

CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
June 23, 2009
7:30 A. M.

The City Council of the City of Lubbock, Texas met in regular session on the 23rd day of June, 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.

1. CITIZEN COMMENTS

1.1. The following will appear before the City Council to discuss municipal soccer fields:

Gabriel Olivarez (unable to attend)
Don Koontz
Larry Burks
Lori Rhodes (unable to attend)
Billy Babcock

- **The following signed up to speak before Council and spoke in opposition of the location of the construction of the new animal shelter in McKenzie Park.**

Naida Gonzales, Lile Quirino, Eddie Richardson, Armando Gonzales, Frank Gutierrez, Epifanio Aguirre, Blas Mojica, Jr., Carlos Quirino, Jr., and Donnell Hooper appeared before Council and spoke in opposition of Council's decision to build an animal shelter in McKenzie Park.

8:00 A.M. CITY COUNCIL RECESSED INTO EXECUTIVE SESSION.

2. 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. (Animal Services, Parks and Recreation, Planning, 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, Business Development, 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, generation, transmission and production strategies, 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 Lake Alan Henry Board of Appeals.**

9:10 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.

3. PROCLAMATIONS AND PRESENTATIONS

3.1. Invocation by Associate Pastor Adam Morrow, Live Oak Community Church.

Invocation was lead by Associate Pastor Adam Morrow, Live Oak Community Church.

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 a special recognition to the Lubbock Christian University baseball team for winning the National Association of Intercollegiate Athletics Championship.

This item was deleted.

3.4. Broadway Festivals will present an invitation to the City Council and Lubbock citizens to attend the 4th on Broadway festivities.

Mayor Martin introduced Stephanie Nairn and Suzanne Comer. They extended an invitation to the City Council and to Lubbock citizens to attend the 4th on Broadway festivities.

3.5. Presentation of Honorary Citzenships to Dean Elliott, Matthew Wycliffe, and John Banister, for their participation in Lubbock Moonlight Musicals' The Buddy Holly Story.

Mayor Martin gave special recognition to Dean Elliott, Matthew Wycliffe, and John Banister, as honorary Lubbock citizens, for their participation in Lubbock Moonlight Musicals' "The Buddy Holly Story". Mr. Banister was unable to attend. Mayor Martin also introduced Jill Kerns, Lubbock Moonlight Musicals.

3. BOARD RECOGNITIONS

3.6. Public Transit Advisory Board:

Bryan Bennett

4. MINUTES

4.1. Approval of Prior Meeting Minutes:

May 28, 2009, Regular City Council Meeting

Motion was made by Council Member Price, seconded by Mayor Pro Tem Gilbreath to approve the minutes of the May 28, 2009 Regular City Council Meeting.

Motion was made by Council Member Leonard, seconded by Council Member Beane to correct the May 28, 2009 Regular City Council Meeting minutes to reflect that Council Member Leonard voted nay on item 6.6. Motion carried: 7 Ayes, 0 Nays.

Vote was then taken on the original motion made by Council Member Price, seconded by Mayor Pro Tem Gilbreath, to approve with the correction of the minutes to reflect that Council Member Leonard voted nay on item 6.6. Motion carried: 6 Ayes, 1 Nay. Council Member Beane voted nay.

Note: Consent Agenda, Regular Agenda, and Work Session items were addressed by Council in the following order:

- *5.1; 5.3-5.7; 5.10; 5.12-5.21; 5.2; 5.8; 5.9; 6.1-6.8; 6.9; and 7.1.*
- *Item 5.8 was continued to the July 8, 2009, Regular City Council Meeting.*
- *No action was taken on item 5.11.*

