

CITY OF LUBBOCK
SPECIAL CITY COUNCIL MEETING
August 19, 2008
3:00 P. M.

The City Council of the City of Lubbock, Texas met in special session on the 19th day of August, 2008, in the City Council Chambers, first floor, City Hall, 1625 13th Street, Lubbock, Texas at 3:00 P. M.

3:00P.M. CITY COUNCIL CONVENED
City Council Chambers, 1625 13th Street, Lubbock, Texas

Present: Mayor Tom Martin, Mayor Pro Tem Jim Gilbreath, Council Member Paul R. Beane, Council Member Linda DeLeon, Council Member Todd R. Klein, Council Member John Leonard, Council Member Floyd Price

Absent: None

1. EXECUTIVE SESSION This item was moved and considered following

Item 2.9.

2. REGULAR AGENDA

2.1. Budget Amendment Ordinance 2nd Reading - Finance : Ordinance 2008-O0072 Consider budget ordinance Amendment No. 13 amending the FY 2007-08 budget respecting the Grant Fund.

On August 12, 2008, the City Council approved the first reading of the ordinance.

1. Accept and appropriate \$230,000 from the Texas Department of State Health Services for Community Preparedness Section Bioterrorism Preparedness Lab. The program assists the Lubbock Health Department in maintaining a bioterrorism testing laboratory with staff trained and proficient in Center for Disease Control Laboratory Response Network biothreat protocols. The contract provides 100 percent of salaries and benefits for three full-time positions, and funds for training, travel, and supplies. The contract period is through July 31, 2009.
2. Accept and appropriate \$108,204 from the Texas Department of State Health Services for the Regional and Local Services Section/Local Public Health System. The program provides financial assistance to improve local public health infrastructure. The local public health infrastructure is improved by developing objectives to address public health issues and utilizing resources to conduct activities and services that provide or support the delivery of essential public health services. The contract

provides 51 percent of salaries and benefits for four full-time positions. The contract period is through August 31, 2009.

3. Accept and appropriate \$198,485 from the Texas Department of State Health Services for the child, adolescent, and adult immunization program. The program places special emphasis on improving immunization of children two years of age and younger. The grant provides funding for a registered nurse, licensed vocational nurse, office assistant, and an outreach specialist. The contract provides 100 percent of salaries and benefits for four full-time positions. The grant period is through August 31, 2009.
4. Accept and appropriate \$74,009 from the Texas Department of State Health Services for laboratory analysis of milk and dairy products. The grant period is through August 31, 2009.

FISCAL IMPACT

Included in item summary.

Staff recommends approval.

Council Member Beane stated for the record: "I think I have been satisfied with the explanation, but what happens if this program expires? Are the recipients of this grant money terminated? What if these contracts are not renewed? Do they accumulate sick and vacation time?" LeeAnn Dumbauld, City Manager, answered on the grant positions in the Health Department and in our other areas. "If the positions are not funded into the future, then the people in those positions do recognize that those positions will be eliminated. They will have an opportunity to apply for any other vacancy, if that should occur. They do accumulate sick/vacation time."

Nancy Haney, Executive Director of Health, gave comments and answered questions from Council.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to pass Ordinance No. 2008-00072 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

2.2. Resolution - Airport : Resolution No. 2008-R0302 authorizing the Mayor to execute a Change Order to the contract with Allen Butler Construction, Inc., for entrance road repairing and informational signage improvements, replacing asphalt paving with concrete paving.

Specified PG70-28 and PG64-28 asphalt for the project is unavailable from the contractor's supplier, who recently filed bankruptcy. Change Order No. 1 extends construction time three weeks and replaces 41,586 square yards of asphalt paving with eight-inch joint concrete section paving at an additional cost of \$21.71 per square yard, or \$902,982.

FISCAL IMPACT

The current contract cost plus this change order is less than the original cost estimates for this project.

\$5,633,370 is appropriated in Capital Improvement Project 91109, Entrance Roads and Signage Improvements, with \$902,982 available for this purpose.

Staff recommends approval.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass Resolution No. 2008-R0302 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

2.3. Ordinance Amendment 2nd Reading – Water Utility : Ordinance 2008-O0073 Consider an ordinance amending Chapter 28 of the Code of Ordinances of the City of Lubbock, Texas, with regard to wholesale water service to specified areas outside of the City boundaries and related conditions and rates.

On August 12, 2008, the City Council approved the first reading of the ordinance. The ordinance amendment is necessary before an agreement can be approved to provide a water supply to Roosevelt Independent School District (RISD). An agreement is recommended because of the potential impact to the quality of area groundwater to the quality of groundwater from the application of treated wastewater effluent to the Lubbock Land Application Site.

