

**CITY COUNCIL  
CITY OF LEXINGTON, NEBRASKA  
April 25, 2023**

A Regular Meeting of the Lexington City Council was held Tuesday, April 25, 2023, at Lexington, Nebraska at 5:30 p.m. Members of the Council present were John Fagot, John Salem, Dora Vivas, Steve Smith, and Jeremy Roberts. City Officials present were City Manager Joe Peplitsch, Assistant City Manager Dennis Burnside, City Attorney Brian Copley, Community Development Director Bill Brecks, Finance Director Barb Hodges and City Clerk Pamela Baruth. The press was represented by the Clipper-Herald and KRVN Radio.

**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, 406 E. 7th Street, Lexington, Nebraska.

**MINUTES – REGULAR MEETING 4-11-2023:** Minutes of the Regular meeting held Tuesday, April 11, 2023, were presented. Moved by Vivas, seconded by Salem, to approve the minutes as presented. Roll call. Voting “aye” were Smith, Roberts, Salem, Vivas, Fagot. Motion carried.

**CLAIMS & BILLS:** Claims and Bills in the amount of \$2,298,801.98 were presented for Council’s consideration and approval. Upon review of the Claims and Bills as listed, moved by Smith, seconded by Roberts, to approve the Claims and Bills as listed, and authorize the City Treasurer to transfer \$404,713.62 from General Fund, \$150,531.01 from Street Fund, \$1,619,732.53 from LEXUS, \$40,484.77 from Sanitation, \$2,927.41 from Ambulance, \$72,064.78 from Health Fund, and \$8,347.86 from Meals on Wheels to the City of Lexington’s Operating Account. Roll call. Voting “aye” were Vivas, Salem, Roberts, Smith, Fagot. Motion carried.

**ACCOUNTS PAYABLE  
April 25, 2023**

American Family Life Assurance Company	Premiums	1,679.89
Axxent Buildings LLC	ST / Overhead Door Adjustments / Repairs	238.50
B & H Services / Service Master	Cleaning Service	6,264.00
Baker & Taylor	LB / Books	484.01
Barron, Charlotte	Electric Rebate	3,275.00
Benson, John Kevin / Benson Tree Service	EL / Tree Removal / Line Clearance	12,900.00
Beverly Bogle Louthan PC	Professional Fees	1,200.00
Bonsack, Ray	Electric Rebate	850.00
Business Card / Bank of America		
Amazon.com	Screwdriver Set/ Waste Bags/Nozzles	195.92
Casey's General Store	CM / Meeting Meal	39.57
Cozad Elks Club	CM / Senior Seminar / Hosting / Meals	923.37
Glowforge	CM / Printer Software Access	239.00
Government Finance Officers Association	CT / Membership Dues / Hodges, B	190.00
International Code Council	DS / Books / Testing / Harris, J	990.73
Microsoft	LB / Monthly Software Subscriptions	9.75

