

**CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
October 8, 2009
7:30 A. M.**

The City Council of the City of Lubbock, Texas met in regular session on the 8th day of October, 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. Bo Harris will appear before the City Council to discuss CitiAccess.

Bo Harris was unable to attend.

7:33 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, for the City Council to consult with its attorney to seek his or her advice on legal matters about pending or contemplated litigation or to discuss a settlement offer, or to seek his or her advice on a legal matter in which the duty of the attorney to the City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Open Meetings Act.

2.1.1 Health Benefits

2.1.2 Planning

2.1.3 Police

2.1.4 Utility Regulatory Matters

2.1.5 Water Utility

2.2. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.072, for the City Council to deliberate on certain matters concerning real property, including purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the City Council in negotiations with a third person.

2.2.1 Business Development

2.2.2 Libraries

2.2.3 Right-of-Way

2.2.4 Water Utility

2.3. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.074 (a)(1), for the City Council to deliberate about officers and employees of the City Council about the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee or to hear a complaint or charge against an officer or employee.

2.3.1 City Manager

2.3.2 City Attorney

2.3.3 City Secretary

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; and

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.

9:13 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; Thomas Harris, III, Deputy City Secretary; and Sam Medina, City Attorney.

Absent: No one

3. PROCLAMATIONS AND PRESENTATIONS

3.1. Invocation by Executive Pastor Jantzen Louder, Church on the Rock

Invocation was lead by Executive Pastor Jantzen Louder, Church on the Rock.

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 Cardell Cooper for his service and dedication to community development programs

Mayor Martin presented special recognition to Cardell Cooper for his service and dedication to community development programs. The Mayor also recognized Bill Howerton, Director of Community Development and Quincy White, Assistant City Manager, for their contributions to community development programs.

3.4. Presentation of a special recognition commemorating October 4-10, 2009, as Mental Illness Awareness Week

Mayor Martin presented special recognition to Allan Allgood commemorating Ocrtober 4-10, 2009 as Mental Illness Awareness Week.

3.5. Presentation of a special recognition to commemorate October 2009 as Destination Dignity Month

Mayor Martin presented special recognition to Beth Lawson and Kathy Pope, both members of the Mental Health and Mental Retardation Board of Directors to commemorate October 2009 as Destination Dignity Month.

BOARD RECOGNITIONS

3.6. Appointments Advisory Board:

Dee Jay Wilde

Lake Alan Henry Board of Appeals:

Connie Wharton

SWEARING IN CEREMONY

3.7. 9:00 a.m. Swearing In Ceremony - Swearing in of Sam Medina as City Attorney for the City of Lubbock

Judge Brian Quinn, Chief Justice of the 7th Court of Appeals, officiated the swearing in ceremony of Sam Medina as City Attorney for the City of Lubbock.

4. MINUTES

4.1. September 10, 2009, Regular City Council Meeting

Motion was made by Council Member DeLeon, seconded by Council Member Klein to approve the September 10, 2009 Regular City Council Meeting minutes. Motion carried: 7 Ayes, 0 Nays.

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

- *5.1-5.17; 5.19-5.23; 5.25-5.29; 5.32; 5.18; 5.24; 5.30; 5.31; 6.1; 6.2; 6.3; 6.4; 6.5; 7.2; and 7.1.*
- *Items 5.30; 6.2; and 6.3 had no action taken.*

5. CONSENT AGENDA

- Motion was made by Council Member Klein, seconded by Council Member Price to approve items 5.1-5.17; 5.19-5.23; 5.25-5.29; 5.32 on consent agenda. Motion carried: 7 Ayes, 0 Nays.

5.1. Budget Ordinance Amendment 2nd Reading - Finance: Ordinance No. 2009-O0092 amending the Adopted FY 2009-10 Budget respecting the Grant Fund to accept and appropriate \$2,327,865 from the Texas Department of Housing and Community Affairs for the Weatherization American Recovery and Reinvestment Act Grant; accept and appropriate \$131,581 from the Department of Justice for the Edward Byrne Memorial Justice Assistance Grant; respecting the Community Development Fund by adding four full-time grant funded positions; and accept and appropriate \$2,109,900 from the Department of Energy for the Energy Efficiency and Conservation Block Grant.

5.1.1 Contract Resolution - Community Development: Resolution No. 2009-R0409 authorizing the Mayor to execute a grant contract with Texas Department of Housing and Community Affairs for the ARRA Weatherization Assistance Program to weatherize homes and make them more energy efficient.

5.1.2 Contract Resolution - Police: Resolution No. 2009-R0410 authorizing the Mayor to execute an agreement with the United States Department of Justice for an Edward Byrne Memorial Justice Assistance Grant to fund the Lubbock County Joint Enforcement Initiative Program.

