

**CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
May 14, 2009
7:30 A. M.**

The City Council of the City of Lubbock, Texas met in regular session on the 14th day of May, 2009, in the City Council Chambers, first floor, City Hall, 1625 13th Street, Lubbock, Texas at 7:30 A. M.

7:30 A.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 Klein, Council Member John W. Leonard III, and Council Member Floyd Price.

Absent: No one

CITIZEN COMMENTS

- Corey Nunley, Lubbock Police Department; Brandon Price, Treasurer of Lubbock Police Department Association; Donnie Davidson; Lane McClanahan, President of Lubbock Police Department Association; and Marta Rosas appeared before Council and expressed concerns of recruitment strategies and favor of the adoption of item 6.2.

7:47 A.M. CITY COUNCIL RECESSED INTO EXECUTIVE SESSION.

EXECUTIVE SESSION

- 2.1. Hold an executive session in accordance with Vernon's Texas Codes Annotated (V.T.C.A.) Government Code, Section 551.071, to discuss pending or contemplated litigation or settlement agreement, and hold a consultation with attorney. (City Secretary, Lake Alan Henry, Parks and Recreation, Planning, Police, Water Utility)
- 2.2. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.072, to deliberate the purchase, exchange, lease, or value of real property. (Animal Services, Libraries, Radio Shop, Right-of-Way, Water Utility)

- 2.3. 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.
- 2.4. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.086, on the following competitive matters (Electric Utilities):
 - 2.4.1 to deliberate, vote and take final action on electric rates of Lubbock Power and Light
 - 2.4.2 to discuss, vote and take final action on a competitive matter regarding operation, financial and capital statements and budgets, revenue and expense projections, strategic business plans, agreements and studies of Lubbock Power and Light
 - 2.4.3 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.
- 2.5. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.074(a)(1), to discuss personnel matters regarding duties, responsibilities, and/or appointments to the Junked Vehicles Compliance Board.

9:06 A.M. CITY COUNCIL REGULAR MEETING RECONVENED.

City Council Chambers

Present: Mayor Tom Martin; Mayor Pro Tem Jim Gilbreath; Council Member Paul R. Beane; Council Member Linda DeLeon; Council Member Todd Klein; Council Member John W. Leonard III; Council Member Floyd Price; Lee Ann Dumbald, City Manager; Rebecca Garza, City Secretary; and Don Vandiver, City Attorney.

Absent: No one

PROCLAMATIONS AND PRESENTATIONS

3.1. Invocation by Pastor Willis, Lighthouse Baptist Church

Pastor Willis was unable to attend. Invocation was lead by Council Member Price.

3.2. Pledges of Allegiance

Pledges of Allegiance were given in unison by those in the City Council Chambers to the United States flag and the Texas flag.

3.3. Presentation of the Texas Council of Engineering Companies Silver Award for the 98th Street Project by Parkhill, Smith, & Cooper.

Mayor Martin introduced and gave recognition to Parkhill, Smith, & Cooper for the 98th Street Project. Butch Davis presented the Texas Council of Engineering Companies Silver Award to Mayor Martin and Council Members.

3.4. Presentation of a special recognition to commemorate May 2009 as Elder Abuse Awareness Month.

Mayor Martin gave special recognition to Betsy Ward, Wendy Edwards, Yolanda Pastrano, and Val Joiner in recognition of their efforts and to commemorate May 2009 as Elder Abuse Awareness Month.

3.5. Presentation of a special recognition to the 20th Century Club for their 100th birthday and their many contributions to Lubbock.

Mayor Martin gave recognition to Benni Moore and members of the 20th Century Club for their 100th birthday and their many contributions to Lubbock.

3.6. Presentation of a special recognition to the Estacado High School Matadors girls basketball team for finishing an outstanding season in the Class 3A State Tournament.

Mayor Martin introduced and gave recognition to Diane Morton, Head Coach; David Vasquez, Estacado High School Principal; Assistant Coaching Staff and members of Estacado High School Matadors girls' basketball team for finishing an outstanding season in the Class 3A State Tournament.

BOARD RECOGNITIONS

3.7. Board Recognitions:

Lubbock Economic Development Alliance Board and Market Lubbock, Inc. Board

David Sharbutt (unable to attend)

MINUTES

4.1. Approval of Prior Meeting Minutes:

February 19, 2009, Special City Council Meeting

April 9, 2009, Regular City Council Meeting

Motion was made by Council Member Price, seconded by Mayor Pro Tem Gilbreath to approve the minutes of the February 19, 2009, Special City Council Meeting and the April 9, 2009, Regular City Council Meeting Minutes. Motion carried: 7 Ayes, 0 Nays.

