

**CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
October 20, 2009
7:30 A. M.**

The City Council of the City of Lubbock, Texas met in regular session on the 20th 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. Lisa Maddox will appear before the City Council to discuss Animal Services.**

Lisa Maddox was unable to attend.

7:31 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 Police

2.1.2 Airport

- 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 Right-of-Way**
 - 2.2.3 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.**
- 2.5. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.087 to discuss or deliberate regarding commercial or financial information that the government body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations (Business Development).**

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

Absent: No one.

3. PROCLAMATIONS AND PRESENTATIONS

3.1. Invocation by Reverend Archie Echols, Saint Johns United Methodist Church

Invocation was lead by Reverend Archie Echols, Saint Johns United Methodist 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 by the West Texas Home Builders Association to the Lubbock City Council, City staff, and the Model Codes and Construction Advisory Board for their cooperative effort in adopting and implementing International Construction Codes.

Mayor Martin introduced Randy McGuire, President of the West Texas Home Builders Association. Mr. McGuire gave comments and thanks to the Lubbock City Council, City Staff, and the Model Codes and Constructions Advisory Board for their cooperative effort in adopting and implementing International Construction Codes.

3.4. Presentation of a special recognition to the Lubbock Chamber of Commerce commemorating October 19-23, 2009, as Chamber of Commerce Week.

Mayor Martin presented special recognition to Randy Jordan, Chairman of the Lubbock Chamber of Commerce and to other members of the Lubbock Chamber of Commerce, commemorating October 19-23, 2009, as Chamber of Commerce Week.

3.5. Presentation of a special recognition commemorating October 24, 2009, as Make A Difference Day.

Mayor Martin presented special recognition to Marla Potess, Director of Environmental Compliance and Sharon Bass, Director of the Volunteer Center, and Keep Lubbock Beautiful Advisory Committee members and others, commemorating October 24, 2009, as Make a Difference Day.

BOARD RECOGNITIONS

3.6. Board Recognitions:

Animal Shelter Advisory Committee

Quincy White

Appointments Advisory Board

Don Armstead

Building Board of Appeals

Jimmy Henderson (unable to attend)

Lubbock Economic Development Alliance Board of Directors

Taylor Eighmy

Sandy Henry

Market Lubbock, Inc., Board of Directors

Taylor Eighmy

Sandy Henry

Planning and Zoning Commission

Ryan Curry (unable to attend)

Rice Horkey (unable to attend)

Ruben Young

4. MINUTES

- 4.1.** September 24, 2009, Regular City Council Meeting
September 25, 2009, Special City Council Meeting

Motion was made by Council Member Price, seconded by Council Member Leonard to approve the September 24, 2009, Regular City Council Meeting Minutes and the September 25, 2009, Special City Council Meeting Minutes. Motion carried: 7 Ayes, 0 Nays.

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

- *5.1-5.10; 5.13-5.15; 5.17; 5.11; 5.12; 5.16; 5.18; 5.19; 5.20; 6.2-6.5; and 6.1.*

5. CONSENT AGENDA

- Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Klein to approve items 5.1-5.10; 5.13-5.15; 5.17 on consent agenda. Motion carried: 7 Ayes, 0 Nays.
- 5.1. Budget Ordinance Amendment 2nd Reading - Finance: Ordinance No. 2009-O0096 amending the Adopted FY 2009-10 Budget respecting the Grant Fund to accept and appropriate funding from the South Plains Association of Governments for the Area Agency on Aging – Direct Purchase of Services Grant; accept and appropriate funding from the Texas Department of Transportation for Safety City Grants; accept and appropriate funding from the Texas Department of State Health Services for the Public Health Emergency Response Phase III Grant; accept and appropriate funding from the Texas Department of Housing and Community Affairs for the Comprehensive Energy Assistance Program; respecting the Donations Fund to accept and appropriate funding from Atmos Energy for the Comprehensive Energy Assistance Program; and respecting the General Fund by reclassifying two Police Officer positions to Sergeant Positions.**
- 5.1.1 Contract Resolution - Parks and Recreation: Resolution No. 2009-R0435 authorizing the Mayor to execute Contract 9234 with the South Plains Association of Governments (SPAG), related to pass-through funds from the Texas Department on Aging and Disability Services for the Area Agency on Aging Direct Purchase of Services Program to provide meals and transportation services for Lubbock’s Senior Citizens Program. The FY 2009-10 agreement with SPAG provides reimbursement for the meals and transportation.**
- 5.1.2 Contract Resolution - Community Services: Resolution No. 2009-R0436 authorizing the Mayor to execute Grant Contract 2010-LubbockP-G-SYG-0204 with the Texas Department of Transportation for Safety City “Teaching Kids to Be Street Smart” Grant for bicycle, car, pedestrian, and other safety related programs.**
- 5.1.3 Contract Resolution – Emergency Services: Resolution No. 2009-R0437 authorizing the Mayor to execute Amendment 1 to Grant Contract 2010-033391 with Department of State and Health Services for Public Health Emergency Response Phase III Focus Area I Project.**