- 5.2. Budget Ordinance Amendment 1st Reading - Finance: Ordinance No. 2009-O0096 amending the Adopted FY 2009-10 Budget respecting the Grant Fund to accept and appropriate \$246,284 from the South Plains Association of Governments for the Area Agency on Aging – Direct Purchase of Services Grant; accept and appropriate \$34,724 from the Texas Department of Transportation for Safety City; accept and appropriate \$387,680 from the Texas Department of State Health Services for the Public Health Emergency Response Phase III Grant; accept and appropriate \$53,569 from the Texas Department of Housing and Community Affairs for the Comprehensive Energy Assistance Program; accept and appropriate \$100,000 from Atmos Energy for the Comprehensive Energy Assistance Program; and amend the General Fund by reclassifying two Police Officer positions to Sergeant Positions.**
- 5.3. Reimbursement Resolution - Finance: Resolution No. 2009-R0411 expressing intent to finance expenditures to be incurred for various projects and equipment approved by the City Council in the FY 2009-10 Operating Budget and Capital Program, and to reimburse the City from the proceeds of tax-exempt obligations to be issued in a subsequent period.**
- 5.4. Notice of Acknowledgment Resolution - Finance: Resolution No. 2009-R0412 allowing the Mayor to execute a Notice of Acknowledgment of Assignment with Banc of America Public Capital Corp. for the rights, title, and interest in, to, and under Appendix No. 8872-221, Part 1 Equipment List in the amount of \$6,135,175 and Part 2 Payment Schedule to the Master Lease Agreement dated as of February 12, 2009, by and between Banc of America Public Capital Corp and City of Lubbock, Texas.**
- 5.5. Order and Resolution - Finance: Resolution No. 2009-R0413 approving a negotiated settlement between the City of Lubbock and Atmos Energy Corporation, West Texas Division (Company) regarding the Company's first annual Rate Review Mechanism filing in the City; declaring existing rates to be unreasonable; requiring the Company to reimburse the City's reasonable rate case expenses; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement and finding the rates to be set to be just and reasonable; approving the Company's proof of revenues; adopting a savings clause; declaring an effective date; and requiring delivery of the resolution to the Company.**
- 5.6. Contract Resolution - Water Utility: Resolution No. 2009-R0414 authorizing the Mayor to execute unit price Contract 9209 with K.W. Sharp, Inc., for Class II turbine water meters, BID 09-083-FO.**
- 5.7. Contract Amendment Resolution - Water Utility: Resolution No. 2009-R0415 authorizing the Mayor to execute Amendment 1 to Contract 9123 with Bierschwale Appraisals for real estate appraisal services for the Lake Alan Henry Water Supply Project; amending the Insurance and Indemnity provision.**

- 5.8. Contract Amendment Resolution - Water Utility: Resolution No. 2009-R0416 authorizing the Mayor to execute Change Order 2 to Contract 8517 with Utility Contractors of America, Ltd., for the 34th Street Major Water Line Replacement Project; amending the contract to include additional work and extending the time for completion.**
- 5.9. Ordinance 2nd Reading - Right-of-Way: Ordinance No. 2009-O0091 abandoning and closing a 20-foot alley located in Block 22, Original Town of Lubbock, 511 Avenue K.**
- 5.10. Ordinance 1st Reading – Right-of-Way: Ordinance No. 2009-O0097 abandoning and closing a portion of a ten-foot wide underground water line easement in Tract C, North Park Addition to the City of Lubbock, 5006 Auburn Street.**
- 5.11. Ordinance 1st Reading – Right-of-Way: Ordinance No. 2009-O0098 abandoning and closing an underground electric line easement in Lot 511, Alford Terrace Addition to the City of Lubbock, 904 Slide Road.**
- 5.12. Ordinance 1st Reading – Right-of-Way: Ordinance No. 2009-O0099 abandoning and closing a four-foot wide underground utility easement in Tract C, North Park Addition to the City of Lubbock, 5006 Auburn Street.**
- 5.13. Ordinance 1st Reading – Right-of-Way: Ordinance No. 2009-O0100 abandoning and closing two temporary underground utility easements in Section 2, Block O, Lubbock, County, Texas, 2002 10th Street.**
- 5.14. Pipeline and Facility Easement Resolution - Right-of-Way: Resolution No. 2009-R0417 authorizing the Mayor to execute an agreement with West Texas Gas, Inc., granting a pipeline right-of-way and facility easement in Section 1 and 11, Block B, Lubbock County, Texas, to West Texas Gas, Inc., located 4401 East Farm Road 835.**
- 5.15. Contract Resolution - Street: Resolution No. 2009-R0418 authorizing the Mayor to execute unit price Contract 9168 with Allen Butler Construction for rebuilding Martin Luther King, Jr. Boulevard from East Broadway to East 4th Street, BID 09-738-DD.**
- 5.16. Contract Resolution - Public Works Engineering: Resolution No. 2009-R0419 authorizing the Mayor to execute unit price Contract 9178 with West Texas Paving for the widening of East 16th Street from Idalou Highway to Cherry Avenue to accommodate increased traffic flow demands, BID 09-739-MA.**
- 5.17. Contract Resolution - Traffic Engineering: Resolution No. 2009-R0420 authorizing the Mayor to execute an Inter-local Agreement with Texas Department of Transportation to operate the Traffic Management Center at the City of Lubbock Traffic Engineering Office utilizing Texas Department of Transportation's Intelligent Transportation System within the city limits of Lubbock.**

