

**CITY OF LEXINGTON  
LEXINGTON, NEBRASKA**

A Regular Meeting of the Lexington City Council was held Tuesday, May 28, 2013, at the Lexington City Hall, located at 406 E. 7<sup>th</sup> Street, Lexington, Nebraska at 5:30 p.m. Members of the Council present were John Fagot, John Salem, Linda Miller, Dora Vivas and Jeremy Roberts. City Officials present were City Manager Joe Pepplichtsch, Assistant City Manager Dennis Burnside, City Attorney Will Weinhold, and City Clerk Pamela Berke. The press was represented by Lexington Clipper-Herald and Kearney Hub. Also in attendance were Diane Adams, Lexington Housing Authority, and Deb Jensen, Dawson Area Development.

**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 City Hall, located at 406 E. 7<sup>th</sup> Street, Lexington, Nebraska.

**MINUTES – REGULAR MEETING 5-14-2013** Minutes of the Regular meeting held Tuesday, May 14, 2013, were presented for Council approval. Moved by Salem, seconded by Miller, to approve Minutes as presented. Roll call. Voting “aye” were Vivas, Miller, Salem, Fagot. Roberts was absent from the vote. Motion carried.

**CLAIMS & BILLS:** Claims and Bills in the amount of \$789,959.30 were presented for Council’s consideration and approval. Upon review of the Claims and Bills as listed, moved by Miller, seconded by Vivas, to approve the Claims and Bills as listed, and authorize the City Treasurer to transfer \$237,748.99 from the General Fund, \$146,752.80 from Street Fund, \$153,155.97 from TIF, \$206,615.54 from LEXUS, \$29,232.41 from Sanitation, \$1272.83 from Ambulance, \$13,650.25 from Health Fund, and \$1,530.51 from Meals on Wheels to the City of Lexington’s Operating Account. Roll call. Voting “aye” were Salem, Vivas, Miller, Fagot. Roberts was absent from the vote. Motion carried.

**CITY OF LEXINGTON  
ACCOUNTS PAYABLE  
May 28, 2013**

AFLAC	Premium	1310.12
Associated Supply Company, Inc.	LFAC Supplies / Chemicals	8676.41
Assn of State Floodplain Managers, Inc.	Certificate Renewal	325.00
Awards Plus	Police Supplies	42.00
Axis Capital, Inc.	Mail Machine Payment	840.00
B & D Office City	Police Supplies	35.37
Barco Municipal Products, Inc.	ST Signs / Supplies	967.44
Book Farms, Inc., The	Library Books	175.16
Box Bar, The	Food	53.98
Burnside, Dennis EL	Incentive Rebate	30.00
Business Card		
Copy Cat Printing	Blue Print Copies	146.25

