

CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
August 13, 2009
7:30 A. M.

The City Council of the City of Lubbock, Texas met in regular session on the 13th day of August, 2009, in City Council Chambers, 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 R. Klein, Council Member John W. Leonard III, and Council Member Floyd Price.

Absent: No one.

1. CITIZEN COMMENTS

- 1.1. Ginny Hudgens and Jack Haning will appear before the City Council to discuss animal control.**

Ginny Hudgens and Jack Haning did not appear.

- 1.2. Rob Meyer will appear before the City Council to discuss the proposed change in the allocation of the Hotel Occupancy Tax.**

Rob Meyer did not appear.

- 1.3. Lloyd Headrick will appear before the City Council to discuss the 300-foot buffer zone between schools, churches, and businesses that sell alcohol.**

Mr. Headrick appeared before Council and spoke of concerns related to alcohol sales.

- **The following signed up to speak before Council.**

Tina Betts, Bobby Stargel, Dale Waterhouse, Robert Winkler, and Deanna Pearson appeared before Council and spoke against granting variances to businesses wanting to sell alcohol for off premise consumption, located within the 300-foot buffer zone between schools, churches.

Leon Williams, Darrell Vines, and Reverend Edward Canady appeared before Council and spoke regarding the potential disproportionate distribution of funds in an upcoming bond election.

7:51 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. (Alcohol, Animal Services, Cemetery, Police, Storm Water, 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. (Business Development, Libraries, 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.**

9:20 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 R. Klein; Council Member John W. Leonard III; Council Member Floyd Price; Lee Ann Dumbauld, City Manager; Rebecca Garza, City Secretary; and Mitchell Satterwhite, City Attorney.

Absent: No one.

3. PROCLAMATIONS AND PRESENTATIONS

3.1. Invocation by Reverend J.H. Ford, Saint Luke's Baptist Church.

Invocation was lead by Reverend J.H. Ford, Saint Luke's Baptist 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.

4. MINUTES

4.1. Approval of Prior Meeting Minutes:

July 8, 2009, Regular City Council Meeting

July 17, 2009, Special City Council Meeting

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to approve the July 8, 2009 Regular City Council Meeting minutes and the July 17, 2009, Special City Council Meeting minutes. Motion carried: 7 Ayes, 0 Nays.

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

- *5.1; 5.3; 5.4; 5.6; 5.8-5.19; 5.21; 5.22; 5.25; 5.26; 5.2; 5.5; 5.7; 5.20; 5.23; 5.24; 6.6-6.10; 6.1; 6.4; 6.2; 6.3; 6.5; and 7.1.*
- *Item 6.10 was denied.*

5. CONSENT AGENDA

- Motion was made by Council Member Leonard, seconded by Council Member Klein to approve items 5.1; 5.3; 5.4; 5.6; 5.8-5.19; 5.21; 5.22; 5.25; and 5.26 on consent agenda. Motion carried: 7 Ayes, 0 Nays.

- #### **5.1. Budget Amendment Ordinance 2nd Reading - Finance: Ordinance No. 2009-O0067 amending the Adopted FY 2008-09 Operating Budget respecting the Grant Fund to accept and appropriate funding from the Texas Department of State Health Services for Community Preparedness Section - Bioterrorism Preparedness; to accept and appropriate funding from the Texas Department of State Health Services for Community Preparedness Section - Bioterrorism Preparedness Lab - Public Health Emergency Preparedness; to accept and appropriate funding from the Texas Department of State Health Services for Community Preparedness Section - Bioterrorism Preparedness Lab - Public Health Emergency Preparedness Hospital Preparedness Program; to accept and appropriate funding from the Texas Department of Housing and Community Affairs for the Southwestern Public Service Low-Income Program; respecting**

the Capital Program by establishing a capital improvement project for the purchase of equipment and installation of traffic signals for Marsha Sharp Freeway Phase IV at Buddy Holly and Marsha Sharp Freeway, Interstate 27 and Marsha Sharp Freeway, and Avenue A and Marsha Sharp Freeway; abolishing the City of Lubbock Cemetery Perpetual Care Fund and authorize existing funds to be used for permanent improvements to the cemetery; to accept and appropriate funding from the Texas Department of Housing and Community Affairs for Work Force Solutions of the South Plains to operate the Community Services Block Grant American Recovery & Reinvestment Act Education Training Program; and respecting the General Fund and the Capital Program by establishing a project and transferring funding from the General Fund Operating Budget for maintenance and improvements of Meadowbrook Golf Course.