Test Gauge Inc	WR / Calibration / Backflow Equipment	123.20
United States Postal Service	CM / WR / Postage	301.25
Cash-Wa Distributing	MOW / Food & Supplies	5,924.78
Castaneda, Allen	PD / Uniform Expense / Reimbursement	129.46
Cengage Learning	LB / Books	203.12
CNH Industrial America LLC / Titan Machine	PK / ST / WWTP / Parts / Repairs	2,637.67
Collaborative Summer Library Program	LB / Supplies	118.14
Core & Main LP	WR / Meters / Meter Cables	2,299.25
County Of Dawson - Treasurer	RSL / 2022 Real Estate Taxes	63,075.94
Davis Energy	Fuel Purchase/Gear Oil/Propane/DEF	6,981.52
Depository Trust	2020 Highway Allocations Bond / Interest	2,608.75
Designer Craft Woodworking Inc	FH / Backsplash	135.00
Eakes Inc	EL / Office Supplies / DOCMGMT Support	1,211.46
Electrical Engineering & Equipment	PK / Hardware	6.57
Electric Pump Company / MC2	WWTP / Supplies / UV Disinfection	1,032.88
Fagot Refrigeration & Electric Inc	Svc Calls/Wire New Boiler	2,603.93
Fastenal	SW / Supplies	46.61
First Interstate Bank	CED Final Loan Payment	13,193.97
Fyr-Tek Inc	FD / Annual Compressor Service	711.30
GB Auto Service Inc	PD / PK / SW / WR / Tire Repairs / Repairs	1,268.68
Gomez, Jose	Electric Rebate	1,425.00
HD Supply Inc	SW / Parts	91.95
Health Claims	Claims	28,255.01
Hiland Dairy Foods	MOW / Dairy Products	384.27
Holbein, Dahlas	Truck Maintenance/Fueling/Cleaning	1,500.00
Home Federal Bank	SW 1st Loan Payment	66,528.30
Hydro Optimization&Automation Solutions Inc	WR / SCADA Batteries	156.60
IGS ORIX Solar I	Solar Power Purchase / 2022 Capacity Tax	48,489.71
Ingram Library Services	LB / Books	100.84
International City Management Association	CM / Membership Renewal / Peplitsch, J	964.60
JEO Consulting Group Inc	ND / PK / ST / Professional Services	22,095.75
Kirk's Trenching & Septic / Johnny on the Spot	CEM / PK / Portable Rental / Cleaning	40.00
Kohl, Patrick J/Kohl Welding&Machining LLC	ST / Fabricate Trailer Gate	726.15
Lexington City Payroll Account		
Payroll	Wages	164,159.88
Social Security	Employer Portion / FICA Med	12,250.79
Union Bank & Trust	Employer Portion / Pension	5,498.92
Union Bank & Trust	Police Pension	3,583.65
ICMA	City Manager Pension	1,078.84
Lexington Health Fund	Self-Funding	56,290.80
LEXUS	Utilities	49,783.24
McFadden, Ryan / McFadden Auto Repair	PK / Water Truck Repairs	998.24
Mead Lumber	CEM / PK / Supplies / Tools / Hardware	116.40
Meritain Health	Health Premium	32,722.48
Mid-State Engineering & Testing Inc	2021 Wastewater Facilities Imps/Testing	1,671.50
Mid-States Organized Crime Information Center	PD / 2023 Membership Dues	150.00
Midwest Petroleum Equipment	ST / Service Call / Fuel Pumps	426.13
Miller & Associates Consulting Engineers PC	PK/Professional Services / Splashpad Final	4,179.80
Mobotrex Inc	EL / Traffic Light Bulbs / Red & Yellow	944.00
Nebraska Law Enforcement Training Center	PD / Training Material / Castaneda	165.00
Nebraska Public Power District	O & M	184,992.89
	Power Purchase	1,097,396.80
Nebraska Rural Radio Association / KRVN	PK/WWTP/Job Openings/Classified Ads	250.00
Nebraska Safety and Fire Equipment, Inc	PK / Alarm Inspection	145.00
Nebraskaland Tire	EL/ST/Oil/Lube/Tires/Brake Repairs	1,960.16
Nur, Nuridin	Electric Rebate	1,500.00
Olsson	ST / WR / SW / Vintage Row Design	7,525.00
O'Reilly Auto Parts	ST / Parts	4.98