Pearson Vue	Certification Exam & Test	340.00
Microsoft Store	Computer Programs	706.17
Peach New Media	Webinar	149.00
NWTC Web Registration	Taser Instructor-Recertification	175.00
American Red Cross	LFAC Supplies	150.00
Sprinkler Warehouse	Sprinklers / Parts	449.83
E-Paint Store	Paint Supplies	554.24
Knights Inn	WWTP School Lodging	88.92
National Registry	EMT Training	70.00
Buysm Sod	Cemetery Sod	240.00
Card Center/Orscheln	PK/EL/WR/Cem/ST/SW Supplies	1,471.78
Cash-Wa Distributing	Food & Supplies	3,719.90
Central Point Large Print	Library Books	86.28
Central Tire & Tread, Inc.	Tires / Repair	4,753.90
Coca Cola/Dr Pepper Bottling of Kearney	Beverages	1,819.20
Community Development Agency	Ford & Ford/Lex Investors/CEL	130,304.21
Culligan Water Conditioning Co.	Soft Water Supplies	77.43
Curley & Associates, LLC	Library Books	214.92
Davis Energy, Inc.	Fuel	7,800.44
Demco	Library Supplies	122.56
Diamond Vogel Paints	Ball Field Paint	114.72
Dos Mundos	Library Subscription	45.00
Downey Drilling, Inc.	EL Motor Repair	5,190.58
Eilers Machine & Welding, Inc.	PK Supplies	7.96
Electric Fixture & Supply	EL Supplies	281.30
Exchange Bank	Copier Payments	1,195.44
Fagot Refrigeration & Electric, Inc.	WWTP AC Unit	2,273.46
Fastenal Company	WR / WWTP Supplies	310.86
FYR-TEK, Inc.	Annual Testing	900.00
Gale Group, The	Library Books	293.22
Gothenburg State Bank	Monthly EPS Pmts	2,215.84
Great Western Bank-Lib. Petty Cash	Postage/Stamps/Food/Supplies	197.14
Health Claims Fund	Claims	11,888.17
Heiman Fire Equipment	Fire Dept Supplies	537.60
HOA Solutions, Inc.	VFD for Wells 10, 13, 18, 11	48,460.75
Holbein, Dahlas D.	Fire Dept Maint / Cleaning Service	1,000.00
Ingram Library Services	Library Books	873.80
International Municipal Lawyers Assn	Membership Dues	480.00
Jack's Uniforms & Equipment	Police Guns	2,278.00
Leger, Jean	LFAC Clinic	40.00
Lexington Health Fund	Self-Funding	33,007.01
Lexington Newspapers, Inc.	Publications	1,355.13
Lexington Rural Fire Protection District	Bldg Pmt	25,634.55
Lexington Volunteer Fire Department	Fire School Expense	6,625.00
Lexington Utilities System	Utilities	41,996.60
Linda's Stitches and Creations	Admin/GGC/BI/UTL Shirts	1,813.09
Madeline's Café	Meals	112.40
Matheson Tri-Gas, Inc.	Oxygen Supplies	55.55
MicroMarketing, LLC	Library Books	70.00
Midwest Striping, Inc.	Paint for Striping	5,872.00
Miller & Associates, Inc.	Pro Service/DCOC Paving Imp PJ	2,698.40
National Council on Aging	Membership Dues	145.00
Nebraska Public Health Environmental Lab	WR Testing	1,449.00
Nebraska Department of Roads	Jackson ST Reconstruction PJ	113,991.95
Nebraska Machinery	Central Garage Supplies	240.83
OCLC, Inc.	Library Books	23.63
Oliver Consulting Service, Inc.	Computer Service	20.00

Overton Community Center	Meals on Wheels	100.00
Platte Valley Auto Mart	Fire Dept Truck Repair	826.39
Platte Valley Communications-Kearney	Police Installs / Siren Repairs	262.20
Plum Creek Promotions	Rec T-Shirts	1,167.00
Primary Electric, Inc.	WWTP Repairs	339.46
Richman, Marissa	LFAC Clinic	40.00
Rowan, Erik	Cemetery Space Refund	400.00
Rowan, Jeff	LFAC Clinic	40.00
Seberger, Bridget	LFAC Clinic	40.00
Security First Bank	Wilkinson Dev-TIF Pmt	22,851.76
Service Master Mid Nebraska	Cleaning Service	5,657.50
Statewide Collections LLC	Collection Fees	737.05
Subway @ Wal-Mart	Meals	71.00
TASC - Client Invoices	Fees	183.96
Taste of Home Books	Library Book	31.98
Ultramax	Ammunition	1,024.00
Unitech	WWTP Supplies	119.00
U-Save Business Equipment	UTL Office Shredder	2,070.45
Verizon Wireless	Cellphone Service	491.54
Village Uniform	GGC Supplies	50.20
Vision Internet Providers, Inc.	Monthly Hosting Fee	220.50
Wal-Mart	Supplies	507.70
Ward, Kevin	LFAC Clinic	60.00
All Points Cooperative	Fuel / Fertilizer / Weed Killer	7,945.42
Card Center/Orscheln	Central Garage Supplies	169.32
Cash-Wa Distributing	Food & Supplies	3,710.00
Central Garage Fund	Service / Repairs	5,520.54
Coca Cola/Dr Pepper Bottling of Kearney	Beverages	883.20
Dan's Sanitation, Inc.	Sanitation Fees	29,232.41
Dawson Area Development	BECA Grant #5	1,085.00
Eilers Machine & Welding, Inc.	Central Garage Supplies	244.71
Fairbanks International	Central Garage Supplies	208.75
Great Western Bank-City Petty Cash	Meals / Postage / Supplies	18.84
Health Claims Fund	Claims	268.00
John Deere Financial	Central Garage Supplies	405.59
Lexington, City of	Franchise Fees	74,176.59
Lexington City Payroll Account		
Payroll	Wages	131,641.78
Social Security	Employer Portion / FICA Med	9,780.39
Union Bank & Trust	Employer Portion / Pension	3,894.56
Union Bank & Trust	Police Pension	1,896.46
ICMA	City Manager Pension	830.00
Nebraska Machinery	Central Garage Supplies	257.22
S & W Auto Parts	Central Garage Supplies	632.60
Wal-Mart	Supplies	276.74

