

**CITY OF LEXINGTON
LEXINGTON, NEBRASKA**

A Regular Meeting of the Lexington City Council was held Monday, November 9, 2009, 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, Joni Bennett, Linda Miller, and John Salem. 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 Pamela Berke. The press was represented by the Lexington Clipper-Herald.

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. 7th Street, Lexington, Nebraska.

MINUTES – REGULAR MEETING 10-27-09 Minutes of the Regular meeting held Tuesday, October 27, 2009, were presented for Council approval. Moved by Tomasek, seconded by Bennett, to approve Minutes as presented. Roll Call. Voting “aye” were Salem, Miller, Bennett, Tomasek, Fagot. Motion carried.

CLAIMS & BILLS: Claims and Bills in the amount of \$1,198,199.92 were presented for Council’s consideration and approval. Upon review of the Claims and Bills as listed, moved by Bennett, seconded by Tomasek, to approve the Claims and Bills as listed, and authorize the City Treasurer to transfer \$284,696.47 from the General Fund, \$2,575.08 from Cemetery Memorial, \$4,166.67 from ED Reuse, \$2,604.05 from Housing Reuse, \$857,640.10 from LEXUS, \$10,000.00 from Sanitation, \$2,540.00 from Landfill, \$4,133.74 from Ambulance Fund, \$27,569.94 from Health Fund, and \$4,813.87 from Meals on Wheels to the City of Lexington’s Operating Account. Roll call. Voting “aye” were Salem, Miller, Tomasek, Bennett, Fagot. Motion carried.

**CITY OF LEXINGTON
ACCOUNTS PAYABLE
November 9, 2009**

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|--------------------------|----------------------|----------|
| All Points Cooperative | Fuel | 223.47 |
| Alloy Specialty, Inc. | OOR Housing | 218.50 |
| Audio Editions | Books | 103.64 |
| Axis Capital | Mail Machine Payment | 527.37 |
| Barco Municipal Products | EL Supplies | 80.90 |
| Barmore Drug Store, Inc. | Computer Supplies | 99.47 |
| Bradfield, Rollie | Boots | 82.50 |
| Business Card | Conferences/Supplies | 2,026.00 |
| Card Center/Orscheln | ST/Police/WWTP Spls | 538.27 |
| Cash-Wa Distributing | Food/Supplies | 2,519.60 |
| Central Garage Fund | Fuel | 7,888.23 |