Page My Cell	FD / Annual Fees	550.00
Paulsen Inc	WR / Limestone	1,895.24
Platte Valley Auto Mart Inc	PD / 2023 Ford AWD Explorer (2)	99,870.00
Prado, Ramon	Electric Rebate	2,475.00
Principal	Dental Premium	3,829.84
Priority Medical Transport LLC	AMB / Non-Billable Runs	1,700.00
Quality Flow Systems	WWTP/Service Check/Mixers/Lift Station	1,300.00
Region12 American Backflow Prevention Assoc	Backflow Training/Thompson/Maciel/Landa	270.00
Rockmount Research & Alloys Inc	ST / Hardware / Supplies	617.13
Rose Holdings / Rose Equipment	ST / Bobcat Skis Steer Repairs	3,804.24
S & W Auto Parts	PK / ST / Supplies / Parts	58.08
Sayler Screenprinting	Uniform Exp/Training Center/Castaneda	90.00
Schroeder, Mickey L	Electric Rebate	300.00
Schroeder, Stephan R / J & S Repair Services	REC/Boiler/Hitting Building/Final Payment	8,554.00
Standard Insurance Company	Life Insurance Premiums	966.69
State of Nebraska - Department of Labor	Unemployment Insurance	3,120.00
Syndicate Publishing	LB / Subscription	65.00
Taste Of Home Books	LB / Books	38.50
Utility Service Co Inc	WR / Service / Water Towers	11,060.17
Verizon Wireless	Cellular Service	416.93
Village Cleaners Inc	GGC / Janitorial Supplies	138.10
Vollmer, James L / Jamie's Garage	CEM / Repairs	85.84
VSP / Vision Service Plan	Vision Premium	1,040.47
YMCA of the Prairie	Fitness Memberships	1,437.16
Bauer Built Tire	ST / Tire Repairs	268.70
Bound Tree Medical LLC	AMB / Medical Supplies	147.98
Cash-Wa Distributing	MOW / Supplies	81.95
City of Lexington	Utility Franchise Fees	93,514.85
City of Lexington / Street	Fuel	11,279.61
Dan's Sanitation	Sanitation Fees	40,484.77
Davis Energy	ST / Fuel Purchase / Fuel	7,132.66
Eakes Inc	ST / Copier Expense	296.87
Electrical Engineering & Equipment	WWTP / Hardware	17.76
Health Claims	Claims	41,849.26
Homeier Ventures LLC / Bob's True Value	PK / Sprinkler Head	10.99
Mead Lumber	CEM / Pre-Mix Cement	14.97
Mid-Iowa Solid Waste Equipment Co Inc	ST / Street Sweeper Repairs	2,486.80
Municipal Supply	WR / Parts	334.29
Polydyne Inc	WWTP / Dewatering Polymer	15,364.00
Resource Management Co Inc	ST / Tire Disposal	348.75
Sirchie Acquisition Company LLC	PD / Evidence Tape	33.60
SMC Exteriors & Construction LLC	Remove Curb/Gutter/1107 N Washington	850.00
State of NE / Public Health Environmental Lab	WR / Lab Testing	411.00
Statewide Collections LLC	EL / Collection Fees	487.39
Stout, Robby B	ST / WR / Repairs	2,974.00
TASC	Administration Fees	175.62
Time Value Software	CT / Software & Support	35.00
Turbo Technologies Inc	CEM / Mulch	2,960.02
US Foods	MOW / Food & Supplies	848.78
Village Cleaners Inc	GGC / Janitorial Supplies	64.06
	TOTAL CLAIMS:	2,298,801.97

**FINANCIAL REPORT:** Moved by Salem, seconded by Vivas, to accept the financial report for March 2023 as presented. Roll call. Voting “aye” were Smith, Roberts, Vivas, Salem, Fagot. Motion carried.

**PUBLIC HEARING:** Fagot opened a public hearing to consider an Application for a Conditional Use Permit for an assembly use at 520 North Washington. Brecks explained that the applicant would like to use the second floor of the building as a meeting hall with access on the north side of the building. He stated that the state fire marshal has tentatively approved an occupancy of 50 people with some minor code upgrades and correlating to 16 required parking spaces. Diana Gonzalez, with the assistance of Jose Torres, stated that she would like an occupancy of 100 people. Council members inquired about maintenance issues and complaints, supervision of events, occupancy rates, and sale of alcohol. Ms. Gonzalez stated that she will be supervising the events, that she has a cleaning service to address the maintenance issues, and no intent to allow or sell alcohol on the premises. There were no public comments and the public hearing was closed. Following discussion, moved by Salem, seconded by Vivas, to table the application for a future discussion. Roll call. Voting “aye” were Smith, Roberts, Vivas, Salem, Fagot. Motion carried.

**PUBLIC HEARING:** Fagot opened a public hearing to consider an Application for a Conditional Use Permit for an assembly use at 521 North Washington. Brecks explained that the applicant would like to use the first floor of the building for meeting hall. He also presented the state fire marshal report outlining code issues based on an occupancy of 192 people; also stated that occupancy rate of 192 would require 60 available parking spaces. Diana Gonzales, with assistance of Jose Torres, stated her intent with an occupancy of 190 people. Council members restated the same concerns with the 520 N Washington building, and would like a more specific fire marshal report. There were no public comments and the public hearing was closed. Following discussion, moved by Vivas, seconded by Smith, to table the application for future discussion. Roll call. Voting “aye” were Salem, Roberts, Smith, Vivas, Fagot. Motion carried.

**PUBLIC HEARING:** Fagot opened a public hearing to consider a redevelopment plan entitled “Amendment to the Redevelopment Plan of the City of Lexington (Taco John’s Project). Copley reviewed the plan which would entail construction of fast-food restaurant and associated improvements by Derock, Inc. dba Taco John’s. He also reviewed the cost benefit analysis. There were no public comments and the public hearing was closed. Resolution No. 2023-08 was presented. Following discussion, moved by Smith, seconded by Roberts, to approve Resolution No. 2023-08. Roll call. Voting “aye” were Vivas, Salem, Roberts, Smith, Fagot. Motion carried.