TOTAL CLAIMS: 789,959.30

**LIQUOR LICENSE:**

Mayor Fagot opened a public hearing to consider a catering application for Class D liquor license #43460 held by Investplus Inc. dba Plum Creek Market Place. As there were no comments regarding the application, the public hearing was closed. Moved by Salem, seconded by Miller, to recommend approval of the catering application for the Class D liquor license held by Investplus Inc. as presented. Roll call. Voting "aye" were Vivas, Miller, Salem, Fagot. Roberts was absent from the vote. Motion carried.

**PUBLIC HEARING:**

Mayor Fagot opened a public hearing to consider a CDBG planning application for a multi-year comprehensive investment and stabilization predevelopment study. Deb Jensen gave an overview of the study, emphasizing that the funds would be used to study housing and infrastructure needs with a potential application for a second phase to implement findings of the study. Receiving no public comment, the public hearing was closed.

Resolution No. 2013-18 was presented. Moved by Miller, seconded by Salem, to approve Resolution No. 2013-18. Roll call. Voting "aye" were Vivas, Roberts, Salem, Miller, Fagot. Motion carried.

**RESOLUTION AUTHORIZING CHIEF ELECTED OFFICIAL TO SIGN AN APPLICATION FOR CDBG FUNDS**

Whereas, the City of Lexington, Lexington, Nebraska, is an eligible unit of a general local government authorized to file an application under the Housing and Community Development Act of 1974 as Amended for Small Cities Community Development Block Grant Program, and,

Whereas, the City of Lexington, Lexington, Nebraska, has obtained its citizens' comments on community development and housing needs; and has conducted public hearing(s) upon the proposed application and received favorable public comment respecting the application for an amount of \$13,000 for a multi-year Comprehensive Investment and Stabilization pre-development study in the Planning Category; and,

NOW, THEREFORE, BE IT RESOLVED BY

Lexington City Council of the City of Lexington, that Joe Peplitsch, City Manager, be authorized and directed to proceed with the formulation of any and all contracts, documents or other memoranda between the City of Lexington and the Nebraska Department of Economic Development so as to effect acceptance of the grant application.

John Fagot  
Mayor, City of Lexington  
May 28, 2013

**HOUSING AUTHORITY PILOT:** Diane Adams, Lexington Housing Authority, requested a waiver of the Payment in Lieu of Taxes agreement with the City of Lexington. Following discussion, moved by Miller, seconded by Roberts, to approve a waiver of the PILOT agreement for fiscal year 2013. Roll call. Voting "aye" were Vivas, Salem, Roberts, Miller, Fagot. Motion carried.

**CONTRACT:** Peplitsch reviewed an operating agreement with West Central Area Agency on Aging for the Meals Program for FY 2014. Following discussion, moved by Miller, seconded by Vivas, to approve the contract as presented and to authorize execution. Roll call. Voting "aye" were Roberts, Salem, Vivas, Miller, Fagot. Motion carried.