5. CONSENT AGENDA

- Motion was made by Council Member DeLeon, seconded by Council Member Leonard to approve items 5.1; 5.3-5.7; 5.10; 5.12-5.21 on consent agenda as recommended by staff. Motion carried: 7 Ayes, 0 Nays.
- 5.1. Budget Amendment Ordinance 1st Reading - Finance: Ordinance No. 2009-O0052 Budget Ordinance Amendment No. 13 amending the FY 2008-09 budget respecting the Capital Program by appropriating additional funds to the Lake Alan Henry Pipeline Right-of-Way Acquisition Capital Improvement Project; and establishing a Capital Improvement Project for traffic signals at West Loop 289 - 4th Street to Slide Road.**
- 5.3. Ordinance 2nd Reading - Business Development: Ordinance 2009-O0051 reviewing classifications for the methods of assessing special benefits for the services and improvements of property in the North Overton Public Improvement District; and levying assessments based on the revised Service Plan for the cost of certain services and/or improvements to be provided in the Public Improvement District during 2009.**
- 5.4. Contract Amendment Resolution - Business Development: Resolution No. 2009-R0234 authorizing the Mayor to execute Amendment 2 to Contract 9055 with McCanton Woods, Ltd., to purchase right-of-way on Glenna Goodacre Boulevard, Avenue X, Avenue U, Mac Davis Lane, and Avenue R for implementation of the Fourth Amended Project Plan in the North Overton Tax Increment Finance Reinvestment Zone.**

- 5.5. Contract Resolution - Parks and Recreation: Resolution No. 2009-R0235 authorizing the Mayor to execute Contract 9044 with Circle R Lawn and Sprinkler for the application of granular fertilizer at various parkland properties during the 2009 growing season, BID-09-061-MA.**
- 5.6. Contract Resolution - Parks and Recreation: Resolution No. 2009-R0236 authorizing the Mayor to execute purchase order Contract 348635 with Professional Turf Products for a material handler used for turf improvement on parks and athletic fields.**
- 5.7. Contract Resolution - Civic Facilities: Resolution No. 2009-R0237 authorizing the Mayor to execute Contract 8905 with Kirkpatrick Architecture Studio for professional design and engineering services for renovations and improvements to City Bank Auditorium, RFQ 09-713-DD.**
- 5.10. Contract Resolution - Water Utility: Resolution No. 2009-R0238 authorizing the Mayor to execute Contract 9042 with HDR, Inc., for preliminary engineering evaluations of McMillan Dam and Ransom Canyon Dam, RFQ-09-704-BM.**
- 5.11. Contract of Sale Resolution - Water Utility: Consider a resolution authorizing the Mayor to execute Contract 9056 with SunTrust Bank of Alexandria Virginia, and Donald E. Handelman, Testamentary Trustees under Paragraph Eight of the Last Will and Testament of Marjorie M. Post, Deceased, HGM Properties, L.P. Henrietta M. Heydon, The Mosaic Foundation, Kenneth H. Montgomery Trust, Kenneth H. Montgomery Foundation, and the G. Harold and Leila Y. Mathers Charitable Foundation, for the acquisition of 9.03 acres of land on Section 1224, W.C. Young Survey, Garza County, Texas, for a pump station site near Post, Texas.**

No action taken on this item.
- 5.12. Ordinance 1st Reading - Right-of-Way: Ordinance No. 2009-O0053 abandoning and closing a portion of Slide Road located in Tract A, Whisperwood Addition, Lubbock County, Texas, 5402 4th Street.**
- 5.13. Ordinance 2nd Reading - Right-of-Way: Ordinance 2009-O0050 abandoning and closing three Lubbock Power & Light switch enclosure easements located in K Mart Plaza Addition, 5835 16th Street.**
- 5.14. Right-of-Way Acquisition Resolution - Right-of-Way: Resolution No. 2009-R0239 authorizing the Right-of-Way Department to make an offer to Ronnie Byrd for the acquisition of 1,893 square feet tract of land out of Lot 10, Block 114, Overton Addition, for the widening of Glenna Goodacre Boulevard from University Avenue to Avenue Q, 1709 Glenna Goodacre Boulevard.**