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| Chemsearch | WWTP Supplies | 297.99 |
| Conney Safety Products | ST/Pk Supplies | 123.50 |
| Cosmos Club | Park Clean-up | 300.00 |
| Culligan Water Conditioner Co. | Soft Water Supplies | 211.35 |
| Dan's Sanitation | Sanitation Fees | 11,200.00 |
| Davis Energy, Inc. | Fuel | 4,468.40 |
| Dawson Area Development | Admin. Fees | 1,360.00 |
| Dawson County Register of Deeds | Filing Fees | 67.00 |
| Dawson Pest Control | GGC Service | 35.00 |
| Dawson Public Power District | Power Purchase | 395.77 |
| Demars Gordon Olson Zalewski | Professional Service | 675.00 |
| Diamond Vogel Paint | ST Supplies | 1,662.75 |
| Downey Drilling, Inc. | GEO Thermal-DCOC | 33,080.12 |
| Dutton-Lainson Company | EL Supplies | 36.77 |
| Eakes Office Plus | Copies | 466.27 |
| Ebsco Subscription Service | Books | 1,302.22 |
| Ecolab | WWTP Supplies | 1,609.93 |
| ED Roehr Safety Products | Police Supplies | 1,751.74 |
| Eustis Body Shop | Repair | 57.46 |
| Fastenal WWTP | Supplies | 34.04 |
| Fed Ex | Shipping Charges | 27.36 |
| Fisher Scientific | WWTP Supplies | 260.27 |
| Gale Group, The | Books | 114.90 |
| Gall's | Police Supplies | 90.97 |
| Gnirk Lawn Care, Inc. | Lawn Care | 325.00 |
| God of Prophecy/Youth | Park Clean-up | 200.00 |
| Grace Lutheran Church/Youth | Park Clean-up | 300.00 |
| Great Plains One-Call Service | Locates | 41.70 |
| Hach Company | WWTP Supplies | 571.04 |
| Hampton Inn | Conference | 1,440.00 |
| Handi-Clean Products, Inc. | ST Supplies | 158.27 |
| Health Claims Fund | Claims | 24,585.16 |
| Holbein, Dahlas | Lawn Care | 275.00 |
| Homestead Bank | Fire Pumper Pmt. | 50,573.61 |
| Hometown Leasing | Copier Payments | 1,523.07 |
| Ingram Library Services | Books | 900.54 |
| Jones Plumbing & Heating | Supplies & Service | 1,640.03 |
| Kratzer Electric, Inc. | WR Service | 241.20 |
| Lexington Animal Clinic | Animal Care | 1,353.80 |
| Lexington Area Solid Waste Agency | Landfill | 1,007.28 |
| Lexington Boy Scout Troop #31 | PK Clean-up | 300.00 |
| Lexington Boy Scout Troop #88 | PK Clean-up | 300.00 |
| Lexington Eagles Club Auxiliary | PK Clean-up | 300.00 |
| Lexington Health Fund | Self-funding | 33,080.08 |
| Lexington Housing Authority | OOR Hsng-Lead Testing | 2,385.55 |
| Lexington Newspapers, Inc. | Publications | 368.32 |
| Lexington Postmaster | Postage | 150.00 |
| Lexington True Value | Fire/ST Supplies | 1,123.09 |
| Lexington, City of General Fund | Clear Cem.Memorial Due To | 2,575.08 |
| Lexington, City of | Franchise/Service Fees | 67.42 |
| Payroll | Wages | 99,422.41 |
| Social Security | Employer Prtn/FICA Med | 7,368.36 |
| First National Bank | Employer Prtn/Pension | 3,423.70 |
| First National Bank | Police Pension | 1,470.16 |
| ICMA | City Manager Pension | 414.23 |

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| Linweld | Ambulance Supplies | 103.00 |
| Lion's Club | PK Clean-up | 300.00 |
| McCookNet Internet Service | Service/Servers | 1,897.44 |
| Meritain Health | Premium | 21,929.34 |
| Michael Todd & Co., Inc. | WR Supplies | 1,924.73 |
| Mid-State Units | Rental | 420.00 |
| Miller Mechanical Specialties, Inc. | Secondary Digester Rehab | 36,006.19 |
| Misko Sports | Rec Supplies | 575.00 |
| Moore Medical | Ambulance Supplies | 1,677.88 |
| Morris Press | GGC Supplies | 73.00 |
| Municipal Supply | WR Supplies | 519.00 |
| Nebraska Dept. of Economic Development | Mid Plains CDBG Pmt | 4,166.67 |
| Nebraska National Bank | Copier Pmt | 684.82 |
| Nebraska Public Power District | Power Purchase | 678,240.96 |
| Nelson, Margie L. | Cleaning Service | 500.00 |
| Neopost | Postage | 1,500.00 |
| Ostrom, Lars | EL Rebate | 1,025.00 |
| Overton Sand & Gravel | Gravel | 343.96 |
| Peak Interest | Food | 42.42 |
| Platte Valley Auto Mart | Repair | 204.87 |
| Platte Valley Communications | Maint./Repair/Supplies | 275.15 |
| Plum Creek Market Place | Food | 7.63 |
| Plum Creek Medical Group | Flu Shots | 2,109.00 |
| Plum Creek Promotions | Shirts | 1,874.85 |
| Post, Doran G. | EL Rebate | 900.00 |
| Presto-X LLC | Lib Service | 80.00 |
| Principal | Dental Premium | 1,475.78 |
| Q Club (Quincinera Group) | PK Clean-up | 100.00 |
| Roberts Dairy Company | Beverages | 199.57 |
| S & W Auto Parts, Inc. | Cem Supplies | 11.40 |
| Service Master Mid Nebraska | Cleaning Service | 189.12 |
| Sign Pro | Police/Rec Signs | 222.00 |
| Source Gas, Inc. | Gas Service | 4,789.14 |
| St. Ann's Catholic Youth | PK Clean-up | 100.00 |
| Subway Sandwiches & Salads | Food | 65.88 |
| Team Detail & Quicklube | Repair | 337.37 |
| Thomas Bouregy & Company, Inc. | Books | 139.50 |
| Thompson Co., The | Food | 494.33 |
| TierOne-Lib. Petty Cash | Postage/Supplies | 36.14 |
| Total Lawn Care | Lawn Care | 3,781.00 |
| Tri-City Tribune | Publications | 320.00 |
| Tri-County Hospital | Wellness | 143.00 |
| U-Save Business Equipment | Postage/Supplies | 411.67 |
| United Methodist Youth Group | PK Clean-up | 300.00 |
| USA BlueBook | WR Supplies | 94.18 |
| Village Uniform | Supplies | 87.29 |
| W P C I | Drug Test | 50.00 |
| Wal-Mart | Supplies | 236.85 |
| Young Women's Association | PK Clean-up | 300.00 |
| Barco Municipal Products | WR Supplies | 113.03 |
| Card Center/Orscheln | WWTP Supplies | 61.10 |
| Cash-Wa Distributing | Food | 69.26 |
| Central Garage Fund | Repair/Service | 5,355.49 |
| Davis Energy, Inc. | ST Supplies | 42.50 |
| Dawson Public Power District | Power Purchase | 6,150.47 |
| Diamond Sales | Books | 106.75 |
| Downey Drilling, Inc. | Service | 100.00 |

