

**CITY OF LEXINGTON
LEXINGTON, NEBRASKA**

A Regular Meeting of the Lexington City Council was held, Tuesday, November 26, 2002, at the Lexington Municipal Building, located at 406 E. 7th Street, Lexington, Nebraska at 7:30 p.m. Members of the Council present were Mayor John Fagot, Ted Cook, Rick Klamm, John Salem, Steve Tomasek. City Officials present were City Manager Joe Pepplichtsch, City Attorney Willard Weinhold, Deputy City Clerk Shirley Lewis. Department Heads present were Charlie Clark, and Barb Mills.

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.

MINUTES – SPECIAL MEETING – 11-12-02: Minutes of the Special Meeting that was held Tuesday, November 12, 2002 was presented for Council’s consideration and approval. Moved by Salem, seconded by Klamm, to approve the Minutes of the Special Meeting held Tuesday, November 12, 2002 as presented. Roll call. Voting “aye” were Cook, Tomasek, Klamm, Salem, Fagot. Motion carried.

MINUTES – REGULAR MEETING – 11-12-02: Minutes of the Regular Meeting that was held Tuesday, November 12, 2002 was presented for Council’s consideration and approval. Moved by Klamm, seconded by Tomasek, to approve the Minutes of the Regular Meeting held Tuesday, November 12, 2002 as presented. Roll call. Voting “aye” were Salem, Cook, Tomasek, Klamm, Fagot. Motion carried.

CLAIMS AND BILLS: Claims and Bills in the amount of \$307,341.32 was presented for Council’s consideration and approval. Upon review of the Claims and Bills as listed, moved by Salem, seconded by Klamm, to approve the Claims and Bills as listed, and authorize the City Treasurer to transfer \$104,237.76 from the General Fund, \$18,653.00 from Housing Reuse, \$125,139.89 from LEXUS, \$21,402.71 from City Sanitation, \$30,967.40 from Health Fund, \$6,940.56 from Meals on Wheels to the City of Lexington’s Operating Account. Roll call. Voting “aye” were Tomasek, Cook, Klamm, Salem, Fagot. Motion carried.

CITY OF LEXINGTON
ACCOUNTS PAYABLE
November 26, 2002

All Points Cooperative	Fuel/ Car Washes	59.41
Alltel	Wireless Svc	207.84
American Plus, Inc.	Glasses	45.98
Barco Municipal Products	Supplies	673.61

Berntson Oil	Unleaded/Diesel	2,333.90
Bethphage Mission	Donation 2002	300.00
Bob's Auto Repair and Service	Police Car Repairs	396.00
Bootery, The	Certificate	40.00
C.B.S.A.	Employee Medical Claims	25,431.73
Card Center (Orscheln's)	EL Supplies	144.42
Cash-Wa Distributing	Food & Supplies	970.43
CCP Industries	Gloves	190.85
Central Garage	Repair Svc	5,447.61
Century Laboratories	Street Materials	360.00
Certified Laboratories	Resale Supplies	246.39
Cindy's Heavenly Cookies	EL Workshop	19.10
Construction Rental	Supplies	184.30
Dawson County Road Dept	Posts	30.90
Dawson County Weed Control	Spray Grounds	1,861.33
Dog Gone Dogs 4-H Club	Donation 2002	300.00
Eakes Office Products	Cartridges	71.98
Eilers Machine & Welding	Supplies	118.29
Electric Fixture	Supplies	1,249.47
F & S Supply Co Inc	Supplies	126.04
First Christian Church	Rebate:WA	18,015.20
Fisher Scientific	Supplies	80.50
Fox Bros. Hay Co	Tree Grinding	1,950.00
Fransyl Equipment Co	EL Trucks Repair	4,333.16
Fyr-Tek	LVFD Truck Repairs	190.74
Gary's Detail Shop	Wash	20.00
Gillette Dairy	Dairy	232.29
Guill, Linda	Uniform Exp	37.45
H O Smith	Property Owner Policy	177.00
Hipp Wholesale Foods, Inc	Food & Supplies	920.52
Husker AF Sales	Parts	10.80
Insurance & Personnel Services	Employee's 125 Account	987.76
Job's Daughters	Donation 2002	300.00
K & K Parts Co. Inc	Batteries	133.44
Lexington Baseball Commission	Concessions	1,300.00
Lexington Communications	Repair Svc	80.00
Lexington Cosmos Club	Donation 2002	300.00
Lexington Eagles Club	Donation 2002	300.00
Lexington Lions Club	Donation 2002	300.00
Lexington Newspapers Inc	Publications	208.17
Lexington Public Library	Replenish Petty Cash	23.82
Lexington Recreation Program	Youth Basketball	960.00
Lexington Swim Association	Support	1,000.00
Lexington Truck and Auto	Transmission	700.00
Lexington True Value	Misc Supplies	3.00
LEX CITY PAYROLL ACCT.	WAGES	77,209.94
SOCIAL SECURITY	SC SC(EMPLYR PRTN)	5,816.93
FIRST NATIONAL BANK	EMP PNSN(EMPR PRT)	2,632.17
AMERICAN FUNDS	PLC PNSN(EMPLR PRT)	1,059.35
I.C.M.A.	EMP PNSN(EMPR PRT)	215.38
Matt Friend Truck Equipment	Parts	127.28
Mead/Big Valley Lumber	Misc Supplies	94.96
Mid-Am Research Chem Corp	Supplies	274.50
Mid-Nebraska Food Bank	Grocery	62.84
Mid-Nebraska Printing	Report Supplies	90.00
Midwest Laboratories	Analysis	316.49