The proposed ordinance enables the City of Ransom Canyon to provide water to RISD. By providing the water to RISD through Ransom Canyon, the cost of seven miles of water distribution main can be avoided. Instead of a 12-mile pipeline, RISD can be served through a 5-mile pipeline. The City will participate in a small portion of the line cost for the pipeline project. The proposed ordinance enables the City of Ransom Canyon to extend their water service into their extraterritorial jurisdiction if necessary for similar purposes.

FISCAL IMPACT

The agreements for RISD and Ransom Canyon have provisions for City participation in current and future projects. It is recommended that the City participate with the RISD project with \$150,000, and future projects with Ransom Canyon negotiated at the time they are recommended.

The Lubbock Water Advisory Commission and staff recommend approval.

Tom Adams, Deputy City Manager, gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass Ordinance No. 2008-O0073 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

- 2.4 This item was moved and considered following Item 2.7.**
- 2.5 This item was moved and considered following Item 2.4.**
- 2.6. Contract Amendment Resolution – Water Utility : Resolution No. 2008-R0303 authorizing the Mayor to execute a Second Amendment to the Contract relating to the provision of water to the Town of Ransom Canyon, Texas.**

The City of Lubbock has an existing water supply agreement with the Town of Ransom Canyon that was approved in 1988 with a term of 30 years. The water supply agreement was originally proposed to address water quality concerns related to the land application of treated wastewater effluent. A comparable agreement was also entered into with Buffalo Springs (Lubbock County Water Control & Improvement District 1).

The proposed amendment enables Ransom Canyon to provide water to Roosevelt Independent School District (RISD) for similar reasons and purposes. Providing water through Ransom Canyon reduces the cost of related capital improvements by eliminating the need for seven miles of pipeline. A separate agreement has been prepared for RISD.

In the agreement, a number of changes and issues are noted for your consideration, including the following:

1. The term of the agreement is 30 years (seven more than currently remains).
2. The City of Ransom Canyon will provide RISD with water service, and additional water to serve RISD. The additional water does not require capital improvements to the City of Lubbock's distribution system.
3. The agreement does not change the negotiated rate provisions for the Town of Ransom Canyon (and Buffalo Springs) due to the settlement agreement, so that they pay 81.17% of the commercial rate.
4. Ransom Canyon has agreed to include areas in their ETJ to be included within their water service area (Certificate of Convenience and Necessity or CCN). This allows the City of Lubbock to serve other adjacent developments, if necessary.
5. RISD has requested a separate water line maintenance agreement to be developed in the future. A similar request was made by Lubbock Cooper Independent School District.

Ransom Canyon currently uses 89 million gallons of water annually. The amount is equal to 0.7% of Lubbock's total water supply needs. In the contract, a maximum amount of water is stipulated for daily use. In part, the amount is limited by the City's distribution system and pipeline size to any given area. The peak day limitation is set at 1.35 million gallons resulting in a total annual limitation of 492.75 million gallons.

While a contractual limitation, the amount is not a projection of water use. As a general pattern of water use for Lubbock and other West Texas cities, the peak day use is not sustained by a municipality throughout the year. Peak day use can be two to three times greater than the average daily use and four times greater than the low daily winter use. Generally, total use can be projected by dividing the peak day use by two or three and then multiplying that amount by 365 days. The calculation results in projected water use of one-half to one-third of the annual limitation. In other words, the estimate for water to be used under this contract is 160 to 245 million gallons in one year, not 500 million gallons.

FISCAL IMPACT

There will be an increase in revenues as water is sold to Roosevelt ISD. Additional conservation efforts by wholesale users and Lubbock citizens will offset increases in revenue since total water use is down about 10% from former years. The City of Lubbock is not required to make any payments to Ransom Canyon. Extensions of water service into Ransom Canyon's ETC may require negotiations in the future for participation to address water quality issues.

The Lubbock Water Advisory Commission recommended approval of the contract in May 2008 at their regular monthly meeting. Staff recommends approval.

Tom Adams, Deputy City Manager, gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass Resolution No. 2008-R0303 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

2.7. Contract Amendment Resolution - Water Utility : Resolution No. 2008-R0304 authorizing the Mayor to execute an agreement related to the provision of water to Roosevelt Independent School District and release of claims related to groundwater issues.

The agreement enables the City of Lubbock to provide water to Roosevelt ISD through the Town of Ransom Canyon. This is a new agreement to provide water.