- 5.1.1 Contract Resolution - Emergency Management: Resolution No. 2009-R0295 authorizing and directing the City Manager to execute CPS-Bioterrorism Preparedness Contract 9115 with the State of Texas through the Department of State Health Services to upgrade preparedness for and in response to terrorism, outbreaks of infectious disease, and other public health threats and emergencies.
- 5.1.2 Contract Resolution - Health: Resolution No. 2009-R0296 authorizing the Mayor to execute CPS-Bioterrorism Preparedness Lab Contract 9114 with the State of Texas through the Department of State Health Services to develop laboratory-specific bioterrorism preparedness plans.
- 5.1.3 Contract Resolution - Health: Resolution No. 2009-R0297 authorizing the Mayor to execute Community Preparedness Section Laboratory Response Network-Health Preparedness Program Contract 9113 with the State of Texas through the Department of State Health Services.
- 5.1.4 Contract Amendment Resolution - Community Development: Resolution No. 2009-R298 authorizing the Mayor to execute an amendment to Contract 9112 with Texas Department of Housing and Community Affairs for the Southwestern Public Service Company Program to weatherize homes and make homes more energy efficient.
- 5.1.5 Contract Resolution - Traffic Engineering: Resolution No. 2009-R0299 authorizing the Mayor to execute interlocal agreement 9117 with Texas Department of Transportation (TxDOT) for the City to furnish and install traffic signal equipment as part of the TxDOT Construction Project of Marsha Sharp Freeway Phase 4.

- 5.1.6 Resolution - Cemetery: Resolution No. 2009-R0300 abolishing the City of Lubbock Cemetery Perpetual Care Fund and authorizing existing funds to be used for permanent improvements to the cemetery as permitted under Texas Senate Bill 1103.**
- 5.3. Contract Resolution - Finance: Resolution No. 2009-R0301 authorizing the Mayor to execute Contract with RBC Capital Markets Corporation for financial advisory services.**
- 5.4. Contract Resolution - Finance: Resolution No. 2009-R0302 authorizing the Mayor to execute Contract 9106, an interlocal cooperative purchasing agreement, with the City of Garland pursuant to the Interlocal Cooperation Act, Chapter 791, Government Code, and Cooperative Purchasing Program Participation, Chapter 271, Local Government Code.**
- 5.6. Contract Resolution – Water Utility: Resolution No. 2009-R0303 authorizing the Mayor to execute License Agreement 9120 with CVS Pharmacy, Inc., to use for ingress and egress a tract of land located on the north side of 50th Street west of the 50th Street and Indiana Avenue intersection.**
- 5.8. Contract Resolution - Citibus: Resolution No. 2009-R0304 authorizing the Mayor to execute Contract 9108 with the Texas Department of Transportation for operating assistance to maintain the Citibus public transportation system for Fiscal Year 2009-10.**
- 5.9. Contract Resolution - Street Department: Resolution No. 2009-R0305 authorizing the Mayor to execute unit price Contract 9069 with West Texas Paving for the 2009 Asphalt Overlay Project, BID 09-732-DD.**
- 5.10. Contract Resolution - Airport: Resolution No. 2009-R0306 authorizing the Mayor to execute Contract 9099 with Sherwin Williams Company for runway and taxiway marking paint for Lubbock Preston Smith International Airport, BID 09-068-RH.**
- 5.11. Contract Resolution - Airport: Resolution No. 2009-R0307 authorizing the Mayor to execute Federal Aviation Administration Grant 3-48-0138-033-2009 to fund the construction services for the Runway 8/26 Improvements Project Phase I.**
- 5.12. Contract Resolution - Airport: Resolution No. 2009-R0308 authorizing the Mayor to execute Contract 9063 with North Texas Contracting, Inc., for Runway 8/26 Improvements – Phase 1 - Utility Relocation & Perimeter Road Project at Lubbock Preston Smith International Airport, RFP 09-728-DD.**
- 5.13. Contract Amendment Resolution - Airport: Resolution No. 2009-R0309 authorizing the Mayor to execute Amendment 12B to Contract 5689 with Parkhill, Smith & Cooper for the Runway 8/26 Improvements Phase I Utility Relocation & Perimeter Road Project.**

