

CITY OF LUBBOCK
SPECIAL CITY COUNCIL MEETING
May 18, 2006
7:00 A. M.

The City Council of the City of Lubbock, Texas met in special session on the 18th day of May, 2006, in the City Council Chambers, first floor, City Hall, 1625 13th Street, Lubbock, Texas at 7:00 A. M.

7:00 A. M. CITY COUNCIL CONVENED
City Council Chambers, 1625 13th Street, Lubbock, Texas

Present: Mayor Marc McDougal, Mayor Pro Tem Tom Martin, Council Member Gary O. Boren, Council Member Linda DeLeon, Council Member Jim Gilbreath, Council Member Phyllis Jones, Council Member Floyd Price

Absent: No one

1. EXECUTIVE SESSION was considered following Item 2.5.

2. REGULAR AGENDA

2.1. Amendment Resolution - Market Lubbock Economic Development Corporation: Resolution No. 2006-R0222 approving the amendment to the Market Lubbock Economic Development Corporation's Bylaws and Articles of Incorporation to increase the number of members on its Board of Directors from five to seven.

Market Lubbock Economic Development Corporation currently has five members on its Board of Directors. The Board believes that it is in the best interests of the Corporation to increase the number of members of the Board of Directors from five to seven.

This item will amend Article Nine of the Articles of Incorporation and Article 2.02 of the Bylaws of Market Lubbock Economic Development Corporation to allow for a seven-member board instead of a five-member board.

FISCAL IMPACT

No fiscal impact anticipated.

Staff recommended approval of this resolution.

City Attorney Anita Burgess gave comments and answered questions from Council.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Gilbreath to pass Resolution No. 2006-R0222 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

2.2. Amendment Resolution - Lubbock Economic Development Alliance: Resolution No. 2006-R0223 approving the amendment to the Lubbock Economic Development Alliance, Inc.'s Bylaws to increase the number of members on its Board of Directors from five to seven.

Lubbock Economic Development Alliance currently has five members on its Board of Directors. The Board believes that it is in the best interest of the Corporation to increase the number of members of the Board of Directors from five to seven.

This item will amend Article II, Section 1(b) of the Bylaws of Lubbock Economic Development Alliance, Inc. to allow for a seven-member board instead of a five-member board.

FISCAL IMPACT

No fiscal impact anticipated.

Staff recommended approval of this resolution.

Motion was made by Council Member Gilbreath, seconded by Mayor Pro Tem Martin to pass Resolution No. 2006-R0223 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

2.3. Board Appointments - City Secretary:

Consider three appointments to Lubbock Economic Development Alliance, Inc.

Consider three appointments to Market Lubbock Economic Development Corporation Board of Directors.

Motion was made by Council Member DeLeon, seconded by Council Member Price to appoint Velma Medina, Curtis Griffith, and Mike McDougal to the Lubbock Economic Development Alliance, Inc. Board and to the Market Lubbock Economic Development Corporation Board of Directors.

There were concerns from Council regarding conflict/nepotism law, with the third appointment to the Lubbock Economic Development Alliance, Inc. Board and the Market Lubbock Economic Development Corporation Board of Directors being Mike McDougal, who is the brother of Marc McDougal, Mayor, until the newly elected David Miller was sworn in. The question was asked if Mike McDougal could be appointed after the new Mayor was sworn in.

City Attorney Anita Burgess stated that, "with regard to a member of the Council voting on an issue such as this and the Council making such an appointment, certainly the question is the Mayor's brother as a potential appointee to the LEDA Board, would be analyzed from the perspective of Chapter 171 of Local Government Code as to whether or not that would be a conflict for the Mayor". Under those provisions, State Law and the Charter, there is not a conflict. Burgess went on to say that there is no other provision that she is aware of where there would be the creation of a conflict. She stated

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that there is an issue under the LEDA Articles of Incorporation which states (and she read) that there will no be an appointment made to the LEDA Board of an individual who is related within certain degrees to members of the Council. That would create an issue for the LEDA Board for a short period of time. The LEDA Board operates such that the appointment would be effective immediately.

With that said, motion was made by Council Member Boren, seconded by Council Member Gilbreath to appoint Curtis Griffith, Dan Pope, and Velma Medina to the Lubbock Economic Development Alliance and Market Lubbock Economic Development Corporation Board of Directors. Discussion was had and after further discussion, Council Member Boren called for the question. Mayor Pro Tem Martin called for a vote, which carried: 6 Ayes, 0 Nays. Vote was then taken on the above motion, which failed: 3 Ayes, 3 Nays. Mayor Pro Tem Martin, Council Members Jones and Price voted Nay.