**CONSERVATION EASEMENT:** Peplitsch reviewed a request by the Central Platte NRD to consider a new conservation easement and a partial release of an existing conservation easement. He noted the Planning Commission provided a positive recommendation. Following discussion, Resolution No. 2013-19 was presented. Moved by Salem, seconded by Roberts, to approve Resolution No. 2013-19. Roll call. Voting "aye" were Vivas, Miller, Roberts, Salem, Fagot. Motion carried.

RESOLUTION NO. 2013-19

A RESOLUTION APPROVING THE RELEASE OF A CONSERVATION EASEMENT BY CENTRAL PLATTE NATURAL RESOURCES DISTRICT AND APPROVING A CONSERVATION EASEMENT FOR THE CENTRAL PLATTE NATURAL RESOURCES DISTRICT

WHEREAS, JOHN R. SNIDER, a single person; REGINA HOWARD and CRAIG HOWARD, wife and husband; LARRY SNIDER and LISA SNIDER, husband and wife; and STACEY LYNN SNIDER-SIMON and BRIAN SNIDER-SIMON, wife and husband (hereinafter referred to as "Tract 1 Owners") are the owners of the following-described real estate, to-wit:

All that portion of Government Lots Two (2) and Three (3) of Section Twenty-nine (29), Township Nine (9) North, Range Twenty-one (21) West of the 6th P.M. in Dawson County, Nebraska, described more particularly as follows: Commencing at the Northwest corner of Lot Two (2); thence East along the North line of Lots Two (2) and Three (3) to the Northeast corner of Lot Three (3); thence South along the East line of Lot Three (3), a distance of approximately One Thousand Three Hundred Seventy feet (1370.0') to an established fence line; thence West, a distance of approximately One Thousand One Hundred feet (1100.0') to a point where the fence line makes a right angle to the North; thence North along said fence line, a distance of approximately Sixty-five feet (65.0') to a point where the fence line makes a right angle to the West; thence West along said fence line, a distance of approximately Eight Hundred Ninety feet (890.0') to a point where the fence line makes a right angle to the South; thence South along said fence line, a distance of approximately Sixty-five feet (65.0') to a point where the fence line makes a right angle to the West; thence West along said fence line to a point on the West line of Government Lot Two (2); thence North along the West line of Government Lot Two (2) to the place of beginning.

The Northwest Quarter of the Northwest Quarter (NW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>) and Lot One (1) of Section Twenty-Nine (29), Township Nine (9) North, Range Twenty-One (21) West of the 6th P.M., Dawson County, Nebraska, EXCEPT part of the Northwest Quarter of the Northwest Quarter (NW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>) of Section Twenty-Nine (29), Township Nine (9) North, Range Twenty-One (21) West of the 6th P.M., more particularly described as follows: Commencing at a point on the West line of said Section Twenty-Nine (29), 281 feet South of the Northwest Corner of said Section as a place of beginning; Thence East at right angles 267 feet; Thence South at right angles for a distance of 200 feet; Thence West at right angles for a distance of 267 feet to the West line of said Section Twenty-Nine (29); Thence North on the West line of said Section Twenty-Nine (29) for a distance of 200 feet to the place of beginning; and EXCEPT a tract conveyed to the State of Nebraska by instrument recorded at Book 107, Page 397 of the Deed Records of Dawson County, Nebraska.

A tract of land located in the Northwest Quarter of Section 29, Township 9 North, Range 21 West of the Sixth Principal Meridian, Dawson County, Nebraska, described as follows: Referring to the Northwest Corner of said Quarter Section; thence easterly a distance of 13.46 feet along the North Line of said Quarter Section to the point of beginning; thence easterly deflecting 000 degrees, 00 minutes, 00 seconds a distance of 215.59 feet along said line; thence westerly on a 1220.92 foot radius curve to the right, deflection to the initial tangent being 159 degrees, 48 minutes, 47 seconds right, a distance of 213.56 feet, subtending a central angle of 010 degrees, 01 minutes 19 seconds; thence

northerly deflecting 090 degrees, 16 minutes, 13 seconds, right, a distance of 56.68 feet to the point of beginning containing 0.15 acres, more or less.