Note: Consent Agenda, and Regular Agenda, items are listed in the order they were addressed:

- 6.2; 5.1-5.2; 5.9-5.19; 5.21; 5.22; 5.24-5.29; 5.3; 5.4; 5.5-5.8; 5.20; 5.23; 6.1; 6.3.
- *No action was taken on items 5.3 and 5.4.*

REGULAR AGENDA

- 6.2. Resolution - City Council: Resolution No. 2009-R0175 adopting the provisions of Resolution No. 2006-RO332, in accordance with the directives of said resolution, resolving to place the Lubbock Fire Department and the Lubbock Police Department within the top ten fire and police departments in the State of Texas, in regard as to pay, compensation, and benefits/retirement.**

Dale Holton, Police Chief; Lane McClanahan, Lieutenant with Lubbock Police Department and President of Lubbock Professional Police Association; Rhea Cooper, Fire Chief; and Nick Wilson, President of Fireman's Association, gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Price to approve Resolution No. 2009-R0175 as recommended by staff.

Motion was made by Council Member Klein, seconded by Mayor Pro Tem Gilbreath to amend the motion to include raises for police and fire in the next budget. Motion carried: 6 Ayes, 1 Nay. Council Member Beane voted nay.

Vote was then taken on the motion made by Council Member DeLeon, seconded by Council Member Price to approve Resolution No. 2009-R0175 with the amendment which includes raises for police and fire in the next budget. Motion carried: 6 Ayes, 1 Nay. Council Member Beane voted nay.

11:01 A.M. CITY COUNCIL RECESSED.

11:16 A.M. CITY COUNCIL REGULAR MEETING RECONVENED.

City Council Chambers

CONSENT AGENDA

- Motion was made by Council Member Beane, seconded by Council Member Price to approve items 5.1-5.2; 5.9-5.19; 5.21; 5.22; 5.24-5.29 on consent agenda as recommended by staff. Motion carried: 7 Ayes, 0 Nays.
- 5.1. Budget Amendment Ordinance 2nd Reading - Finance: Ordinance No. 2009-O0037 Amendment No. 11 amending the FY 2008-09 budget respecting the Grant Fund to accept and appropriate grant funding from the Texas Department of Transportation for the Selective Traffic Enforcement**

Program - Click It or Ticket Mobilization Project; respecting the LP&L Operating Budget as recommended by the Electric Utility Board on March 30, 2009, and as approved by the City Council in a meeting conducted pursuant to Section 551.086 of the Texas Government Code; and respecting the Community Development Fund to accept and appropriate funding from the Texas Department of Housing and Community Affairs for the Low Income Home Energy Assistance Program and for the Department of Energy Weatherization Assistance Program.

- 5.1.1 Contract Resolution - Police: Resolution No. 2009-R0176 authorizing the Mayor to execute Contract No. 8972, a grant agreement for a state administered, federally funded Click It or Ticket Selective Traffic Enforcement Program.**
- 5.1.2 Contract Resolution - Community Development: Resolution No. 2009-R0177 authorizing the Mayor to execute Contract No. 8990 with the Texas Department of Housing and Community Affairs for the Low-Income Home Energy Assistance Program to weatherize homes and make homes more energy efficient.**
- 5.1.3 Contract Resolution - Community Development: Resolution No. 2009-R0178 authorizing the Mayor to execute Contract No. 8991 with Texas Department of Housing and Community Affairs for the Department of Energy Weatherization Assistance Program to weatherize homes and make homes more energy efficient.**
- 5.2. Settlement Resolution - Risk Management: Resolution No. 2009-R0179 authorizing the Mayor to settle any and all claims under claim No. 09-C-083 relating to a property damage claim in the amount of \$78,028.86.**
- 5.9. Ordinance 2nd Reading - Planning: Ordinance No. 2009-O0038 Zone Case No. 3116 (South of Farm to Market 1585 and north of the Lubbock city limits between Indiana Avenue and Quaker Avenue) request of Hugo Reed and Associates, for Ford Development, for zoning change from Transition (T) to Single-Family District (R-1) Specific Use, High-Density Apartment District (A-2), Garden Office District (GO), and General Retail District (C-3) on 320.35 acres of unplatted land out of Block AK, Section 4.**
- 5.10. Ordinance 2nd Reading - Planning: Ordinance No. 2009-O0041 Zone Case No. 3050-C (130th Street between Quaker Avenue and Memphis Avenue) request of Ricky Green, for RTR Investments, for zoning change from Two-Family District (R-2) Specific Use to General Retail District (C-3) on 13.73 acres on unplatted land out of Block E-2, Section 22, north of Farm to Market 1585.**