Motion was then made by Council Member Jones, seconded by Council Member Price to appoint Curtis Griffith, Velma Medina, and Mike McDougal to the Lubbock Economic Development Alliance and Market Lubbock Economic Development Corporation Board of Directors, and for the appointment to become effective at 10:00 a.m. today. The question was asked if this was permissible, and City Attorney Burgess stated that she was legally uncertain of the answer. Mayor Pro Tem Martin requested to divide the vote, and Burgess stated it could be done. Vote was as follows:

Curtis Griffith – 6 Ayes, 0 Nays

Velma Medina – 6 Ayes, 0 Nays

Mike McDougal – 3 Ayes, 3 Nays (Mayor Pro Tem Martin, Council Members Boren and Gilbreath voted Nay.)

Dan Pope – 2 Ayes, 4 Nays (Mayor Pro Tem Martin, Council Members DeLeon, Jones, and Price voted Nay.)

Motion was made by Council Member Boren, seconded by Council Member Gilbreath to appoint Velma Medina and Curtis Griffith to the Lubbock Economic Development Alliance, Inc. Board and to the Market Lubbock Economic Development Board of Directors, and to take no action on the third position until the May 25th Regular City Council Meeting. Motion carried: 6 Ayes, 0 Nays.

Mayor McDougal recused himself.

2.4. This item was considered following Item 2.7.

2.5. This item was considered following Item 2.4.

2.6. Bond Ordinance Amendment First and Only Reading - Finance: Ordinance No. 2006-O0060 amending the City's ordinance providing for the issuance of City of Lubbock, Texas, General Obligation Refunding Bonds, Series 2006 and ratifying the purchase contract providing for the sale of such bonds.

The City Council adopted ordinance #2006-O0047 at the April 26, 2006, City Council Meeting approving the issuance of General Obligation Refunding Bonds. These bonds refunded the outstanding Tax and Municipal Drainage Utility System Surplus Revenue Certificates of Obligation, Series 2001, to achieve an interest rate savings.

This ordinance amends the adopted ordinance to comply with the results of the May 11, 2006, bond sale. This amendment changes the price paid for the bonds by the underwriter from 100% to 98.5%. The bonds were sold at a discount in the bond markets based on the market conditions on the sale date. In addition, the maximum maturity is being changed from 20 years to 25 years because the final maturity of the bonds outstanding and refunded occurs in 2031.

FISCAL IMPACT

On May 11, 2006, the City issued \$18.83 million in General Obligation Refunding Bonds, Series 2006. The issuance resulted in a present value savings of 2.502%, or \$450,705. This is equivalent to an annual savings of \$30,000 to \$35,000 to the Storm Water Fund.

This amendment to the original ordinance has no fiscal impact.

Staff recommended approval of the first and only reading of this ordinance.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Gilbreath to pass on first and only reading Ordinance No. 2006-O0060 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

2.7. Election Resolution - City Secretary: Resolution No. 2006-R0224 canvassing the vote and declaring the results of the May 13, 2006 City of Lubbock General Election and calling a Runoff Election if necessary.

The governing body is required to canvass election results not earlier than the third day or later than the eleventh day after Election Day. Each Council Member will be provided with tabulation sheets showing the total number of votes cast for each candidate, and the number of votes cast for each candidate by precinct. The resolution will canvass the returns and declare the results of the General Election for the Mayor and City Council Members for Districts 1, 3, and 5. If no candidate for a particular office receives more than 50 percent of the votes cast for that office, a runoff election is required for that office.

FISCAL IMPACT

No fiscal impact anticipated.

The City Secretary recommended that the City Council accept the returns and act favorably on the resolution, and that a runoff election be called if no candidate for a particular office receives more than 50 percent of the votes cast for that office. A runoff election was not necessary.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Gilbreath to pass Resolution No. 2006-R0224 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

2.4. Building Code Ordinance 2nd Reading - Building Inspection: Ordinance No. 2006-O0050 Consider an ordinance amending Chapter 6, Article II of the Code of Ordinances titled "Building Code" to amend the 2003 International Building Code with regard to required fire suppression systems in Group R occupancies.

This amendment and the companion amendment to the International Fire Code exempts R-2 apartment buildings of less than three stories in height from the installation of automatic fire sprinkler systems.

Staff met with the West Texas Home Builders Association liaison group and their consultant to clarify issues and answer questions. In the meeting, it was acknowledged that there had been no intent to include R-1 (hotels and motels) occupancies in the exemption; only R-2 apartment buildings are a concern. Therefore, the ordinance draft has been modified since first reading to include only R-2 apartment occupancies less than three stories in height within the exemption. It was also acknowledged that there was no interest in including apartment buildings of three stories.