WHEREAS, ROD REYNOLDS and SUSAN REYNOLDS, husband and wife; LARRY REYNOLDS and JEANNE REYNOLDS, husband and wife; JOHN R. SNIDER, a single person, SHANNON KELLER and DAN KELLER, wife and husband; BRIAN BLAKE REYNOLDS, a single person; CARRIE BETH REYNOLDS, a single person; RYAN BATES REYNOLDS, a single person; and LARRY REYNOLDS AND ROD REYNOLDS, Special Conservators of the Unborn Child or Children of Larry Reynolds and Rod Reynolds and the Child or Children of the Children of Larry Reynolds and Rod Reynolds (hereinafter referred to as "TRACT 2 OWNERS") are the owners of certain real estate adjoining the real estate owned by TRACT 1 OWNERS and legally described as follows, to-wit:

Government Lots Four (4) and Five (5) in Section Twenty-Nine (29), Township Nine (9) North, Range Twenty-One (21) West of the Sixth P.M., Dawson County, Nebraska

WHEREAS, a Deed of Conservation Easement restricting the Tract 1 Owners from irrigating the aforereferenced real estate with groundwater has been entered into between the Tract 1 Owners, or their predecessors in interest and the Central Platte Natural Resources District, which Deed of Conservation Easement was previously approved by the City of Lexington, Nebraska on December 14, 2010 as indicated by Resolution 2010-30 which was recorded with the Register of Deeds of Dawson County, Nebraska on January 5, 2011 as Instrument No. 2011-0053. The Deed of Conservation Easement was recorded with the Register of Deeds of Dawson County, Nebraska on January 5, 2011 as Instrument No. 2011-0052.

WHEREAS, Tract 2 Owners now wish to increase the efficiency of the irrigation of the aforereferenced real estate by constructing and operating a center pivot on the same, which center pivot will cross over a portion of the tract owned by Tract 1 Owners and which portion of land is burdened by the aforescribed Conservation Easement. The legal description of the real estate owned by Tract 1 Owners that will be utilized by Tract 2 Owners for the operation of this center pivot is as follows, to-wit:

A tract of land in Section Twenty-Nine (29), Township Nine (9) North, Range Twenty-One (21) West of the Sixth Principal Meridian, Dawson County, Nebraska, more particularly described as follows:

Referring to the Northwest corner of said Section 29; thence N89°54'49"E (an assumed bearing and all bearings shown herein being relative thereto) on the north line of said Section a distance of 1766.44 feet; thence S64°25'21"E on the north line of Government Lot 1 of said Section a distance of 919.5 feet to the Northeast corner of said lot; thence S 00°24'08" E on the east line of said Lot a distance of 101.38 feet to the point of beginning; thence continuing S 00°24'08"E on the East line of Government Lots 1 and 3 of said Section a distance of 1717.46 feet; thence northwesterly on a non-tangent curve to the right with a radius of 1670.00 feet (chord bears N 08°56'45"W with a length of 1887.22 feet) an arc distance of 2005.59 feet; thence S 62°34'46"E a distance of 317.41 feet to the place of beginning, said tract containing 14.10 acres, more or less.

hereinafter referred to as Tract 1.

WHEREAS, Tract 1 Owners are in agreement with allowing the center pivot Tract 2 Owners wish to install on their real estate to cross over the land referred to hereinabove if the restrictions of irrigating that portion of the real estate are removed and if the aforesaid conservation easement on that portion of the real estate is released.