Miller & Associates	Professional Svc	11,443.30
Municipal Supply	Parts	43.11
NE Dept of HHS Laboratory	Analysis	213.00
Nebraska Safety Council	Training Fee	325.00
Nebraska Statewide Arboretum	Membership Fee	65.00
Nebraska Tech and Telecom	Phone Service	5.49
Neopost	Meter Postage	1,500.00
Overton Community Center	Rent	100.00
Patty's Floral	Certificate	60.00
Patty's Hallmark	Misc Office Supplies	312.11
Paulsen, Inc	Concrete	140.71
Platinum Plus Credit Card	Dept Chgs/Conf-R Seward	300.42
Platte Valley Auto Mart	Parts	15.62
Publishers Services Exchange	Subscription	89.91
QA Balance Services	WWTP Svc	85.00
S & W Auto Parts	Parts-Resale	728.17
Sav-a-lot Discount Foods	Food & Supplies	34.02
Sherman Lawn Sprinklers	Repairs	150.00
Skarshaug Testing	Clean and Test	315.78
Spring Creek Embroidery Works	Shirts-Basketball	2,209.50
Statler, Gary	Wax Floors	475.00
Sunmart #763	Food & Supplies	62.53
Taqueria Mexico	Meeting	56.18
TO Haas Tire	Tire Repair	227.00
Travelers Property Casualty	WC/LVFD	1,497.00
U S Filter Distribution Group	WR Supplies	464.72
Wal-Mart	Misc Supplies	509.51
Wesco Distribution Inc	Electrical Supplies	1,158.71
WW Granger, Inc	Tap	7.43
Young, Roger	Rebate:Air Pump	1,025.00
Yung Construction	Rehab:Rivera/Linden	18,653.00
Zapata, Francisco	Utility Refund	0.02
American Kids	Books	399.13
Barmore's	Misc Supplies	6.59
Berntson Oil	Fuel	43.00
C.B.S.A.	Claims	4,427.91
Card Center (Orscheln's)	Supplies	354.28
Cash Wa Dist	Grocery	523.80
Charter Communications	Library Internet	114.90
Conney Safety Products	CPR Protectors	470.80
Crabtree Publishing CO	Books	68.96
Dan's Sanitation	Sanitation Chgs	21,786.15
Eakes Office Products	Cartridge	89.97
EBSCO	Books	1,693.02
Eilers Machine & Welding	Hand Rail	52.20
Farmer Brothers Coffee	Coffee	47.67
Fyr-Tek	Foam	625.00
Gillette Dairy	Dairy	83.30
Ingram Library Svc	Books	609.11
Joy Book Nook	Books	39.71
Lex Area Chamber of Commerce	Mem Dues	4,715.00
Lexington Newspapers	Publications	8.43
Lexington True Value	Misc Supplies	44.31
Lexington, City of	Franchise Fees	26,885.79
Lexus	Utility Billing	21,880.72
Matt Parrott and Sons	Forms	422.02

Mead/Big Valley Lumber	Supplies	5.98
Mid-Nebraska Printing	Copies and Labels	275.08
Miller and Associates	Prof Svc	1,449.95
N C B O & I	Mem Dues/Conf-Insprs	40.00
NE Rec and Park Association	Workshop: Luther	25.00
Nebraska Library Commission	Lib Products	46.99
Olsson Associates	Prof Svc	14,714.56
Oriental Trading	Supplies	127.91
Petty Cash Fund	Replenish Petty Cash	43.37
Plum Creek Medical Group	Flu Shots	120.00
Promo Unlimited	Supplies	113.00
Rourke Publishing Group	Books	179.40
Smart Apple Media	Books	187.50
Underwood, James	Carpet Cleaning	215.00
US Filter Distribution Group	Repairs/Parts	860.30
	TOTAL	307,341.32

VACATION OF PLAT:

John Wightman, representing Harold & Virginia Stevens, addressed the City Council, requesting their approval of the Second Reading of an Ordinance vacating a portion of Stevens Subdivision, Lexington, Nebraska. Following discussion, an Ordinance entitled “AN ORDINANCE TO VACATE A PORTION OF STEVENS ADDITION TO THE CITY OF LEXINGTON; TO PROVIDE FOR REVERSION OF THE VACATED STREETS AND RIGHT-OF-WAY TO ADJOINING PROPERTY OWNER; TO PROVIDE FOR AN EFFECTIVE DATE AND FOR PUBLICATION IN PAMPHLET FORM” was read before the Council. Moved by Klamm, seconded to approve said Ordinance on Second Reading. Roll call. Voting “aye” were Cook, Tomasek, Salem, Klamm, Fagot. Motion carried.

ANAEROBIC WASTEWATER TREATMENT EQUIPMENT:

Reed Miller, representing Miller and Associates, addressed the City Council, presenting them with plans and specifications for anaerobic processing equipment for the Wastewater Treatment Plant Upgrade Project, and requesting their authorization to enter into the bid process for the equipment only. Following Mr. Miller’s presentation, moved by Klamm, seconded by Tomasek, to approve the plans and specifications for the anaerobic processing equipment for the Wastewater Treatment Plan Upgrade Project, and authorize advertising of bids. Roll call. Voting “aye” were Salem, Cook, Tomasek, Klamm, Fagot. Motion carried.

INDUCEMENT RESOLUTION:

Tydd Rohrbough, representing Cornhusker Energy, addressed the City Council, requesting their approval of a Resolution 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. Following Mr. Rohrbough’s presentation, moved by Klamm, seconded by Salem, to approve Resolution Number 02-23, and authorize the execution of the Memorandum of Agreement by and between the City of Lexington, Nebraska and Cornhusker Energy Lexington, LLC. Roll call. Voting “aye” were Cook, Tomasek, Salem, Klamm, Fagot. Motion carried.

Authorizing the Execution of 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 that 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 \$18,000,000, 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 \$18,000,000 subject to necessary approvals and proceedings by the Mayor and City Council and approval of the City’s legal counsel; 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 \$18,000,000, 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 \$18,000,000 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, November 26, 2002.

John Fagot
Mayor

ATTEST:

Joe Peplitsch
City Clerk

RESOLUTION:

Peplitsch addressed the City Council requesting their approval of a resolution requesting NDOR to consider improving Highway 30 intersections at Road 436 and Airport Roads. Following Peplitsch's presentation, moved by Klamm, seconded by Salem, to approve Resolution Number 02-24 requesting NDOR to consider improving Highway 30 intersections at Road 436 and Airport Roads. Roll call. Voting "aye" were Tomasek, Cook, Salem, Klamm, Fagot. Motion carried.

RESOLUTION NO. 02-24

WHEREAS, Dawson County has adopted a Resolution on November 1, 2002, requesting turning lane improvements to the intersections of Road 436 and Highway 30 and Airport Road and Highway 30 due to anticipated increase in traffic volumes during the construction of the Adams Street Viaduct in Lexington.

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LEXINGTON, NEBRASKA, that the City supports the position of Dawson County on this issue, and hereby requests the State of Nebraska Department of Roads to consider turning land improvements at the intersections of Road 436 and Highway 30 and Airport Road and Highway 30.

Passed and approved this 26th day of November, 2002.

John Fagot, President of the Council

ATTEST:

Joe Peplitsch
City Clerk

- CHANGE ORDER:** Peplitsch addressed the City Council, requesting their approval of Change Order #2 on Municipal Wells No. 17 and No. 18. Following discussion, moved by Klamm, seconded by Tomasek, to approve Change Order #2 on Municipal Wells No. 17 and No. 18 in the amount of \$6,760.00. Roll call. Voting “aye” were Salem, Cook, Tomasek, Klamm, Fagot. Motion carried.
- PAY REQUEST:** Peplitsch addressed the City Council, requesting their approval of Pay Request No. 2 from Liehs Drilling Inc. on Municipal Wells No. 17 and No. 18. Following discussion, moved by Klamm, seconded by Tomasek, to approve Pay Request No. 2 from Liehs Drilling Inc. on Municipal Wells No. 17 and No. 18, in the amount of \$63,760.95. Roll call. Voting “aye” were Cook, Salem, Tomasek, Klamm, Fagot. Motion carried.
- CHANGE ORDER:** Dana Daniels, representing Miller and Associates, addressed the City Council, requesting their approval of Change Order #2 on the Tennis Court Project. Following discussion, moved by Klamm, seconded by Tomasek, to approve Change Order #2 on the Tennis Court Project. Roll call. Voting “aye” were Salem, Cook, Tomasek, Klamm, Fagot. Motion carried.
- CHANGE ORDER:** Dana Daniels, representing Miller and Associates, addressed the City Council, requesting their approval of Change Order #3 on the Tennis Court Project. Following discussion, moved by Klamm, seconded by Tomasek, to approve Change Order #3 on the Tennis Court Project. Roll call. Voting “aye” were Cook, Salem, Tomasek, Klamm, Fagot. Motion carried.
- PAY REQUEST:** Dana Daniels, representing Miller and Associates, addressed the City Council, requesting their approval of the Final Pay Request from Southwest Recreational Industries, Inc. on Tennis Court Project in the amount of \$21,431.21. Following discussion, moved by Klamm, seconded by Tomasek, to approve Final Pay Request from Southwest Recreational Industries, Inc. on Tennis Court Project in the amount of \$21,431.21. Roll call. Voting “aye” were Salem, Cook, Tomasek, Klamm, Fagot. Motion carried.
- CERTIFICATE OF SUBSTANTIAL COMPLETION:** Dana Daniels, representing Miller and Associates, addressed the City Council, requesting their approval of the Certificate of Substantial Completion from Miller and Associates on the Tennis Court Project. Following discussion, moved by Klamm, seconded by Salem, to accept the Certificate of Substantial Completion from Miller and Associates on the Tennis Court Project. Roll call. Voting “aye” were Tomasek, Cook, Salem, Klamm, Fagot. Motion carried.
- CHANGE ORDER:** Dana Daniels, representing Miller and Associates, addressed the City Council, requesting their approval of Change Order #1 on 14th Street Gap Paving Project. Following discussion, moved by Salem, seconded by Klamm, to approve Change Order #1 on 14th Street Gap Paving Project in the amount of \$925.35. Roll call. Voting “aye” were Cook, Tomasek, Klamm, Salem, Fagot. Motion carried.
- PAY REQUEST:** Dana Daniels, representing Miller and Associates, addressed the City Council, requesting their approval of final Pay Request from Paulsen

Inc. on 14th Street Gap Paving Project. Following discussion, moved by Klamm, seconded by Salem, to approve final Pay Request from Paulsen Inc. on 14th Street Gap Paving Project, in the amount of \$25,544.55. Roll call. Voting “aye” were Cook, Tomasek, Salem, Klamm, Fagot. Motion carried.

**CERTIFICATE OF
SUBSTANTIAL
COMPLETION:**

Dana Daniels, representing Miller and Associates, addressed the City Council, requesting their acceptance of Certificate of Substantial Completion from Miller and Associates of the 14th Street Gap Paving Project. Following discussion, moved by Klamm, seconded by Salem, to accept Certificate of Substantial Completion from Miller and Associates of the 14th Street Gap Paving Project. Roll call. Voting “aye” were Tomasek, Cook, Salem, Klamm, Fagot. Motion carried.

**15 MVA SUBSTATION
TRANSFORMER:**

Peplitsch, speaking on behalf of Olsson and Associates, addressed the City Council requesting their approval of the plans and specifications for transformer equipment included in the 15 MVA Substation Project. Following discussion, moved by Klamm, seconded by Tomasek, to accept the plans and specifications for transformer equipment included in the 15 MVA Substation Project, and authorize the advertisement of bids. Roll call. Voting “aye” were Salem, Cook, Tomasek, Klamm, Fagot. Motion carried.

DEMOLITION BIDS:

Peplitsch addressed the City Council requesting their acceptance of a bid in the amount of \$12,500 for demolition of dilapidated buildings located at 945 West 7th Street, owned by Nancy S. Ward. Following discussion, moved by Salem, seconded by Tomasek, to approve the bid in the amount of \$12,500 for demolition of dilapidated buildings located at 945 West 7th Street, owned by Nancy S. Ward. Roll call. Voting “aye” were Klamm, Cook, Tomasek, Salem, Fagot. Motion carried.

RESCHEDULE MEETINGS:

Peplitsch addressed the City Council requesting the City Council Meetings in December be rescheduled due to various conflicts. Following discussion, moved by Salem, seconded by Klamm, to schedule a Reorganization Meeting on December 3, 2002 at 7:00 a.m., and reschedule the December 24, 2002 Meeting for Monday, December 30, 2002 at 7:00 a.m. The first regular meeting in December will remain on the 10th. Roll call. Voting “aye” were Tomasek, Cook, Klamm, Salem, Fagot. Motion carried.

**ROUNDTABLE
DISCUSSION:**

Peplitsch addressed the City Council requesting a three-person committee be formed, to interview two firms that have submitted bids for construction and engineering. Rick Klamm, John Fagot, and Joe Peplitsch have agreed to serve on this committee.

ADJOURNMENT:

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

John Fagot
Mayor

Shirley Lewis
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.

Lexington Deputy City Clerk