FISCAL IMPACT

No fiscal impact anticipated.

Fire Chief Steve Hailey, Building Inspector Steve O'Neal, and Fire Marshall Mike Kemp, gave comments and answered questions from Council.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Price to pass on second and final reading Ordinance No. 2006-O0050 as recommended by staff.

After further discussion, Mayor Pro Tem Martin and Council Member Price withdrew their motion and second.

Consensus from Council was to continue this item until the next meeting.

2.5. Fire Code Ordinance 2nd Reading - Fire Department: Ordinance No. 2006-O0051 Consider an ordinance amending Code of Ordinances, Chapter 11, Article III, Section 11-84, Fire Code, to amend the 2003 International Fire Code with regard to required fire suppression systems in certain Group R occupancies.

This amendment and the companion amendment to the International Building Code exempts certain R-2 (apartment) buildings of less than three stories in height from the installation of automatic fire sprinkler systems.

Staff met with the liaison group from the West Texas Home Builders Association to clarify issues and answer questions. As a result of that meeting, three story apartments have not been included in this exemption because the liaison group indicated that it was not a concern. In addition, hotels and motels have been removed from the exemption based on input from the liaison group.

FISCAL IMPACT

No fiscal impact anticipated.

Fire Chief Steve Hailey, Building Inspector Steve O'Neal, and Fire Marshall Mike Kemp, gave comments and answered questions from Council.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Price to pass on second and final reading Ordinance No. 2006-00050 as recommended by staff.

After further discussion, Mayor Pro Tem Martin and Council Member Price withdrew their motion and second.

Consensus from Council was to continue this item until the next meeting.

1. EXECUTIVE SESSION

Mayor McDougal stated: "City Council will hold an Executive Session today for the purpose of consulting with the City Staff with respect to personnel matters and competitive matters of the public power utility, as provided by Subchapter D of Chapter 551 of the Government Code, the Open Meetings Law."

7:45 A. M. CITY COUNCIL RECESSED TO EXECUTIVE SESSION City Council Conference Room

All council members were present, except Council Member Gilbreath.

- 1.1. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.074 (a)(1), to discuss personnel matters (City Attorney, City Manager, City Secretary) and take appropriate action.**
- 1.2. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.086, on the following competitive matters (Electric Utilities):**
 - 1.2.1 to deliberate, vote and take final action on electric rates of Lubbock Power and Light;**
 - 1.2.2 to discuss, vote and take final action on a competitive matter regarding operation, financial and capital statements and budgets, revenue and expense projections, strategic and business plans and studies of Lubbock Power and Light**
 - 1.2.3 to discuss and deliberate a competitive matter regarding the strategies, goals, funding and strategic purpose of the City of Lubbock's relationship with and membership in the West Texas Municipal Power Agency.**

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9:00 A. M. CITY COUNCIL REGULAR MEETING RECONVENED
City Council Chambers

Present: Mayor Marc McDougal; Council Member Gary O. Boren; Council Member Linda DeLeon; Council Member Phyllis Jones; Council Member Floyd Price; Lee Ann Dumbauld, City Manager; Anita Burgess, City Attorney; and Rebecca Garza, City Secretary

Absent: Mayor Pro Tem Tom Martin and Council Member Jim Gilbreath
Mayor McDougal reconvened the meeting at 9:00 A. M.

3. PROCLAMATIONS AND PRESENTATIONS

3.1. Invocation by Dr. Jay Horton, First United Methodist Church.

3.2. Swearing-In Ceremony 9:00 a.m. - City Council: Swearing in of newly elected Council Members. (Reception immediately followed.)

Swearing in of newly elected Council Members:

Council Member, District 1 – Linda DeLeon was sworn in by 72nd District Court Judge Sam Medina.

Council Member, District 3 – Gary Boren was sworn in by Texas Supreme Court Justice Phil Johnson.

Council Member, District 5 – John Leonard, III was sworn in by Texas Supreme Court Justice Phil Johnson.

Mayor – David A. Miller was sworn in by Senator Robert Duncan

All newly elected members introduced their family and gave comments.

Outgoing Mayor, Marc McDougal, was presented with several mementos by other members of the City Council. He gave comments.

Reception immediately followed.

9:50 A. M. COUNCIL ADJOURNED TO RECEPTION

There being no further business to come before Council, Mayor Miller adjourned the meeting to the reception in Committee Room 103.