#### **RESOLUTION NO. 2023-08**

(Amendment to Redevelopment Plan and Cost-Benefit Analysis—Taco John’s Redevelopment Project)

#### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEXINGTON, NEBRASKA APPROVING AN AMENDMENT TO REDEVELOPMENT PLAN #1 IN THE CITY OF LEXINGTON, NEBRASKA AND A COST-BENEFIT ANALYSIS FOR THE TACO JOHN’S REDEVELOPMENT PROJECT.**

#### **RECITALS**

A. The General Redevelopment Plan for Redevelopment Area #1 (the “**Redevelopment Plan**”), which covers certain portions of the City of Lexington, Nebraska that have been declared blighted and substandard and in need of redevelopment (the “**Redevelopment Area**”), was previously adopted by the City Council of the City of Lexington, Nebraska (the “**City**”).

B. An Amendment to the Redevelopment Plan (the “**Amendment**”) for the Taco John’s Redevelopment Project (the “**Project**”) has been prepared pursuant to the Community Development Law, Neb. Rev. Stat. §§ 18-2101 to 18-2155, as amended (the “**Act**”), to identify specific property within the Redevelopment Area that is in need of redevelopment to

cause the removal of blight and substandard conditions (the “**Project Site**”), which is attached as **Exhibit A** and incorporated by this reference.

C. The Project will use tax increment financing pursuant to Section 18-2147 of the Act to assist in paying for the cost of certain public improvements on the Project Site, as more particularly described in the Amendment.

D. The Community Development Agency of the City of Lexington, Nebraska (the “**Agency**”), as required under Section 18-2113(2) of the Act, has conducted a Cost-Benefit Analysis for the Project, which is attached as Exhibit “C” to the Amendment.

E. On April 25, 2023, a meeting of the City Council was held at the Lexington City Council Chambers, 406 E 7th Street in Lexington, Nebraska in order to conduct a public hearing to determine whether the Amendment and the Cost-Benefit Analysis should be approved.

F. A notice of public hearing was published for at least two (2) consecutive weeks, the last of which was at least ten (10) days prior to the time and date of the public hearing, which notice of public hearing described the time, date, place and purpose of the hearing.

G. The City Council reviewed and discussed the recommendations received from the Planning Commission and the Agency.

H. The City Council has duly considered all statements made and materials submitted related to the submitted questions.

I. The Amendment clarifies the scope of the Redevelopment Plan and incorporates the Project into the Redevelopment Plan and into compliance with the Act.

J. Statements of the proposed method and estimated cost of the acquisition and preparation for redevelopment of the redevelopment project area and the estimated proceeds or revenue from its disposal to redevelopers, the proposed method of financing the redevelopment project, and a feasible method proposed for the relocation of families to be displaced from the redevelopment project area, if applicable, are set forth in the Amendment and the Cost-Benefit Analysis.

K. The Project Site is in need of redevelopment to remove blight and substandard conditions identified pursuant to Section 18-2109 of the Act;

L. The Amendment will, in accordance with the present and future needs of the City, promote the health, safety, morals, order, convenience, prosperity, and the general welfare of the community in conformance with the legislative declarations and determinations set forth in the Act.

M. The Amendment is feasible and is in conformance with the general plan for development of the City as a whole, as set forth in the City of Lexington Comprehensive Plan, as amended.

N. The costs and benefits of the Project, including the costs and benefits to other affected political subdivisions, the economy of the City, and the demand for public and private services are in the long-term best interest of the City.

O. The Project would not be economically feasible without the use of tax increment financing and would not occur in the Redevelopment Area without the use of tax increment financing.

P. Pursuant to the provisions of the Act and in light of the foregoing findings and determinations, the City Council desires to approve the Amendment and the Cost-Benefit Analysis.

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Lexington, Nebraska, does hereby approve and adopt the Amendment and the Cost-Benefit Analysis.

**PASSED AND APPROVED** this 25<sup>th</sup> day of April, 2023.

**WAIVER:** Resolution No. 2023-09 was presented. Copley noted this would allow the CDA to enter into the redevelopment agreements upon their approval and not delay the construction timeline for the developer. Following discussion, moved by Vivas, seconded by Roberts, to approve Resolution No. 2023-09. Roll call. Voting “aye” were Smith, Salem, Roberts, Vivas, Fagot. Motion carried.