- 5.11. Ordinance 2nd Reading - Planning: Ordinance No. 2009-O0039 Zone Case No. 3119 (4801 North Interstate 27) request of Tanya Cintron, for NTCH-NM, LLC, aka Cleartalk, for zoning change from Single-Family District (R-1) to Heavy Commercial (C-4) Specific Use for a 150-foot tall communications tower on 0.0574 acres of unplatted land out of Block A, Section 9.**
- 5.12. Ordinance 2nd Reading - Planning: Ordinance No. 2009-O0040 Zone Case No. 2996-B (south of East Emory Street and east of North Ivory Avenue) request of Brian DeLatte, for Senior Living at Emory, LP, for zoning change from Single-Family District (R-1) and General Retail District (C-3) Specific Use to High-Density Apartment District (A-2) on 16.25 acres of unplatted land out of Block A, Section 1.**
- 5.13. Tax Abatement Contract Amendment - Business Development: Resolution No. 2009-R0180 authorizing the Mayor to execute an amendment to Contract No. 8989, a tax abatement agreement with Sysco West Texas, formerly known as Watson/Sysco Food Service, Inc.**
- 5.14. Ordinance 2nd Reading – Right-of-Way: Ordinance No. 2009-O0008 abandoning and closing two drainage easements located in Lot 2 Commanders Addition to the City of Lubbock, 6605 19th Street.**
- 5.15. Ordinance 2nd Reading - Right-of-Way: Ordinance No. 2009-O0028 abandoning and closing two street stubs located on the south side of 37th Street in Section 38, Block AK, Lubbock County, Texas, 6517 37th Street.**
- 5.16. Ordinance 2nd Reading - Right-of-Way: Ordinance No. 2009-O0029 abandoning and closing a portion of 8th Street and two alleys located in Blocks 56 and 72, Original Town of Lubbock, 819 Texas Avenue.**
- 5.17. Ordinance 2nd Reading - Right-of-Way: Ordinance No. 2009-O0036 abandoning and closing a 15-foot alley located in Block 2, McMillan Heights 3301 Cornell Street.**
- 5.18. Exchange of Surplus Right-of-Way Resolution - Right-of-Way: Resolution No. 2009-R0181 authorizing the Mayor to execute a Quitclaim Deed in favor of Fields Land & Cattle, LTD., a Texas limited partnership, as to an undivided one-half interest; and Quick Quack, LTD. No. 4 of Georgia, a Texas limited partnership, as to an undivided one-half interest for a surplus right-of-way portion of Slide Road, located at 220 Slide Road.**
- 5.19. Contract Resolution – Public Works Street Department: Resolution No. 2009-R0182 authorizing the Mayor to execute unit price Contract No. 8938 with Ballou Construction Company for the 2009 Street Micro-Surfacing Project, BID 09-715-DD.**
- 5.21. Contract Resolution – Water Utility: Resolution No. 2009-R0183 authorizing the Mayor to execute unit price Contract No. 8914 with Utility Contractors of America for the construction of a 16-inch water supply line for Pump Station No. 15, BID 09-714-DD.**