- 5.14. **Contract Resolution - Solid Waste: Resolution No. 2009-R0310 authorizing the Mayor to execute Contract 9098 with Philip Services Corporation, dba Chemical Reclamation Services, LLC, for household hazardous waste disposal, BID 09-052-FO.**
- 5.15. **Contract Resolution - Solid Waste: Resolution No. 2009-R0311 authorizing the Mayor to execute Unit Price Contract 9067 for the construction of 18 water monitoring wells and plugging 4 existing monitoring wells at the Caliche Canyon Municipal Solid Waste 69 Landfill and at the West Texas Region Disposal Facility Municipal Waste 2252 Landfill, BID 09-731-BM.**
- 5.16. **Contract Resolution - Solid Waste: Resolution No. 2009-R0312 authorizing the Mayor to execute Unit Price Contract 9066 for the construction of a lined evaporation pond for the proper disposal and evaporation of water contaminated by exposure to landfill refuse, BID 09-730-BM.**
- 5.17. **Resolution - Right-of-Way: Resolution No. 2009-R0313 authorizing the Mayor to execute a Deed Without Warranty with Fields Land & Cattle, LTD., a Texas limited partnership, and Quick Quack, LTD. No. 4 on Georgia, a Texas limited partnership, to an undivided one-half interest for a surplus right-of-way portion located at 220 Slide Road.**
- 5.18. **Deed Resolution – Right-of-Way: Resolution No. 2009-R0314 authorizing the Mayor to execute a Correction Deed Without Warranty with Lubbock Regional Mental Health and Mental Retardation Center (MHMR), an agency of the State of Texas, to correct that as part of the consideration for the transfer of Lot 1-7 (inclusive) and the north one-half of Lot 8, all in Block 191 of the Original Town of Lubbock, Lubbock County, Texas, proceeds from future sales of the property by MHMR would be utilized for a public purpose; and deleting any reversion rights the City of Lubbock may have in the property.**
- 5.19. **Contract Amendment Resolution - Storm Water: Resolution No. 2009-R0315 authorizing the Mayor to execute Amendment 2 to Contract 5572 with Hugo Reed & Associates for the restudy of Federal Emergency Management Agency flood maps, Systems C1 & E.**
- 5.21. **Ordinance 2nd Reading - Planning: Zone Case 3125 (12602 Slide Road): Ordinance No. 2009-O0069 request of Hugo Reed and Associates, Inc. (for Key Animal Clinic) for a zoning change from Transition (T) to C-4 (veterinary clinic) on 0.88 acres of unplatted land out of Block E-2, Section 24.**
- 5.22. **Ordinance 2nd Reading - Planning: Zone Case 1610-A (Southeast corner of 79th Street and Avenue O): Ordinance No. 2009-O0071 request of AMD Engineering (for Tri-High Mesa Enterprises) for a zoning change from Single-Family District (R-1) to R-1 Specific Use (for reduced setbacks and reduced minimum lot size on proposed cul-de-sac lots 35,**

38, 45, 48, 55, 58, 65, and 68) on 19.27 acres of unplatted land out of Block E, Section 5.

- 5.25. **Contract Resolution - Police: Resolution No. 2009-R00316 authorizing the Mayor to execute Interlocal Cooperation Contract 9105 with the Texas Department of Public Safety for the purchase of certain forms, manuals, and supplies used in breath testing and in the laboratory alcohol and drug testing program.**
- 5.26. **Resolution - City Council: Resolution No. 2009-R0317 supporting the submission of a project for the TIGER Grant Program of the American Recovery and Reinvestment Act; providing accessibility to major east-west routes in the United States, thus enhancing economic development, job creation, and travel safety throughout West Texas, the Permian Basin, and the Texas Panhandle; and promoting the funding and development of a four-lane linkage where the La Entrada Al Pacifico and the Ports-to-Plains corridors overlap on the segment of State Highway 349 and its connection to the proposed US 87 Relief Route in Lamesa, Texas.**

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; 5.5; 5.7; 5.20; 5.23; 5.24; 6.6-6.10; 6.1; 6.4; 6.2; 6.3; 6.5; and 7.1.
- *Item 6.10 was denied.*

