

**CITY OF LEXINGTON  
LEXINGTON, NEBRASKA**

A Regular Meeting of the Lexington City Council was held Tuesday, April 27, 2010, 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, Joni Bennett, Linda Miller, and John Salem. 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 and the Kearney Hub. Also in attendance were Austin Thornburg, Patricia Loudon, Deb Jensen, Richard Johnson, and Dana Daniels.

**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.

**MINUTES – REGULAR MEETING 4-13-10** Minutes of the Regular meeting held Tuesday, April 13, 2010, were presented for Council approval. Moved by Salem, seconded by Miller, to approve Minutes as presented. Roll Call. Voting “aye” were Tomasek, Bennett, Miller, Salem, Fagot. Motion carried.

**MINUTES – PLANNING SESSION 4-17-10** Minutes of the Planning Session held Saturday, April 17, 2010, were presented for Council approval. Moved by Tomasek, seconded by Bennett, to approve Minutes as presented. Roll call. Voting “aye” were Miller, Salem, Bennett, Tomasek, Fagot. Motion carried.

**CLAIMS & BILLS:** Claims and Bills in the amount of \$633,983.08 were presented for Council’s consideration and approval. Upon review of the Claims and Bills as listed, moved by Salem, seconded by Miller, to approve the Claims and Bills as listed, and authorize the City Treasurer to transfer \$269,432.70 from the General Fund, \$48,263.09 from TIF, \$267,698.06 from LEXUS, \$27,175.75 from Sanitation, \$4,105.65 from Landfill, \$588.27 from Ambulance Fund, \$13,867.88 from Health Fund, and \$2,851.68 from Meals on Wheels to the City of Lexington’s Operating Account. Roll call. Voting “aye” were Tomasek, Bennett, Miller, Salem, Fagot. Motion carried.

CITY OF LEXINGTON  
ACCOUNTS PAYABLE  
April 27, 2010

A C Technologies, LLC	Lib Supplies	500.00
AFLAC	Premium	1,114.18
Alamar Uniform Co.	Uniform Expense	121.46
American Fence Company, Inc.	Rec Complex Stadium Fence	4,045.00
American Girl	Subscription	22.95

ASK Supply Company	ST Supplies	109.98
Baird Holm LLP	Professional Services	1,587.50
Barco Municipal Products	ST Supplies	253.87
Beringer Ciaccio Dennell Mabrey	D C Opportunity Center-Phase II	9,926.75
Blue Cross Blue Shield of Nebraska	Ambulance Refund	300.52
Business Card	Supplies	1,697.50
Business Office Systems, Inc.	Police Supplies	8.05
Capstone Press, Inc.	Books	483.74
Card Center/Orscheln	Fire Dept / WWTP / PK Supplies	164.36
Cash-Wa Distributing	Food / Supplies	889.35
Central Fire & Safety, Inc.	Fire Ext Service & Repair	2,027.00
Central Garage Fund	Service / Repairs	7,311.98
Davis Energy, Inc.	WWTP Supplies	126.15
Dawson Area Development	2nd Half Dues-2009-2010	13,500.00
Demco	Lib Supplies	58.12
Depository Trust Co.	2008 Combined UTL Bond Pmt	73,750.00
Dutton-Lainson Company	EL Supplies	395.51
Ecolab	Polymer	1,123.69
Egan Supply Company	ST Supplies	20.72
Electronic Systems, Inc.	Lib Supplies	112.00
Eustis Body Shop	Tow Charges	380.00
Fisher Scientific	WWTP Lab Supplies	240.99
Friedrichsen, Leon	Boots	99.99
FYR-TEK	Fire Dept Coats & Pants	8,175.00
Gale Group, The	Books	369.17
Glaze, Gary	Safety Glasses	199.00
Hach Company	WWTP Lab Supplies	255.94
Harris, Ernie	Fence	759.75
HD Supply Waterworks	EL Repair	198.90
Health Claims Fund	Claims	5,639.27
Holbein, Dahlas D.	Maint & Cleaning	1,000.00
Holmes Plgb & Htg Supply Co.	EL Supplies	359.62
Hubbard Insulation	Repair work at LaBamba	615.09
Ingram Library Services	Books	522.28
K Lawn	Lawn Service	59.50
Kratzer Electric, Inc.	PK Service & Supplies	356.87
Landmark Implement, Inc.	Central Garage Supplies	131.40
Lexington Health Fund	Self Funding	31,503.37
Lexington Newspapers, Inc.	Publications	110.42
Lexington Truck & Auto	Central Garage Service	1,306.50
Lexington, City of	CED Addition	46,607.65
Lexington, City of	Service Fees	54,857.75
Payroll	Wages	103,225.06
Social Security	Employer Portion / FICA Med	7,584.81
First National Bank	Employer Portion / Pension	3,256.97
First National Bank	Police Pension	1,606.09
ICMA	City Manager Pension	414.23
Lexington Utilities System	Utilities	29,128.39
Linweld	Ambulance Supplies	41.95
Lundeen-Isaacson, Inc.	Fire Dept Premium	102.00
Luther, Ann	Conference	87.50
Mead Lumber & Rental-Lexington	AC/ST/Bldg Insp Supplies	404.90
Micromarketing, LLC	Book	14.99
Midstates Construction Products	ST-ADA Panels	2,640.00
Milco Environmental Services, Inc.	WR Analysis / Landfill Disp Site	4,803.85
Miller & Associates	Retainer Service	800.00
NE Public Health Environmental Lab.	WR Testing	1,272.00