The water supply agreement addresses water quality concerns related to the land application of treated wastewater effluent. Similar agreements and releases have been entered into with the Town of Ransom Canyon and Buffalo Springs (Lubbock County Water Control & Improvement District 1).

The proposed amendment enables the Town of Ransom Canyon to provide water to Roosevelt ISD through a five-mile pipeline that connects the Roosevelt ISD campus to the Ransom Canyon water distribution system.

RISD has requested a separate water line maintenance agreement to be developed in the future. A similar request was made by Lubbock Cooper Independent School District.

The agreement provides that Roosevelt ISD could use up to 100,000 gallons of water daily, or 36.5 million gallons of water annually. This represents about 0.03% of Lubbock's annual water supply. The amount is included in the Town of Ransom Canyon Contract.

FISCAL IMPACT

There will be some increase in revenues as water is sold to Roosevelt ISD. Additional conservation efforts by wholesale users and Lubbock citizens will offset increases in revenue since total water use is down about 10% from former years.

The City of Lubbock will make a payment of \$150,000 to Roosevelt ISD. Funds are appropriated in the Adopted FY 2007-08 Operating Budget. The City of Lubbock financed water supply improvements for Ransom Canyon and Buffalo Springs, but that is not required as part of the agreement.

Staff recommends approval.

Tom Adams, Deputy City Manager, gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass Resolution No. 2008-R0304 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

2.8 This item was moved and considered following Item 2.5.

2.9 This item was moved and considered following Item 2.8.

2.4. Ordinance Amendment 2nd Reading – Water Utility : Ordinance 2008-00074 Consider an ordinance amending Chapter 28 of the Code of Ordinances of the City of Lubbock, Texas, respecting the description of the City Water System; respecting maintenance and compliance with the law related to the construction, operation, and maintenance of public water systems; providing a savings clause; providing a penalty clause; and providing for publication.

This item was continued to the next City Council meeting.

On August 12, 2008, the City Council approved the first reading of the ordinance. The Texas Commission on Environmental Quality (TCEQ) identified an issue that the City must address to maintain and assign water quality responsibility for the City water system and for private water systems within the City's service area and water supply contract area. The TCEQ refers to the area of concern as "sanitary control."

The City provides water to the customer's meter. In certain instances, such as mobile home parks, the primary customer develops a water system with non-

City meters for their customers to deliver water within their development to individual lots or units.

The proposed ordinance allows developers and owners to submit their proposed system to the City for approval as long as their system meets City specifications and provides necessary easements. If a developer or owner does not submit their proposed system to the City, or if the City does not approve of the system, the system remains the responsibility of the developer and owner. New developers and owners are required to enter into a contract for the water quality responsibility before water is provided.

The responsible party pays for and provides water quality testing in accordance with state regulations.

Staff and Water Commission recommend approval.

Council Member Leonard requested this item be pulled to the next Council meeting to have the opportunity to send this before the Model Codes Review Committee. There was consensus from Council.

This item was continued to the next City Council meeting.

- 2.5. Resolution - Water Utility : Resolution No. 2008-R0305 authorizing the City Manager, the Deputy City Manager or the Director of Water Utilities to agree to and execute, for and on behalf of the City of Lubbock, agreements containing specific or special conditions as such party may deem necessary or advisable, to the form Survey Permits approved by the City Council of the City of Lubbock by Resolution No. 2008-R0268, related to access to lands for surveying and testing activities, by and between the City of Lubbock and landowners affected by the City of Lubbock's proposed water transmission pipeline contemplated to be located in Lubbock, Lynn and Garza Counties of the State of Texas.**

The City is prepared to begin acquiring the right-of-way and property for the Lake Alan Henry Pipeline. As part of the process, the City needs approval from the property owners to access their property for engineering and surveying purposes prior to negotiations for the right-of-way.

Authorizing the City Manager, the Deputy City Manager, and the Director of Water Utilities to execute agreements containing specific or special conditions on Survey Permits related to access to lands for surveying and testing activities with landowners is a necessary step prior to the final designation of the pipeline route and the acquisition of the right-of-way.

FISCAL IMPACT

It is anticipated that there will be no costs associated with the execution of the access license agreements.

Staff recommends approval.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member DeLeon to pass Resolution No. 2008-R0305 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

2.8. Ordinance 1st Reading - City Manager : Ordinance No. 2008-O0076 amending Chapter 27-59 of the Lubbock Code of Ordinances to establish a process for setting rates for permit holders for taxicabs and limousines by tying said rate to rack prices for gasoline as set forth in the Oil Price Information Service Price and Delivery Report for Lubbock.

