seconded by Tomasek, to accept the financial report as presented. Roll call. Voting "aye" were Miller, Tomasek, Salem, Fagot. Motion carried.

**ROUNDTABLE:**

Pepplitsch stated that he will email status reports on several current projects to the council members within a few days.

Weinhold noted that he is working on two more foreclosure proceedings and continues to follow up on recent foreclosure sales.

**ADJOURNMENT:** There being no further business to come before the Council, Mayor 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.

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Deputy City Clerk