Nebraska Environmental Products	Central Garage Supplies	463.06
Nebraska Machinery	Air Compressor	11,820.00
NE Public Power District/Dawson Canal	Coverage Pump/Tap/Install Pump Can	5,248.60
Neopost	Postage	3,000.00
Northern Tool & Equipment Co.	ST Supplies	70.95
Overton Community Center	Meals On Wheels	100.00
Plum Creek Cleaners	Supplies	219.25
Plum Creek Market Place	Food	60.61
Presto-X	Service	75.00
Randy's & Brian's Towing	Tow Charges	1,275.00
RDG Planning & Design	Downtown Revitalization Service	19,800.00
Reiman Publications	Book	24.98
Roberts Dairy Company	Beverages	144.51
S & W Auto Parts	ST / Central Garage Supplies	1,458.35
Service Master Mid Nebraska	Cleaning Service	4,741.00
Subway Sandwiches & Salads	Food	39.86
T. O. Haas Tire Co., Inc.	Tires	82.74
TASC	Fees	194.00
Taste Of Home Books	Book	29.98
Thompson Co., The	Food & Supplies	583.12
TierOne Bank	CED Addition	46,607.65
TierOne-Lib. Petty Cash	Postage / Food / Supplies	149.15
Tri-City Tribune	Publication	48.00
U-Save Business Equipment	Shipping Chgs / Lib / ST Supplies	209.90
Verizon Wireless	Cellphone Service	131.06
Wal-Mart	Supplies	312.49
Aguirre, Martin	EL Rebate	400.00
Amazon	Books	181.79
Barco Municipal Products	ST Supplies	630.76
Becerra, Alma	Service	50.00
Bernie & Pat's Custom Frame Shop	Tree Board Expense	57.31
Business Office Systems, Inc.	Lib Supplies	8.27
Card Center/Orscheln	WR / WWTP Supplies	132.26
Community Redevelopment Authority	Prop Tax Ackerman/Legend Oaks	1,655.44
Dan's Sanitation	Sanitation Fees	27,175.75
Davis Energy, Inc.	Fuel	4,832.29
Electric Fixture & Supply	WR Supplies	318.15
Fagot, David	EL Rebates	1,400.00
Health Claims Fund	Claims	6,920.43
Jim Phillips Const.	ST / Main Break Repair	5,815.00
Lexington, City of	Franchise	54,868.44
Mead Lumber & Rental-Lexington	WWTP Supplies	30.95
Mid-State Units	Rental	80.00
Miller & Associates	Bridge Inspections	580.10
Taste of Home	Book	33.95
TierOne-City Petty Cash	Food/Postage/Dues/Uniform Exp	84.46
Tnemec Company, Inc.	Aquatic Center Paint	2,271.00
Wal-Mart	Supplies	485.89
Young, Eugene	EL Rebate	300.00
	<b>TOTAL CLAIMS:</b>	<b>633,983.08</b>

**PUBLIC HEARING:**

Mayor Fagot opened a public hearing for Council to sit as a Board of Equalization to consider levying assessments to various properties for the 17<sup>th</sup> Street Gap Paving project. Pepplitsch presented the proposed assessment schedule and a description of the project costs. The details of

payments and amortization schedules were reviewed. Patricia Loudon relayed her thoughts regarding the proposed assessment schedule. The public hearing was closed.