6. REGULAR AGENDA

- 5.2. **Budget Amendment Ordinance 1st Reading - Finance: Ordinance No. 2009-O0072 amending the Adopted FY 2008-09 Budget respecting the Grant Fund to accept and appropriate funding from the Texas Department of State Health Services for Milk and Dairy Product Services; accept and appropriate funding from the United States Department of Housing and Urban Development for the Homelessness Prevention and Rapid Housing Program; accept and appropriate funding from the United States Department of Housing and Urban Development for the Community Development Block Grant; accept and appropriate funding from the Texas Department State Health Services for the Sexually Transmitted Disease Clinic; and respecting the capital program by appropriating additional funds to the North Overton TIP Public Facilities capital improvements project.**

Motion was made by Council Member Klein, seconded by Council Member Price to approve Ordinance No. 2009-O0072, items I-IV. Motion carried: 7 Ayes, 0 Nays. Motion was made by Council Member Price, seconded by Council Member Klein to approve Ordinance No. 2009-O0072 item V. Motion carried: 6 Ayes, 0 Nays. Mayor Pro Tem Gilbreath recused.

- 5.5. Contract Resolution - Water Utility: Resolution No. 2009-R0318 authorizing the Mayor to execute Contract 9123 with Bierschwale Appraisals to perform services related to water line real estate appraisals for the Lake Alan Henry water supply project.**

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

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to approve Resolution No. 2009-R0318. Motion carried: 7 Ayes, 0 Nays.

- 5.7. Contract Resolution - Citibus: Resolution No. 2009-R0319 authorizing the Mayor to execute Contract 9109 with the Texas Department of Transportation to perform a facility feasibility study.**

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to approve Resolution No. 2009-R0319. Motion carried: 7 Ayes, 0 Nays.

- 5.20. Ordinance 2nd Reading - Planning: Zone Case 3126 Northwest corner of FM 1585 (130th Street) and Frankford Avenue: Ordinance No. 2009-O0070 request of Hugo Reed and Associates, Inc. (for Ford Development) for a zoning change from Transition (T) to Garden Office District (GO), General Retail District (C-3), and High-Density Apartment District (A-2) on 39.3 acres of unplatted land out of Block AK, Section 20.**

Randy Henson, Planning Director, gave comments and answered questions from Council.

Motion was made by Council Member Leonard, seconded by Council Member Beane to approve Ordinance No. 2009-O0070. Motion carried: 7 Ayes, 0 Nays.

- 5.23. Contract Resolution - Business Development: Resolution No. 2009-R0320 authorizing the Mayor to execute Sale of Surplus Right-of-Way Agreement 9124 with the Texas Department of Transportation to purchase 28,322 square feet of land located in Section 20, Block A, City of Lubbock, Lubbock County, Texas.**

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to approve Resolution No. 2009-R0320. Motion carried: 6 Ayes, 0 Nays. Council Member DeLeon recused.

- 5.24. Contract Resolution - Business Development: Resolution No. 2009-R0321 authorizing the Mayor to execute Contract 9125 with Weingarten Realty Investors to sell surplus property obtained from the Texas Department of Transportation.**

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to approve Resolution No. 2009-R0321. Motion carried: 6 Ayes, 0 Nays. Council Member DeLeon recused.

- 6.6. Variance Resolution - Planning: Resolution No. 2009-R0322 approving an application from United Supermarket 501, 2630 Parkway Drive, for a variance to the 300-foot minimum distance between the property line of a public school and the property line of a business having an off premises alcoholic beverage permit, and to consider a resolution.**

Randy Henson, Planning Director, 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-R0322. Motion carried: 4 Ayes, 2 Nays. Council Members Beane and Leonard voted nay; Council Member Klein recused.

- 6.7. Variance Resolution - Planning: Resolution No. 2009-R0323 approving an application from United Supermarket 502, 3405 50th Street, for a variance to the 300-foot minimum distance between the property line of a public school and the property line of a business having an off premises alcoholic beverage permit, and to consider a resolution.**

Motion was made by Council Member DeLeon, seconded by Mayor Pro Tem Gilbreath to approve Resolution No. 2009-R0323. Motion carried: 4 Ayes, 2 Nays. Council Members Beane and Leonard voted nay; Council Member Klein recused.

- 6.8. Variance Resolution - Planning: Resolution No. 2009-R0324 approving an application from United Supermarket 503, 112 North University for a variance to the 300-foot minimum distance between the property line of a public school and the property line of a business having an off premises alcoholic beverage permit, and to consider a resolution.**

Motion was made by Council Member DeLeon, seconded by Mayor Pro Tem Gilbreath to approve Resolution No. 2009-R0324. Motion carried: 4 Ayes, 2 Nays. Council Members Beane and Leonard voted nay; Council Member Klein recused.