WHEREAS, the Central Platte Natural Resources District is willing to remove the restrictions on irrigating a portion of the aforesaid real estate and referred to herein as Tract 1 in exchange for the transfer of the restrictions of the aforesaid Conservation Easement to the approximate 18.94 acre tract owned by the Owners of Tract 2 and legally described as follows, to-wit:

A tract of land in Section Twenty-Nine (29), Township Nine (9) North, Range Twenty- One (21) West of the Sixth Principal Meridian, Dawson County, Nebraska, more particularly described as follows:

Beginning at the East Quarter (E<sup>1</sup>/<sub>4</sub>) Corner of said Section Twenty-Nine (29); thence N00°12'11"E (an assumed bearing and all bearings shown herein being relative thereto) on the East line of said Section a distance of 656.96 feet; thence Southwesterly on a non-tangent curve to the right with a radius of 1670.00 feet (chord bears S64°59'26"W with a length of 1844.57 feet) an arc distance of 1954.17 feet; thence S65°15'17"E a distance of 939.23 feet; thence S84°58'43"E a distance of 368.89 feet; thence S85°11'06"E a distance of 457.18 feet to the East line of said Section; thence N00°12'11"W along said East line a distance of 586.68 feet to the place of beginning, said tract containing 18.94 acres, more or less,

hereinafter referred to as Tract 2.

WHEREAS, pursuant to NEB. REV. STAT. §76-2,113 (2009), the City of Lexington must approve the release of the conservation easement on Tract 1;

WHEREAS, pursuant to NEB. REV. STAT. §76-2,112 (2009), on May 14, 2013, the City of Lexington forwarded the easement request for the new area to be burdened by a conservation easement referred to herein as Tract 2 to the City of Lexington Planning and Zoning Commission for their review and recommendations regarding the conformity of the proposed acquisition to comprehensive planning for the area; and

WHEREAS, also pursuant to NEB. REV. STAT. §76-2,112 (2009) on May 15, 2013, the City of Lexington Planning and Zoning Commission recommended approval of the new easement on Tract 2 at their regularly scheduled meeting; and

NOW, BE IT RESOLVED by the City of Lexington that the release of the conservation easement on Tract 1 legally described hereinabove and the designated conservation easement on Tract 2 legally described hereinabove and more specifically set forth in the Deed of Conservation Easement attached hereto as Exhibit "A" and incorporated herein by this reference, should be, and hereby are, approved.

PASSED AND ADOPTED this 28th day of May, 2013.

CITY OF LEXINGTON  
John Fagot, Mayor  
Pam Berke, City Clerk

**ALCOLHOL SALES:** Peplitsch reviewed a request to extend the sale of alcohol until 2:00 am on June 7 and 8, coinciding with the Plum Creek Rodeo, and June 14 and 15, coinciding with Alumni Events. Following discussion, moved by Salem, seconded by Vivas, to approve the extension of alcohol sales until 2:00 am on June 7, 8, 14, and 15, 2013. Roll call. Voting “aye” were Miller, Roberts, Vivas, Salem, Fagot. Motion carried.

**FINANCIAL REPORT:** Peplitsch presented a financial report for April 2013. Moved by Miller, seconded by Salem, to accept the financial report as presented. Roll call. Voting “aye” were Vivas, Roberts, Salem, Miller, Fagot. Motion carried.

**EXECUTIVE SESSION:** Moved by Salem, seconded by Vivas, to enter into Executive session at 5:59 pm to discuss purchase of land. Roll call. Voting “aye” were Miller, Roberts, Vivas, Salem, Fagot. Motion carried.

Moved by Roberts, seconded by Miller, to adjourn Executive Session and enter into Open Session at 6:52 pm. Roll call. Voting “aye” were Vivas, Salem, Miller, Roberts, Fagot. Motion carried.

**ROUNDTABLE DISCUSSION:** Peplitsch discussed potential dates for a Council work session in June.

Burnside reported on scheduled activities for the Jackson Street project, including a preconstruction meeting, public open house on June 4, and potential start date of June 17.

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

John Fagot  
Mayor

Pamela Berke  
City Clerk

I, the undersigned 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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City Clerk