An ordinance entitled "AN ORDINANCE LEVYING A SPECIAL ASSESSMENT UPON THE LOTS, PARTS OF LOTS, LANDS AND REAL ESTATE SPECIALLY BENEFITED BY THE IMPROVEMENTS IN IMPROVEMENT DISTRICT 09-01, OF THE CITY OF LEXINGTON, NEBRASKA; TO DEFRAY THE COSTS OF SAID IMPROVEMENTS TO THE EXTENT OF THE SPECIAL BENEFIT TO SUCH LOTS, PARTS OF LOTS, LANDS AND REAL ESTATE BY REASON OF SUCH IMPROVEMENTS AND PROVIDING FOR PUBLICATION IN PAMPHLET FORM" was read. Following discussion, moved by Salem, seconded by Miller, to approve Ordinance No. 2280 on first reading. Roll call. Voting "aye" were Bennett, Tomasek, Miller, Salem, Fagot. Motion carried.

**PLUM CREEK DAYS**

Austin Thornburg, The Box Bar, requested Council approval to use public right of way to hold a street dance and beer garden in conjunction with the planned Plum Creek Days celebration. The event would be held on Washington Street from 4<sup>th</sup> Street north to the alley and a portion of the public parking area adjacent to the east. He outlined plans for setup and tear down, security, and hours of operation. Following discussion, moved by Salem, seconded by Tomasek, to authorize the event to be held on public property, to allow the sale of alcohol on public property for the specific event, to direct the city manager to work with event organizers to define reasonable accommodations, and to require special event insurance coverage to protect the public interest. Roll call. Voting "aye" were Bennett, Miller, Tomasek, Salem, Fagot. Motion carried.

**DTR STUDY:**

Burnside presented the final draft of the Downtown Revitalization Study recently completed by RDG Consultants with the assistance of the local steering committee. The Council thanked the members of the steering committee for their work on the project. Following discussion, moved by Miller, seconded by Bennett, to approve the DTR Study as presented and forward the plan to the Nebraska Department of Economic Development for review. Roll call. Voting "aye" were Tomasek, Salem, Bennett, Miller, Fagot. Motion carried.

**PUBLIC HEARING:**

Fagot opened a public hearing to consider an application to NDED for a Nebraska Affordable Housing Program grant. Peplitsch noted that this is an amended application due to negotiated changes in program requirements. The grant funding will be used to develop Phase 1 of the New Neighborhood housing project, including 37 new units. The public hearing was closed. Following discussion, moved by Miller, seconded by Salem, to approve the application for the NDED Nebraska Affordable Housing Program grant and authorize the Mayor and City Manager to execute required documents. Roll call. Voting "aye" were Tomasek, Bennett, Salem, Miller, Fagot. Motion carried.

**IMPROVEMENT DISTRICT  
09-02**

Daniels presented plans and specifications for Paving Improvement District 09-02. He reviewed the project, which includes removal of gravel surfacing and asphalt paving within existing curb and gutter sections in the southwest portion of the community. Following discussion, moved by Tomasek, seconded by Miller, to approve the plans and specifications for the paving

district and authorize the solicitation of bids. Roll call. Voting “aye” were Bennett, Salem, Miller, Tomasek, Fagot. Motion carried.

**OPPORTUNITY CENTER  
PHASE 2 – REBID**

Pepplitsch presented a bid tabulation for the Opportunity Center Phase 2 project. He explained the project was rebid with a reduced scope following previous bids received above budgetary limitations, and fruitless contract negotiations. He noted the bids were opened on April 21 and Simon Contractors was the low bidder. Following discussion, moved by Salem, seconded by Miller, to accept the bids and award a project contract, including the Base Bid and Alternates #1 and #4, to Simon Contractors and authorize the City Manager to execute contract documents. Roll call. Voting “aye” Tomasek, Bennett, Miller, Salem, Fagot. Motion carried.