- 5.19. Resolution - City Council: Resolution No. 2009-R0421 authorizing changes to the attendance policy for City boards and commissions to provide replacement for members with thirty percent absences.**
- 5.20. Contract Resolution - Vector Control: Resolution No. 2009-R0422 and Resolution No. 2009-R0423 authorizing the Mayor to execute Contract 9218 with Adapco, Inc., and Contract 9219 with B & G Chemical and Equipment, Inc., for mosquito control pesticides, BID 09-069-FO.**
- 5.21. Contract Resolution - Parks and Recreation: Resolution No. 2009-R0424 authorizing the Mayor to execute Contract 9165 with Wallace Sprinkler Inc., for the irrigation system at Mae Simmons Park Project, BID 09-737-DD.**
- 5.22. Contract Resolution - Libraries: Resolution No. 2009-R0425 authorizing the Mayor to execute a lease agreement in connection with certain real property described generally as Space "C," South Plains Plaza, Lubbock, Texas, and all related documents.**
- 5.23. Contract Resolution - Libraries: Resolution No. 2009-R0426 authorizing the Mayor to execute Library Systems Competitive Grant Agreement 471-1002 with the Texas State Library and Archives Commission for funding a web based catalog.**
- 5.25. Ordinance 2nd Reading - Planning: Ordinance No. 2009-O0093, Zone Case 3128 (3227 Slaton Road), request of the City of Lubbock for a zoning change from Heavy Manufacturing District (M-2) to M-2 Specific use (for an animal shelter) on 15.327 acres of platted and unplatted land including a portion of Tract 7, S.I. Johnson Subdivision of a part of Section 4, Block B, Sections 1, 2, 3, and 4, Block S and Section 23, Block E.**
- 5.26. Ordinance 2nd Reading - Planning: Ordinance No. 2009-O0095, Zone Case 2456-A (7720 University Avenue), request of John Frullo (for Good News Book Store, Inc.) for a zoning change from Local Retail District (C-2) to Commercial District (C-4) limited to a printing shop and all unconditional C-2 uses on Tract B, Reid Myrtie Addition.**
- 5.27. Contract Amendment Resolution - Business Development: Resolution No. 2009-R0427 authorizing the Mayor to execute an amendment extending the termination date of the agreement with Lubbock County to participate in the Lubbock Central Business District Tax Increment Finance Reinvestment Zone.**
- 5.28. Contract Amendment Resolution - Business Development: Resolution No. 2009-R0428 authorizing the Mayor to execute an amendment extending the termination date of the agreement with High Plains Underground Water Conservation District to Participate in the Lubbock Central Business District Tax Increment Finance Reinvestment Zone.**

5.29. Contract Amendment Resolution - Business Development: Resolution No. 2009-R0429 authorizing the Mayor to execute an amendment extending the termination date of the agreement with Lubbock County Hospital District to Participate in the Lubbock Central Business District Tax Increment Finance Reinvestment Zone.

5.32. Resolution - Emergency Management: Resolution No. 2009-R0430 authorizing the Mayor to execute a memorandum of understanding between the City of Lubbock, the Texas Forest Service, and the Regional Incident Management Team.

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

- 5.18; 5.24; 5.30; 5.31; 6.1; 6.2; 6.3; 6.4; 6.5; 7.2; and 7.1.
- Items 5.30; 6.2; and 6.3 had no action taken.

6. REGULAR AGENDA

5.18. Resolution - City Council: Resolution No. 2009-R0431 authorizing the City Council to create the Lubbock Bond Advisory Committee.