This ordinance establishes a process for setting rates for permit holders for taxicabs and limousines by tying said rate to rack prices for gasoline as set forth in the Oil Price Information Service Price and Delivery Report for Lubbock.

A copy of the ordinance will be provided prior to the City Council meeting.

Staff recommends approval.

LeeAnn Dumbauld, City Manager, gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Leonard to pass Resolution No. 2008-O0076 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

2.9. Ordinance 2nd Reading - City Council : Ordinance 2008-O0075 Consider an ordinance providing for an exception to Section 24.35(2) of the Code of Ordinances changing the name from East Yucca Lane to Lubbock Business Park Boulevard.

On August 12, 2008, the City Council approved the first reading of the ordinance. The ordinance amends Chapter 24 of the Code of Ordinances with regard to changing the name of East Yucca Lane to Lubbock Business Park Boulevard, from IH I-27 east to Martin Luther King Boulevard, and directs the City Engineer and Traffic Engineer to indicate such name on official maps and install appropriate signage to reflect such name as needed.

Lubbock Economic Development Alliance (LEDA) is now constructing a business park east of I-27 where Yucca Lane deadends. The plat of the area names the business park's entrance as East Yucca Lane. As the boulevard is just now under construction, LEDA is asking that the City name the new boulevard as "Lubbock Business Park Boulevard" to clearly identify the new business facility.

The name change is not made to an existing street, but to a street under construction. The only actual change will be to the plat of the area on the City's official maps.

FISCAL IMPACT

LEDA will be responsible for the cost of signage.

Motion was made by Council Member Leonard with amendment to change the name of East Yucca Lane from the east curb line of IH27 to the West right-of-way line of Martin Luther King Boulevard to Lubbock Business Park Boulevard, seconded by Mayor Pro Tem Gilbreath to pass Ordinance No. 2008-O0075 as recommended by staff. Motion carried: 5 Ayes, 2 Nays. Council Member DeLeon and Council Member Price voted Nay.

3:15 P.M. CITY COUNCIL RECESSED TO EXECUTIVE SESSION

City Council Conference Room

1. EXECUTIVE SESSION

Mayor Martin stated: “City Council will hold an Executive Session today for the purpose of consulting with the City Staff with respect to personnel matters; as provided by Subchapter D of Chapter 551 of the Government Code, the Open Meetings Law.”

- 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.**

3:56 P.M. CITY COUNCIL REGULAR MEETING RECONVENED & CONTINUED TO 7:15 A.M., AUGUST 20, 2008

City Council Chambers

August 20, 2008

7:20 A.M. CITY COUNCIL RECONVENED

City Council Chambers

- 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.**

Motion was made by Council Member Leonard, seconded by Mayor Pro Tem Gilbreath to accept Anita Burgess', City Attorney, resignation, and to waive the required 6 week notice. Motion carried: 7 Ayes, 0 Nays.

Mayor Martin stated the next item to be acted upon as a result of the City Attorney's resignation, is the appointment of the City Attorney Interim. Mayor Martin read the following Resolution:

WHEREAS, the resignation of City Attorney Anita Burgess requires the City Council of the City of Lubbock to appoint an attorney to serve as City Attorney; and

WHEREAS, the City Council deems it to be in the best interest of the citizens of the City of Lubbock study the various methods of obtaining municipal legal services to ensure that the City of Lubbock is receiving such services in the most efficient and effective manner; and

WHEREAS, the City Council desires to appoint an experienced municipal attorney to serve as City Attorney during such time as the study is being conducted; and

WHEREAS, Donald G. Vandiver, an attorney with more than 35 years of municipal law experience has agreed to serve as City Attorney; NOW THEREFORE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

SECTION 1. THAT Donald G. Vandiver is hereby appointed to serve as the City Attorney of the City of Lubbock on an interim basis until such time as his successor shall be appointed and qualified.

SECTION 2. THAT upon passage of this Resolution, the City Manager or her designee shall make such changes to the municipal budget and such other matters as may be necessary to implement this Resolution.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Klein to appoint Donald G. Vandiver as City Attorney. Motion carried: 7 Ayes, 0 Nays.

Mayor Martin stated that the Council accepts Ms. Burgess' resignation and understands she has been appointed as the City Attorney for the City of Denton; and speaking for the entire Council, they wished her well in her new endeavors.

Anita Burgess, City Attorney, thanked Council and gave parting comments.

7:29 A.M. COUNCIL ADJOURNED

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