- 5.22. Contract Amendment Resolution – Water Utility: Resolution No. 2009-R0184 authorizing the Mayor to execute Change Order Number 5 to Contract No. 8119 with Eagle Contracting L.P. for the Southeast Water Reclamation Plant Improvements Project.**
- 5.24. Contract Resolution - Water Utility: Resolution No. 2009-R0185 authorizing the Mayor to execute unit price Contract No. 8943 with Wright Construction Company for the Water Lines Ahead of Marsha Sharp Freeway Construction Project, BID 09-716-BM.**
- 5.25. Contract Resolution - Water Utility: Resolution No. 2009-R0186 authorizing the Mayor to execute unit price Contract No. 8942 with Wright Construction Company for the Sewers Ahead of Marsha Sharp Freeway Construction Project, BID 09-717-BM.**
- 5.26. Contract Resolution – Water Utility: Resolution No. 2009-R0187 authorizing the Mayor to execute Contract No. 9004 with the Brazos River Authority to establish an agreement on water right permits and pending permit applications, on water accounting plans, and on compensation for the use of state water in the North Fork of the Double Mountain Fork of the Brazos River.**
- 5.27. Contract Resolution - Fleet Services: Resolution No. 2009-R0188 authorizing the Mayor to execute purchase order Contract No. 346955 with Associated Supply Company for a three-wheel piggyback forklift, BID 09-036-FO.**
- 5.28. Contract Resolution - Fleet Services: Resolution No. 2009-R0189 authorizing the Mayor to execute purchase order Contract No. 347270 with Acme Auto Leasing for motor vehicles, RFP 09-041-MA.**
- 5.29. Contract Resolution - Fleet Services: Resolution No. 2009-R0190 and Resolution No. 2009-R0191 authorizing the Mayor to execute purchase order Contract No. 9007 with Xstream AutoClean and purchase order Contract No. 9008 with Quick Quack Car Wash for light duty vehicle drive-thru wash, RFP 08-078-MA.**

Note: Regular Agenda item and Consent Agenda items moved to Regular Agenda were addressed by Council in the following order:

- 5.3; 5.4; 5.5-5.8; 5.20; 5.23; 6.1; 6.3.
- No action was taken on items 5.3 and 5.4.

REGULAR AGENDA

- 5.3. Contract Resolution - Risk Management: Consider resolutions authorizing the Mayor to execute Contract No. 8975 with Mc & H Life Agency, Inc., by and through it's authorized agent, McQueary Henry Bowles Troy, L.L.P. to obtain competitive proposals and coverages from a broad health insurance and services market, and Contract No. 8976 with Milliman Actuarial**

Services to provide actuarial services for recommending adequate limits of coverage and funding methodologies.

No action was taken.

- 5.4. Contract Resolution - Risk Management: Consider a resolution authorizing the Mayor to execute a letter extending Contract No. 6872 between the City of Lubbock and Wachovia Insurance Service by and through their local representative, Sanford and Tatum Insurance Agency for property/casualty brokerage services.**

No action was taken.

- 5.5. Resolution - City Manager: Resolution No. 2009-R0192 authorizing and directing the staff of the Community Development Department to submit a Request for Exception for a Conflict of Interest to the United States Department of Housing and Urban Development for an Exception that pertains to a job offer received by Carmen Martinez to serve as the new Executive Director of the Community Housing Resource Board.**

Bill Howerton, Director of Community Development, gave comments, answered questions from Council, and read the following information:

Carmen Martinez who is currently employed as a Program Specialist for the City of Lubbock Community Development (CD) Department has applied for and been offered the Executive Director Position for the Community Housing Resource Board (CHRB). CHRB receives federal funds. i.e., HOME Entitlement Funds through the Community Development Department of the City of Lubbock.

HUD Regulations at 24CFR Part 92.356 states that no employee with respect to HOME funds who is in a position to participate in a decision making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from a HOME-assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds there under, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

Although Carmen Martinez did not work with the federal HOME Program, she is in a position to gain inside information and will be paid through HOME Funding as the Executive Director of CHRB and has not met the one year timeframe.

HUD may grant an exception to the conflict upon request on a case by case basis. The CD Department is requesting that an exception be granted by HUD.

Amy Sims, Assistant City Attorney, gave comments and answered questions from Council.

Motion was by Council Member Price, seconded by Council Member DeLeon to approve Resolution No. 2009-R0192 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.6. Resolution - City Manager: Resolution No. 2009-R0193 authorizing and directing the staff of the Community Development Department to submit a Request for Exception for a Conflict of Interest to the United States Department of Housing and Urban Development for an Exception pursuant to the Community Development Block Grant that pertains to the supervisory role of Assistant City Manager Quincy White over the Community Development Department.

Bill Howerton, Director of Community Development, gave comments, answered questions from Council, and read the following information:

The CD Department reports to Assistant City Manager Quincy White, who has served in this capacity since October 1, 2008. Mr. White also serves as the Interim Director of the North & East Lubbock Community Development Corporation (NELCDC), which has submitted applications for funding under the HOME Investment Partnership Program (HOME) for FY 2009-10 and could potentially submit applications for funding for future allocations.

HUD Regulations at 24 CFR Part 92.356 states that no employee with respect to HOME funds who is in a position to participate in a decision making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from a HOME-assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds there under, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

Although Mr. White does not receive any of his salary from the HOME Program or from the NELCDC, he is in a position to gain inside information regarding the allocation process, he is in a position of authority over the CD Department, and he has "business ties" to the NELCDC.