- 5.15. Right-of-Way Acquisition Resolution - Right-of-Way: Resolution No. 2009-R0240 authorizing the Right-of-Way Department to make an offer to the SCS Finance II L.P., a Delaware limited partnership, for the acquisition of 3,688 square feet tract of land (25-feet) out of Lot 1, Block 114, Overton Addition, for the widening of Glenna Goodacre Boulevard from University Avenue to Avenue Q, 802 Avenue Q.**
- 5.16. Right-of-Way Acquisition Resolution - Right-of-Way: Resolution No. 2009-R0241 authorizing the Right-of-Way Department to make an offer to the Travelers Inn, Inc., for the acquisition of 3,688 square feet tract of land (25-feet) out of Lot 5, Block 113, Overton Addition, for the widening of Glenna Goodacre Boulevard from University Avenue to Avenue Q, 714 Avenue Q.**
- 5.17. Contract Resolution - Traffic Engineering: Resolution No. 2009-R0242 authorizing the Mayor to execute purchase order Contract 348639 with National Pole and Structure for four signal arm assemblies, BID 09-043-RH.**
- 5.18. Contract Resolution - Community Development: Resolution No. 2009-R0243 authorizing the Mayor to execute unit price Contract 9024 with Sears Commercial for the Comprehensive Energy Assistance Program and Weatherization Assistance Program to replace inefficient refrigerators in homes of low-income households to reduce energy consumption, BID 09-054-MA.**
- 5.19. Resolution - Community Development: Resolution No. 2009-R0244 approving the City of Lubbock 2009-13 Consolidated Plan, as recommended by the Community Development, and Services Board to be submitted to the United States Department of Housing and Urban Development.**
- 5.20. Resolution - Community Development: Resolution No. 2009-R0245 authorizing the approval and any changes of the proposal for the Community Development and Services Board FY 2009-10 funding recommendations to the United States Department of Housing and Urban Development under the Community Development Block Grant, Home Investment Partnership Program, and the Emergency Shelter Grant.**
- 5.21. Contract Resolution - Fleet Services: Resolution No. 2009-R0246 authorizing the Mayor to execute purchase order Contract 348271 with Abilene New Holland for a four wheel drive loader, BID 09-056-FO.**

Note: Regular Agenda Items, Consent Agenda Items moved to Regular Agenda, and Work Session Items are listed in the order they were addressed:

- ***5.2; 5.8; 5.9; 6.1-6.9; and 7.1.***
- ***Item 5.8 was continued to the July 8, 2009, Regular City Council Meeting.***
- ***Item 6.8 was denied.***

6. REGULAR AGENDA

- 5.2. Contract Resolution - Business Development: Resolution No. 2009-R0247 authorizing the Mayor to execute Contract 9054, an interlocal cooperation agreement, with Texas Tech University for building inspection services to facilitate the construction of the American Cancer Society Hope Lodge project and the Texas Tech Alumni Association Market Alumni Center expansion project.**

Steve O'Neal, Chief Building Official, gave comments and answered questions from Council.

Motion was made by Council Member Klein, seconded by Mayor Pro Tem Gilbreath to approve Resolution No. 2009-R0247 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

- 5.8. Ordinance Amendment 2nd Reading - Water Utility: Ordinance 2008-O0070 amending Chapter 19 of the Code of Ordinances of the City of Lubbock, Texas, with regard to adoption of regulations for Lake Alan Henry; penalty for violation of regulations, Lake Alan Henry; filing complaints for violation of regulations, Lake Alan Henry; providing a penalty; providing a savings clause; and providing for publication.**

This item was continued to the July 8, 2009 Regular City Council Meeting.

- 5.9. Contract Resolution - Water Utility: Resolution No. 2009-R0248 authorizing the Mayor to execute Contract 8968 with Siemens Water Technologies for membrane filtration system equipment for the Lake Alan Henry Water Treatment Plant, RFP 09-719-BM.**

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

Motion was made by Council Member Klein, seconded by Mayor Pro Tem Gilbreath to approve Resolution No. 2009-R0248 as recommended by staff. Motion carried: 7 Ayes, 0 Nays

9:35 A.M. CITY COUNCIL RECESSED

10:00 A.M. CITY COUNCIL RECONVENED

City Council Chambers

6. REGULAR AGENDA (CONTINUED)

- 6.1. Public Hearing 10:00 a.m. - Planning: Ordinance No. 2009-O0054, Zone Case 1490-S, (5152 69th Street) request of Faissal Zeitouni (for S & Z Properties LTD) for a zoning change from Heavy Commercial (C-4) to C-4 Specific Use (wholesale house and all unconditionally permitted General Retail District (C-3) uses) on the South 345 feet of the West 100 feet of Lot 3-A Fiesta Autoland CNT and the South 147 feet of Lot 1, GC Addition, and to consider an ordinance.**

Randy Henson, Director of Planning, gave a presentation and answered questions from Council.

Mayor Martin opened the public hearing at 10:07 a.m.

No one spoke in favor or in opposition.

Mayor Martin closed the public hearing at 10:07 a.m.