**ADA/504 COMPLIANCE:**

Resolution No. 2010-11 was presented. Burnside explained that the resolution is a commitment to NDOR and the Federal Highway Administration to confirm compliance with federal requirements and remain eligible for federal road funding. Following discussion, moved by Salem, seconded by Miller, to approve Resolution No. 2010-11 as presented. Roll call. Voting “aye” were Tomasek, Bennett, Miller, Salem, Fagot. Motion carried.

**RESOLUTION NO. 2010-11  
TITLE VI – CIVIL RIGHTS  
Americans with Disabilities/Section 504 of Rehabilitation Act**

Whereas: Certain transportation facilities (roads, streets, trails, and others) in the City of Lexington have been designated as being eligible for federal funds by the Federal Highway Administration in compliance with federal laws pertaining thereto; and

Whereas: The City of Lexington desires to continue to participate in Federal-Aid transportation construction programs; and

Whereas: The Nebraska Department of Roads as a recipient of said Federal funds is charged with oversight of the expenditures of said funds; and

Whereas: The City of Lexington, as a sub-recipient of said Federal-Aid funding is charged with the responsibility of expending said funds in accordance with Federal and State law, the rules and regulations of the Federal Highway Administration, the requirements of the Local Public Agency (LPA) Guidelines Manual of the Nebraska Department of Roads and the Americans with Disabilities/Section 504 – Civil Rights Policy of the City of Lexington; and

Whereas: The City of Lexington understands that the failure to meet all requirements for federal funding could lead to a project(s) being declared ineligible for federal funds, which could result in the City of Lexington being required to repay some or all of the federal funds expended for a project(s).

Therefore, Be It Resolved: The City of Lexington City Council does hereby adopt and bind itself to comply with all applicable federal law, including the rules and regulations of the Federal Highway Administration, all applicable state law and rules and regulations (Nebraska Administrative Code) and the requirements of the LPA Guidelines Manual of the Nebraska Department of Roads and the Americans with Disabilities/Section 504 – Civil Rights of the City of Lexington.

Be It Further Resolved: The City of Lexington City Council does hereby designate the City Manager as responsible for the management of the Americans with Disabilities/Section 504 – Civil Rights process.

PASSED AND APPROVED April 27, 2010.

BY: John Fagot, Mayor

ATTEST: Pamela Berke, Deputy City Clerk

**TITLE VI AGREEMENT:** Burnside presented a Title VI Nondiscrimination Agreement with NDOR and noted that the Assistant City Manager will be named as the Civil Rights Coordinator of the Program. Following discussion, moved by Tomasek, seconded by Salem, to authorize the City Manager to execute the Title VI Nondiscrimination Agreement with NDOR. Roll call. Voting “aye” were Miller, Bennett, Salem, Tomasek, Fagot. Motion carried.

**PAY REQUEST:** Peplitsch requested approval of Pay Request #7 for the Opportunity Center Phase 1 project from Paulsen Inc. in the amount of \$78,197.80. Following a project update, moved by Tomasek, seconded by Bennett, to approve the pay request as presented. Roll call. Voting “aye” were Salem, Miller, Bennett, Tomasek, Fagot. Motion carried.

**FINANACIAL REPORT:** Peplitsch presented the financial report for March 2010. Following discussion, moved by Bennett, seconded by Tomasek, to accept the March 2010 financial report as presented. Roll call. Voting “aye” were Miller, Salem, Tomasek, Bennett, Fagot. Motion carried.

**ROUNDTABLE:** Peplitsch requested the rescheduling the May 11 Council meeting due to scheduling conflicts. Moved by Tomasek, seconded by Salem, to set the first regular council meeting in May for May 10, 2010, at 5 p.m. Roll call. Voting “aye” were Miller, Bennett, Salem, Tomasek, Fagot. Motion carried.

Peplitsch gave project updates on the Municipal Building Renovations, Soccer Field building, and the 13<sup>th</sup> Street and North Jackson Street Improvements.

Burnside noted that Arbor Day activities have been planned for April 30, 2010.

**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