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| EMS Billing Services, Inc. | Ambulance Service | 1,530.86 |
| Farmer Brothers Coffee | Food | 364.57 |
| G & V Inc. | Building Demolition | 45,833.46 |
| Health Claims Fund | Claims | 90.00 |
| Lexington Family Eyecare | Safety Glasses | 50.50 |
| Lexington Newspapers, Inc. | Publications | 1,572.09 |
| Matt Friend Truck Equipment | Central Garage Supplies | 107.40 |
| Michael Todd & Co., Inc. | ST Supplies | 151.02 |
| Midwest Laboratories, Inc. | WWTP Tests | 1,715.00 |
| Nebraska Department of Revenue | Sales & Use Tax | 41,299.69 |
| Nebraska Environmental Products | Central Garage Supplies | 1,105.90 |
| Nebraska Tech & Telecomm, Inc. | Telephone Expense | 1,289.48 |
| Party America | ST Supplies | 68.09 |
| Platte Valley Auto Mart | Central Garage Supplies | 482.23 |
| Plum Creek Market Place | Food/Supplies | 28.03 |
| Rasmussen Mechanical Service, Inc. | Lib Service/Repair | 5,318.99 |
| Roberts Dairy Company | Beverages | 178.97 |
| S & W Auto Parts, Inc. | Central Garage Supplies | 223.68 |
| South Central Nebraska RC&D Council | Membership Dues | 40.00 |
| T. O. Haas Tire Co., Inc. | Tires/Repair | 321.77 |
| Thompson Co., The | Food & Supplies | 937.12 |
| TierOne-Lib. Petty Cash | Postage | 26.88 |
| Tri-City Tribune | Publications | 120.00 |
| U-Save Business Equipment | ST Supplies | 25.23 |
| Verizon Wireless | Cellphone Service | 120.43 |
| Wal-Mart | Supplies | 113.94 |
| | TOTAL CLAIMS: | 1,198,199.92 |

ORDINANCE:

An ordinance entitled “AN ORDINANCE DIRECTING THE SALE/EXCHANGE OF LOTS 1-10 IN BLOCK 1, AND LOTS 1-8 AND 11-13 IN BLOCK 2, NORTHWEST THIRD ADDITION TO THE CITY OF LEXINGTON, DAWSON COUNTY, NEBRASKA; TO PROVIDE FOR PUBLICATION AND THE RIGHT OF REMONSTRANCE” was read by title. Peplitsch explained that the City and the Greater Lexington Corporation both hold property within the newly replatted Northwest Third Addition; this ordinance would define ownership following that replat process. He also explained how this area fits into housing development planning. Following discussion, moved by Tomasek, seconded by Miller, to suspend the rules regarding the reading of an ordinance on three separate occasions. Roll call. Voting “aye” were Salem, Bennett, Miller, Tomasek, Fagot. Motion carried.