**RESOLUTION NO. 2023-09**

(Waiver of 30-Day Waiting Period—Taco John’s Redevelopment Project)

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEXINGTON, NEBRASKA WAIVING THE 30-DAY NOTICE PERIOD PURSUANT TO SECTION 18-2119 OF COMMUNITY DEVELOPMENT LAW IN REGARDS TO THE TACO JOHN’S REDEVELOPMENT PROJECT.**

**RECITALS**

A. WHEREAS the City has previously approved an Amendment to the Redevelopment Plan for the Taco John’s Redevelopment Project pursuant to Community Development Law, Neb. Rev. Stat. §§ 18-2101 to 18-2155, as amended (the “Act”), to identify specific property within the Redevelopment Area that is in need of redevelopment to cause the removal of blight and substandard conditions (the “**Project Site**”); and

B. WHEREAS the Agency has forwarded to the City of Lexington a proposed redevelopment agreement attached hereto as **Exhibit A** (the “Redevelopment Agreement”) for the development of the Project Site; and

C. WHEREAS the Agency is required by Section 18-2119 of the Act to give the City of Lexington 30-days’ notice of its intention to accept the Redevelopment Agreement; and

D. WHEREAS as the City Council has reviewed and discussed the Redevelopment Agreement and is desirous of waiving the 30-day waiting period so as to permit the Agency to enter into the Redevelopment Agreement upon approval of the same by the Agency;

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Lexington, Nebraska, does hereby waive the 30-day waiting period set forth in Section 18-2119 of the Act and further approves the Agency entering into the Redevelopment Agreement for the Project Site in substantially the form attached as Exhibit A and with such modifications, additions or deletions deemed necessary or appropriate by the Agency.

**PASSED AND APPROVED** this 25<sup>th</sup> day of April, 2023.

**RESOLUTION:** Peplitsch presented and reviewed Resolution No. 2023-10 conveying property to the CDA for housing development purposes. Following discussion, moved by Roberts, seconded by

Vivas, to approve Resolution No. 2023-10. Roll call. Voting “aye” were Smith, Salem, Vivas, Roberts, Fagot. Motion carried.

**RESOLUTION NO. 2023 – 10**

**A RESOLUTION OF THE CITY OF LEXINGTON, NEBRASKA, AUTHORIZING AND DIRECTING THE TRANSFER OF REAL ESTATE TO THE COMMUNITY DEVELOPMENT AGENCY OF LEXINGTON, NEBRASKA.**

WHEREAS, the City of Lexington owns certain real estate for the purpose of residential housing development; and

WHEREAS, the Community Development Agency of Lexington, Nebraska is preparing a housing development project involving the same real estate, and it is in the best interest of the City to aid and cooperate in the planning, undertaking and carrying out of said development project by transferring title to said real estate to the Community Development Agency.

BE IT THEREFORE RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF LEXINGTON, NEBRASKA, as follows:

That the City Manager is hereby directed and authorized on behalf of the City of Lexington, to execute a Deed, transferring to the Community Development Agency of Lexington, Nebraska, the following described real estate, to-wit:

Lots 1-11, Block 2, Southwest Second Subdivision, a replat of Blocks 2 and Block 9, Southwest First Addition, an addition to the City of Lexington, Dawson County, Nebraska;

Lots 1-14, Block 9, Southwest Second subdivision, a replat of Blocks 2 and Block 9, Southwest First Addition, an addition to the City of Lexington, Dawson County, Nebraska;

Lots 1-5, Block 3, Southwest First Addition, an addition to the City of Lexington, Dawson County, Nebraska;

Lots 1-5, Block 5, Southwest First Addition, an addition to the City of Lexington, Dawson County, Nebraska;

Lots 1-4, Block 4, Southwest First Addition, an addition to the City of Lexington, Dawson County, Nebraska;

Lots 27-40, Block 10, Southwest First Addition, an addition to the City of Lexington, Dawson County, Nebraska.

**Passed and approved April 25, 2023.**

**ROUNDTABLE:** Pepplichtsch gave a brief update on local projects.

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

John Fagot, Mayor

Pamela Baruth, 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.

/s/ Pamela Baruth  
City Clerk