HUD may grant an exception to the conflict upon request on a case by case basis. The CD Department is requesting that an exception be granted by HUD.

Amy Sims, Assistant City Attorney, gave comments and answered questions from Council.

Motion was by Council Member Price, seconded by Council Member DeLeon to approve Resolution No. 2009-R0193 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.7. Resolution - City Manager: Resolution No. 2009-R0194 authorizing and directing the staff of the Community Development Department to submit a Request for Exception for a Conflict of Interest to the United States Department of Housing and Urban Development for an Exception pursuant to the HOME Investment Partnership Program that pertains to the supervisory role of Assistant City Manager Quincy White over the Community Development Department.

Bill Howerton, Director of Community Development, gave comments, answered questions from Council, and read the following information:

The CD Department reports to Assistant City Manager Quincy White, who has served in this capacity since October 1, 2008. Mr. White also serves as the Interim Director of the North & East Lubbock Community Development Corporation (NELCDC), which has submitted an application for funding under the Community Development Block Grant (CDBG) for FY 2009-10 and could potentially submit applications for funding for future allocations.

HUD Regulations at 24 CFR Part 570.611 Section (b) and states that no persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to activities assisted with CDBG funds or who are in a position to participate in a decision making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from CDBG-assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. Section (c) states that this applies to any employee, agent, consultant, officer, or elected official or appointed official of the participating jurisdiction (the City of Lubbock).

Although Mr. White does not receive any of his salary from CDBG or from the NELCDC, he is in a position to gain inside information regarding the allocation process, he is in a position of authority over the CD Department, and he has “business ties” to the NELCDC.

HUD may grant an exception to the conflict upon request on a case by case basis. The CD Department is requesting that an exception be granted by HUD.

Amy Sims, Assistant City Attorney, gave comments and answered questions from Council.

Motion was by Council Member Price, seconded by Council Member DeLeon to approve Resolution No. 2009-R0194 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

- 5.8. Resolution - Community Development: Resolution No. 2009-R0195 authorizing and directing the Community Development Department to submit the Substantial Amendment to the U.S. Department of Housing and Urban Development for the City of Lubbock's 2008 Action Plan. This action will allow the City to accept the allocation from Housing and Urban Development for the Homelessness Prevention and Rapid Re-Housing Program, which is part of the American Recovery and Reinvestment Act of 2009.**

Bill Howerton, Director of Community Development, gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Klein to approve Resolution No. 2009-R0195 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

- 5.20. Contract of Sale Resolution - Water Utility: Resolution No. 2009-R0196 authorizing the Mayor to execute Contract No. 8966, a Contract of Sale with Jimmy Mack Lancaster and Billy Charles Lancaster for the acquisition of 4.82 acres of land out of Section 1259, J.H. Gibson Survey, Garza County, Texas, for a pump station site near Southland, Texas.**

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

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member DeLeon to approve Resolution No. 2009-R0196 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

- 5.23. Contract Amendment Resolution - Water Utility: Resolution No. 2009-R0197 authorizing the Mayor to execute Change Order No. 1 to Contract No. 8517 with Utility Contractors of America for the 34th Street Major Water Line Replacement Project.**

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

Motion was made by Council Member Price, seconded by Council Member Klein to approve Resolution No. 2009-R0197 as recommended by staff and the Lubbock Water Advisory Commission. Motion carried: 7 Ayes, 0 Nays.

REGULAR AGENDA

- 6.1. Resolution - City Council: Resolution No. 2009-R0198 amending Resolution No. 2003-R0285 and repealing Resolution No. 2003-R0354 with regard to membership of the Lubbock Water Advisory Commission.**

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to approve Resolution No. 2009-R0198 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.3. Board Appointments - City Secretary: Consider one appointment to the Community Development & Services Board and two appointments to the Junked Vehicle Services Board.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to appoint Betty Jones to the Community Development & Services Board and to appoint David Haggard and Ronald Strawn to the Junked Vehicle Compliance Board as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

11:40 A.M. CITY COUNCIL RECESSED INTO EXECUTIVE SESSION.

2:10 P.M. CITY COUNCIL ADJOURNED.

There being no further business to come before Council, Council Member Beane adjourned the meeting.

The May 14, 2009 Regular City Council Meeting Minutes were approved by the City Council on the 11th day of June, 2009.