Ordinance No. 2272 was read by title. Moved by Bennett, seconded by Miller, to approve Ordinance No. 2272 as presented. Roll call. Voting “aye” were Salem, Tomasek, Miller, Bennett, Fagot. Motion carried.

17TH STREET PAVING:

Peplitsch presented a bid tabulation for the 17th Street Paving Improvement project. He noted that the bid is lower than the engineer’s opinion and that the apparent low bidder, Paulsen Inc., is ready to begin the project. He also reported that the area property owners have been contacted and are in favor of the project. Following discussion, moved by Miller, seconded by Salem to accept the bids and award a contract to Paulsen Inc. and authorize the city manager to execute the necessary documents. Roll call. Voting “aye” were Tomasek, Bennett, Salem, Miller, Fagot. Motion carried.

RESOLUTION:

Resolution No. 09-26 was presented for Council consideration. Peplitsch reported this resolution fulfills a requirement for a federal aid road project. Moved by Salem, seconded by Tomasek, to approve Resolution No. 09-26 as presented. Roll Call. Voting “aye” were Miller, Bennett, Tomasek, Salem, Fagot. Motion carried.

RESOLUTION NO. 09-26

Whereas: The City of Lexington Nebraska has a full-time public employee on staff who is fully qualified and has the time and interest in serving as a “Responsible Charge” (RC) for this project. The designated RC will be in day-to-day responsible charge of all aspects of the project, from planning through post-construction activities, with the express purpose of doing all things necessary for the project to remain eligible for federal-aid transportation project funding; and

Whereas: the RC will ensure that, at a minimum, (1) the project receives independent and careful development, supervision and inspection, (2) the project is constructed in compliance with the plans and specifications, (3) all aspects of the project, from planning through construction activities, including all environmental commitments, remain eligible for federal funding, and (4) decisions made and actions taken for the project have adequate supporting documentation filed in an organized fashion.

For purposes of this resolution, the following definitions will apply:

Fully qualified means a person who has satisfactorily completed all applicable Nebraska Department of Roads (NDOR) training courses and who has met the other requirements necessary to be included on the NDOR list of qualified Local Public Agency (LPA) RCs.

Full-time public employee means a public employee who meets all the requirements and is afforded all the benefits of full-time employees as that phrase is applied to other employees of the employing public entity. A person is not a full-time public employee if that person provides outside private consulting services, or is employed by any private entity, unless that person can prove to NDOR in advance, that employee’s non-public employment is in a field unrelated to any aspect of the project for which federal aid is sought.

Public employee means a person who is employed solely by a county, a municipality, a political subdivision; a Native American tribe; a school district; another entity that is either designated by statute as public or quasi-public; or an entity included on the list of entities determined by the NDOR, and approved by the Federal Highway Administration (FHWA), as fulfilling public or quasi-public functions.

Responsible charge means the public employee who is fully empowered by the LPA and has actual day-to-day working knowledge and responsibility for all decisions related to all aspects of the federal-aid project from planning through construction project activities, including all environmental commitments. The RC is the day-to-day project manager, and the LPA’s point-of-contact for the project. Responsible charge does not mean merely delegating the various tasks; it means active day-to-day involvement in identifying issues, investigating options, working directly with stakeholders, making decisions, and actively monitoring project construction. It is understood that the RC may delegate or contract certain technical tasks

associated with the project so long as the RC actively manages and represents the owner's interests in the delegated technical tasks.

Be It Resolved: by the Mayor and City Council of the City of Lexington, Nebraska that:

Dennis Burnside is hereby designated as Responsible Charge (RC) for pre-construction and construction phases, in accordance with the Project Program Agreement previously executed, the NDOR LPA Guidelines Manual for Federal-aid Projects, and all Federal, State and local laws, rules, regulations, policies and guidelines for the following Federal-aid transportation project:

NDOR Project Number STPAA-6556(4),
NDOR Control Number 61338,
13th Street Urban Reconstruction.