- 6.9. Variance Resolution - Planning: Resolution No. 2009-R0325 approving an application from United Supermarket 531, 5001 Marsha Sharp Freeway, for a variance to the 300-foot minimum distance between the property line of a public school and the property line of a business having an off premises alcoholic beverage permit, and to consider a resolution.**

Motion was made by Council Member DeLeon, seconded by Mayor Pro Tem Gilbreath to approve Resolution No. 2009-R0325. Motion carried: 4 Ayes, 2 Nays. Council Members Beane and Leonard voted nay; Council Member Klein recused.

- 6.10. Variance Resolution - Planning: Consider approving an application from Anthony Aguilar, 119 North University, for a variance to the 300-foot minimum distance between the property line of a public school and the property line of a business having an off premises alcoholic beverage permit, and to consider a resolution.**

This item was denied.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to deny this resolution. Motion carried: 7 Ayes, 0 Nays.

10:03 A.M. CITY COUNCIL RECESSED

10:14 A.M. CITY COUNCIL RECONVENED

Council Chambers

6. REGULAR AGENDA (CONTINUED)

6.1. Public Hearing 10:00 a.m. - Finance: Hold a public hearing on the proposed FY 2009-10 Operating Budget and Capital Program.

Andy Burcham, Assistant City Manager, gave a presentation and answered questions from Council.

Mayor Martin opened the public hearing at 10:14 a.m.

Christy Martinez, Scott Harrison, Curtis Griffith, and Rob Meyer appeared and spoke of concerns regarding the FY 2009-10 Operating Budget and Capital Program.

Mayor Martin closed the public hearing at 10:54 a.m.

6.4. Public Hearing 10:00 a.m. - City Council: Public hearing on the list of Citizen Advisory Committee recommended capital improvement projects for a future bond election.

Larry Hertel, City Engineer; Andy Burcham, Chief Financial Officer; Sharmon Owens, Traffic Engineering Associate; Lee Ann Dumbauld, City Manager; and Randy Truesdell, Parks and Recreation Manager, gave comments and answered questions from Council.

Mayor Martin opened the public hearing at 10:14 a.m.

Edward George, Mary Vines, Ruben Guerrero, Calvin Davis, Robert McKenzie, Randy Jordon, Edward Canaday, Duane Christian and Christy Martinez appeared and spoke of concerns regarding projects for a future bond election.

Mayor Pro Tem Gilbreath closed the public hearing at 11:50 a.m.

(Mayor Martin was away from the dias.)

11:50 A.M. CITY COUNCIL RECESSED INTO EXECUTIVE SESSION

1:53 P.M. CITY COUNCIL RECONVENED

Council Chambers

6. REGULAR AGENDA (CONTINUED)

6.2. Budget Adoption Ordinance 1st Reading - Finance: Ordinance No. 2009-O0073 adopting the FY 2009-10 Operating Budget and Capital Program.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to approve Ordinance No. 2009-O0073. Motion carried: 6 Ayes, 1 Nay. Council Member DeLeon voted nay.

6.3. Tax Levy Ordinance 1st Reading - Finance: Ordinance No. 2009-O0074 setting the tax rate and levying a tax upon all property subject to taxation within the City of Lubbock for 2009.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to approve Ordinance No. 2009-O0074. Motion carried: 6 Ayes, 1 Nay. Council Member Price voted nay.

6.5. Bond Election Resolution - Finance: Resolution No. 2009-R0326 accepting the recommendations of the Citizen Advisory Committee and directing staff to prepare an ordinance calling for a future bond election.

Motion was made by Council Member Leonard, seconded by Mayor Pro Tem Gilbreath to approve Resolution No. 2009-R0326. Motion carried: 5 Ayes, 2 Nays. Council Members DeLeon and Price voted nay.

7. WORK SESSION/BUSINESS AGENDA

7.1. Facilities Management: Discussion with Kirkpatrick Architecture Studio regarding proposed renovations to the City Bank Auditorium.

James Kirkpatrick, President of Kirkpatrick Architecture Studio, gave a presentation and answered questions from Council.

2:17 P.M. CITY COUNCIL ADJOURNED

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