Motion was made by Council Member Klein, seconded by Council Member Price to approve Resolution No. 2009-R0431.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to amend Resolution No. 2009-R0431 to include that members of the Lubbock Bond Advisory Committee must be chosen from the 2009 Citizen Advisory Committee's roster.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to call the question on the amendment. Motion carried: 5 Ayes, 2 Nays. Council Members Beane and Leonard voted nay.

Vote was then taken on the main motion with the amendment included. Motion carried: 6 Ayes, 1 Nay. Council Member Beane voted nay.

5.24. Ordinance Amendment 2nd Reading - Planning: Ordinance No. 2009-O0094, Zone Case 1647-D (4402 and 4404 Magnolia Avenue), request of Simple Acts Ministry for a zoning change from Light Manufacturing District (M-1) to M-1 Specific Use (for transitional housing) on Lot 1, Block 35 and Lot 1, Block 36, Nelson Brown Addition.

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

Motion was made by Council Member DeLeon, seconded by Council Member Price to approve Ordinance No. 2009-O0094. Motion carried: 5 Ayes, 2 Nays. Mayor Pro Tem Gilbreath and Beane voted nay.

- 5.30. Notice of Intent Resolution - Business Development: Consider a resolution authorizing the Mayor to execute a Notice of Intent to Establish a Tax Increment Financing Reinvestment Zone (Number 3) for the Lubbock Business Park pursuant to the Tax Increment Financing Act for encouraging development and redevelopment.**

No action was taken on this item.

- 5.31. Contract Resolution - Facilities: Resolution No. 2009-R0432 and Resolution No. 2009-R0433 authorizing the Mayor to execute two lease agreements with Wilkerson Investment Company for the use of property and structures at 530 36th Street and at 401 and 405 34th Street.**

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to approve Resolution No. 2009-R0432 and Resolution No. 2009-R0433. Motion carried: 7 Ayes, 0 Nays.

9:56 A.M. CITY COUNCIL RECESSED

10:08 A.M. CITY COUNCIL RECONVENED

Council Chambers

6. REGULAR AGENDA (CONTINUED)

- 6.1. Public Hearing 10:00 a.m. - Animal Services: Ordinance No. 2009-O0101 amending Chapter 4 of the Code of Ordinances of the City of Lubbock, Texas, with regard to the disposition of chickens or ducks in amusement games; the disposition of animals, the animal assistance program, and fees for registrations, permits, impoundment, and adoption; providing for criminal penalties; providing a savings clause; and providing for publication, and to consider an ordinance.**

Mayor Martin opened the public hearing at 10:08 a.m.

No one appeared to speak in favor or in opposition.

Mayor Martin closed the public hearing at 10:08 a.m.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Klein to approve Ordinance No. 2009-O0101. Motion carried: 7 Ayes, 0 Nays.

- 6.2. Petition Annexation Public Hearing 10:00a.m. - Planning: Conduct a public hearing regarding a petition to annex upon petition of area landowners, an area of sparsely occupied land less than one-half mile in width, containing fewer than three qualified voters, and contiguous to the existing city limits, which parcel of land is west of Upland Avenue and north of 66th Street; and consider an ordinance.**

No action was taken on this item.

- 6.3. Variance Resolution - Planning: Consider a resolution approving and granting a variance from the applicable 300-foot minimum distance provisions of City of Lubbock Ordinance 2009-O0060 at the location of La Michoacana Meat Market, 2131 Clovis Road, a business requesting an off-premise alcoholic beverage permit.**

No action was taken on this item.

- 6.4. Board Nominations Resolution - City Secretary: Resolution No. 2009-R0434 to nominate Board Members to serve as Appraisal District Directors for the Lubbock Central Appraisal District.**

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Klein to approve Resolution No. 2009-R0434. Motion carried: 7 Ayes, 0 Nays.

- 6.5. Board Appointments - City Secretary: Consider one appointment to the Model Codes and Construction Advisory Board.**

Motion was made by Council Member Leonard, seconded by Mayor Pro Tem Gilbreath to appoint Dr. Berhl Robertson to the Model Codes and Construction Advisory Board. Motion carried: 7 Ayes, 0 Nays.

7. WORK SESSION/BUSINESS AGENDA

- 7.2. Lubbock Arts Alliance: Presentation on Texas Commission on the Arts designating the Lubbock Cultural Arts District as a State of Texas Cultural District**

Elizabeth Regner, Lubbock Arts Alliance Executive Director, gave a presentation and answered questions from Council.

- 7.1. Planning: Annexation update**

Randy Henson, Director of Planning, gave a presentation and answered questions from Council. Rhea Cooper, Fire Chief, gave comments and answered questions from Council.

11:03 A.M. CITY COUNCIL ADJOURNED

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