Motion was made by Council Member Leonard, seconded by Council Member Price to approve Ordinance No. 2009-O0054 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.2. Public Hearing 10:00 a.m. - Planning: Ordinance No. 2009-O0055, Zone Case 2134-D (2605 19th Street) request of J. Edwin Price (for JDG Food & Beverage, Inc.,) for a zoning change from Local Retail District (C-2) Specific Use to Heavy Commercial (C-4) limited to a restaurant with a separate exterior entrance to the bar area and all C-2 permitted uses on the North 234 feet of the East 27 feet of Lot 3, and the North 234 feet of the West 84 feet of Lot 2, Elwood Place Addition, and to consider an ordinance.

Randy Henson, Director of Planning, gave a presentation and answered questions from Council.

Mayor Martin opened the public hearing at 10:12 a.m.

J. Edwin Price, JDG Food & Beverage, Inc., spoke in favor of the Ordinance.

No one spoke in opposition.

Mayor Martin closed the public hearing at 10:15 a.m.

Motion was made by Council Member Leonard, seconded by Council Member Klein to approve Ordinance No. 2009-O0055 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.3. Public Hearing 10:00 a.m. - Planning: Ordinance No. 2009-O0056, Zone Case 2341-B, (1104, 1106, 1108, 1110 Hartford Avenue and 3211 Clovis Road) request of Hi-Plains Electric/Marty Crouch for a zoning change from General Retail District (C-3) and Multi-Family District (R-3) to Heavy Commercial (C-4) on Lots 18 through 24, Block 3, Riceland Addition, and to consider an ordinance.

Randy Henson, Director of Planning, gave a presentation and answered questions from Council.

Mayor Martin opened the public hearing at 10:18 a.m.

Leighton Crouch, Hi-Plains Electric, spoke in favor of the Ordinance.

No one spoke in opposition.

Mayor Martin closed the public hearing at 10:22 a.m.

Motion was made by Council Member Klein, seconded by Council Member Price to approve Ordinance No. 2009-O0056 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.4. Public Hearing 10:00 a.m. - Planning: Ordinance No. 2009-O0057, Zone Case 2706-B, (1101 70th Street) request of Burl Masters (for C J Development) for a zoning change from Interstate Highway Commercial District (IHC) to IHC Specific Use for a travel trailer park on 7.562 acres of unplatted land out of Section 5, Block E, and to consider an ordinance.

Randy Henson, Director of Planning, gave a presentation and answered questions from Council.

Mayor Pro Tem Gilbreath opened the public hearing at 10:33 a.m.

Burl Masters, C J Development, and Joann Horne, resident of 1607 70th Street, spoke in favor of the Ordinance.

Andy Wines, General Secretary of the Scottish Rite, and Reverend Raymundo Almaraz, Emmanuel Worship Center, at 1102 70th Street, spoke in opposition of the Ordinance.

Mayor Pro Tem Gilbreath closed the public hearing at 11:03 a.m.

Motion was made by Council Member Price, seconded by Council Member DeLeon to approve Ordinance No. 2009-O0057 with an added condition to include a seven foot masonry wall of materials that match the front wall with a 25 foot step down on east wall. Motion carried: 4 Ayes, 2 Nays. Council Member Beane and Council Member Leonard voted nay. Mayor Martin recused.

6.5. Public Hearing 10:00 a.m. - Planning: Ordinance No. 2009-O0058 amendments to the Zoning Code as related to the sale of alcohol, and to consider an ordinance.

Bill Boon, Senior Planner, gave a presentation and answered questions from Council.

Mayor Martin opened the public hearing at 11:10 a.m.

Austin Keith, President of Pinkies; and Joann Horne, resident of 1607 70th Street, spoke in favor of the Ordinance.

Lloyd Headricks, spoke in opposition of the Ordinance.

Mayor Martin closed the public hearing at 11:16 a.m.

Motion was made by Council Member Price, seconded by Mayor Pro Tem Gilbreath to approve Ordinance No. 2009-O0058 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.6. Public Hearing 10:00 a.m. - Planning: Ordinance No. 2009-O0059 amendments to the Zoning codes to regulate the zoning districts where the sale of alcohol for off premise consumption is permitted, and to consider an ordinance.

Bill Boon, Senior Planner, gave a presentation and answered questions from Council.