The City of Lexington, Nebraska assures and agrees that:

- 1) It has authorized and fully empowered the RC to be in day-to-day responsible charge of the subject federal-aid project; this does not mean merely supervising, overseeing or delegating the various tasks, it means active day-to-day involvement in the project including identifying issues, investigating options, working directly with stakeholders, and decision-making.
- 2) The RC is a full-time public employee.
- 3) The RC is fully qualified and has successfully completed required training to serve as a RC.
- 4) It will allow the RC to spend all time reasonably necessary to properly discharge all duties associated with the project, including ensuring that all aspects of the project, from planning through post-construction activities, remain eligible for federal-aid highway project funding.
- 5) It will not assign other duties to the RC that would affect his or her ability to properly carry out the duties set out in this agreement.
- 6) It will provide necessary office space, materials and administrative support for the RC.
- 7) It will fully cooperate with, support and not unreasonably interfere with the day-to-day control of the RC concerning the acts necessary for making the project eligible for federal funding.
- 8) It will take all necessary actions and make its best good faith efforts to comply and assist the RC in complying with all federal and state requirements and policies applicable to federal-aid transportation projects, including, but not limited to, all applicable requirements of 23 CFR 635.105.
- 9) It will take all necessary actions and make its best good faith efforts to ensure that the RC's work on the project would be deemed to meet the same standards that the Nebraska Department of Roads must meet under 23 CFR 635.105.

10) It will comply with the conflict-of-interest requirements of 23 CFR 1.33.

11) It will notify NDOR immediately in the event the designated RC(s) will no longer be assigned to the project. A supplemental agreement designating a replacement RC may be required by NDOR.

12) It is ultimately responsible for complying with all federal and state requirements and policies applicable to federal-aid highway projects. This includes meeting all post-construction environmental commitments. The LPA understands that failure to meet any eligibility requirements for federal funding may result in the loss of all Federal funding for the project. In the event that the acts or omissions of RC, the LPA or its agents or representatives result in a finding that a project is ineligible for Federal funding, the LPA will be required to repay NDOR some or all previously paid Federal funds and any costs or expenses NDOR has incurred for the project, including but not limited to, those costs for the RC.

The City of Lexington, Nebraska understands that the following are the duties of the RC:

a) Serve as the LPA's contact for issues or inquiries for Federal-aid projects assigned by the LPA;

b) Ensure that all applicable Federal, State and local laws, rules, regulations, policies and guidelines are followed during the development and construction of the project;

c) Know and follow the NDOR LPA Guidelines Manual for Federal-aid Projects;

d) Have active day-to-day involvement in identifying issues, investigating options, working directly with stakeholders, and decision-making;

e) Ensure that the project plans and specifications are sealed, signed and dated by a professional engineer licensed in the State of Nebraska, and that estimates have been prepared and the construction has been observed by a professional engineer licensed in the State of Nebraska or a person under the direct supervision of a professional engineer licensed in the State of Nebraska (reference Neb. Rev. Stat. § 81-3445);

f) Competently manage and coordinate the project day-to-day operations, including all project-related decisions, on behalf of the LPA, which includes the LPA's governing body, staff and any extended staff dedicated to the project such as consulting engineers;

g) Ensure that project documents are thoroughly checked, reviewed and have had quality control measures applied, prior to submitting to NDOR and/or FHWA;

h) Monitor the progress and schedule of the project and be responsible for ensuring that the project is completed on time in accordance with established milestone dates;

- i) Properly serve as the owner's representative, and to visit the project site during construction on a frequency commensurate with the magnitude and complexity of the project;
- j) Ensure that proper construction management processes have been developed and implemented for the project;
- k) Serve as a steward of the public funds, i.e. ensure that the public gets what it is paying for;
- l) Attend all required training including the annual workshop; and
- m) Fulfill continuing education requirements as specified in the NDOR LPA Guidelines Manual for Federal-aid Projects.

Adopted this 9th day of November, 2009.

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

PAY REQUEST:

Pepplitsch presented Pay Request #2 from Paulsen Inc. for the Dawson County Opportunity Center Phase 1 project in the amount of \$139,086.00. Moved by Bennett, seconded by Miller, to approve the pay request as presented. Roll call. Voting "aye" were Salem, Tomasek, Miller, Bennett, Fagot. Motion carried.

ROUNDTABLE:

Pepplitsch reported that RFQ's for engineering consultants were opened by DAD for Phase 2 of the Opportunity Center. He also noted that the library bond issue became callable and the bond agent will continue to monitor the information to be presented at a later time. He also reminded Council members of several upcoming meetings.

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.

Deputy City Clerk