Mayor Martin opened the public hearing at 11:30 a.m.

Joann Horne, regarding the property located at 2215 University, spoke in opposition of the Ordinance.

Austin Keith, President of Pinkies, spoke in favor of the Ordinance and stated to Council that Pinkies would drop the pending lawsuit with the City of Lubbock by its passage.

Mayor Martin closed the public hearing at 11:38 a.m.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to approve Ordinance No. 2009-O0059 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

- 6.7. Ordinance Amendment 1st Reading - Planning: Ordinance No. 2009-O0060 amending Chapter 18, Article I of the Code of Ordinances to prohibit the sale of alcoholic beverages within 300 feet of a church, public hospital or public or private school; prohibiting sales within 300 feet of a day care center or child care facility, under certain circumstances; providing definitions; providing a penalty; providing a savings clause; and providing for publication.**

Motion was made by Council Member Leonard, seconded by Council Member Klein to approve Ordinance No. 2009-O0060 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

- 6.8. Ordinance Amendment 2nd Reading - Planning: Ordinance No. 2008-O111, Zone Case 1509-A, request of Wally Al-Souki (for Thomas Stern) for zoning change from Multi-Family District (R-3) to Heavy Commercial (C-4) on the North 280 feet of Lot 4, East Side Addition (801 Spruce Avenue, 802 and 808 Martin Luther King, Jr. Boulevard, and 1707 East 9th Street).**

This item was denied.

Randy Henson, Director of Planning, gave a presentation and answered questions from Council.

Motion to deny was made by Council Member Leonard, seconded by Council Member Price to deny Ordinance No. 2009-O0111 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

11:42 A.M. CITY COUNCIL RECESSED INTO EXECUTIVE SESSION.

2:22 P.M. CITY COUNCIL RECONVENED

Committee Room 103

- 6.9. Board Appointments - City Secretary: Consider three appointments to the Civic Lubbock, Inc., Board of Directors, and one appointment to the Lake Alan Henry Board of Appeals.**

- Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member DeLeon to reappoint Don Haragan, and Louis Kelley to the Civic Lubbock, Inc. Board of Directors. Motion carried: 7 Ayes, 0 Nays.
- Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member DeLeon to nominate Don Caldwell for reappointment to the Civic Lubbock, Inc. Board of Directors.

Motion was made by Council Member Beane, seconded by Council Member Leonard to nominate Grey Lewis to the Civic Lubbock, Inc. Board of Directors.

Votes were taken as follows:

Don Caldwell - 4 Ayes (Mayor Pro Tem Gilbreath, Council Member DeLeon, Council Member Price and Council Member Klein)

Grey Lewis - 3 Ayes (Mayor Martin, Council Member Leonard, and Council Member Beane)

Don Caldwell was reappointed to the Civic Lubbock, Inc. Board of Directors.

- Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member DeLeon to nominate Nevill Manning to the Lake Alan Henry Board of Appeals.

Motion was made by Council Member Beane, seconded by Council Member Leonard to nominate Max Ince to the Lake Alan Henry Board of Appeals.

Votes were taken as follows:

Nevill Manning – 4 Ayes (Mayor Pro Tem Gilbreath, Council Member DeLeon, Council Member Price and Council Member Klein)

Max Ince – 3 Ayes (Mayor Martin, Council Member Leonard, and Council Member Beane)

Nevill Manning was appointed to the Lake Alan Henry Board of Appeals.

7. WORK SESSION/BUSINESS AGENDA

7.1. City Manager: Presentation of site plans for Buddy and Maria Elena Holly Plaza and renovations to Buddy Holly Center. Mary Crites, Firm Principal of Parkhill, Smith & Cooper.

Mary Crites, Firm Principal of Parkhill, Smith & Cooper, gave a presentation and answered questions from Council.

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

Consensus from Council to have an opportunity to give input on the design process of the Buddy Holly Center and to meet with Mrs. Crites accordingly.

ANNOUNCEMENT

Mayor Martin announced that as a result of discussion in Executive Session today, the Council will hold a public hearing regarding the location of the animal shelter in McKenzie Park. The hearing will be held at a called Special City Council Meeting on Tuesday, July 28, 2009 at 9:00 a.m. in City Council Chambers.

3:04 P.M. CITY COUNCIL ADJOURNED.

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