- 5.2. Budget Ordinance Amendment 1st Reading - Finance: Ordinance No. 2009-00102 amending the Adopted FY 2009-10 Budget respecting the Grant Fund to accept and appropriate funding from the Texas Department of Housing and Community Affairs for the Texas Neighborhood Stabilization Program; respecting the Capital Program by establishing a capital project for the Central Business District Tax Increment Financing Reinvestment Zone (TIF) public utility engineering and coordination; establish a capital project for the North Overton TIF for landscaping in the parkway; and establish a capital project for Slide Road from Clovis Highway to Marshall Street.**
- 5.3. Board Appointment Resolution - City Manager: Resolution No. 2009-R0438 confirming the appointment of Dawn M. Moore by the City Manager for a term of office of three years as a member of the Civil Service Commission of the City of Lubbock.**
- 5.4. Ordinance 2nd Reading – Right-of-Way: Ordinance No. 2009-00097 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.**
- 5.5. Ordinance 2nd Reading – Right-of-Way: Ordinance No. 2009-00098 abandoning and closing an underground electric line easement in Lot 511, Alford Terrace Addition to the City of Lubbock, 904 Slide Road.**
- 5.6. Ordinance 2nd Reading – Right-of-Way: Ordinance No. 2009-00099 abandoning and closing a four-foot wide underground utility easement in Tract C, North Park Addition to the City of Lubbock, 5006 Auburn Street.**
- 5.7. Ordinance 2nd Reading – Right-of-Way: Ordinance No. 2009-00100 abandoning and closing two temporary underground utility easements in Section 2, Block O, Lubbock, County, Texas, 2002 10th Street.**
- 5.8. Ordinance 1st Reading - Right-of-Way: Ordinance No. 2009-00103 abandoning and closing a 20-foot wide underground easement in A W Blankenship No. 1 Addition to the City of Lubbock, 330 University Avenue.**
- 5.9. Contract Resolution – Streets: Resolution No. 2009-R0439 and Resolution No. 2009-R0440 authorizing the Mayor to execute unit price Contract 9228 with West Texas Paving and unit price Contract 9229 with Ronnie Zhan Paving as secondary suppliers for asphalt products for street maintenance and street repair, BID 09-090-FO.**
- 5.10. Contract Resolution – Streets: Resolution No. 2009-R0441, Resolution No. 2009-R0442, and Resolution No. 2009-R0443 authorizing the Mayor to execute unit price Contract 9230 with NK Asphalt Partners dba Holly Asphalt Company, unit price Contract 9231 with Ergon Asphalt and Emulsions, and unit price Contract 9232 with Western Emulsions for the purchase of liquid asphalt materials for street maintenance and street repair, BID 09-091-FO.**

- 5.13. Resolution - Business Development: Resolution No. 2009-R0444 adopting Guidelines and Criteria Governing Tax Abatement for Commercial Projects in Designated Enterprise Zones in the City of Lubbock in accordance with the Property Redevelopment and Tax Abatement Act.**
- 5.14. Resolution - Business Development: Resolution No. 2009-R0445 adopting Guidelines and Criteria Governing Tax Abatement for Industrial Projects in the City of Lubbock in accordance with the Property Redevelopment and Tax Abatement Act.**
- 5.15. Contract Resolution - Business Development: Resolution No. 2009-R0446 authorizing the Mayor to execute a Consent to Assignment and Assumption of Tax Abatement Agreement with SemMaterials, L.P., to SemMaterials Energy Partners, L.L.C., approving the transfer and assignment of the December 7, 2006, Tax Abatement Agreement.**
- 5.17. Resolution - Community Development: Resolution No. 2009-R0447 approving the price and conditions of sale by the Urban Renewal Agency to Michael L. Seal of vacant land at 2901 Auburn Street, legally described as being the remainder of Lots 1 and 2, Block 5 of the Maddox Addition to the City of Lubbock.**

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

- *5.11; 5.12; 5.16; 5.18; 5.19; 5.20; 6.2-6.5; and 6.1.*

6. REGULAR AGENDA

- 5.11. Contract Amendment Resolution - Public Works Engineering: Resolution No. 2009-R0448 authorizing the Mayor to execute Change Order 1 to Contract 9057 with Allen Butler Construction, Inc., for paving improvements on the 34th Street and University Avenue Intersection Reconstruction Project.**

Motion was made by Council Member Leonard, seconded by Council Member Price to approve Resolution No. 2009-R0448. Motion carried: 6 Ayes, 0 Nays. Mayor Pro Tem Gilbreath recused.

- 5.12. Notice of Intent Resolution - Business Development: Resolution No. 2009-R0449 authorizing the Mayor to execute a Notice of Intent to Establish a Tax Increment Financing Reinvestment Zone (Number 3) for the Lubbock Business Park Area pursuant to the Tax Increment Financing Act for encouraging development and redevelopment.**

Motion was made by Council Member DeLeon, seconded by Council Member Leonard to approve Resolution No. 2009-R0449. Motion carried: 7 Ayes, 0 Nays.

5.16. Ordinance 2nd Reading - 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.

Quincy White, Assistant City Manager, gave comments and answered questions from Council.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Klein to approve Ordinance No. 2009-O0101.

Motion was made by Council Member Leonard, seconded by Council Member Beane to amend Ordinance No. 2009-O0101 to exclude permit fees for the private sale of animals on private property. Vote was taken on the amendment. Motion carried: 7 Ayes, 0 Nays.

Vote was then taken on the main motion as amended. Motion carried: 7 Ayes, 0 Nays.

5.18. Grant Contract Resolution - Citibus: Resolution No. 2009-R0450 authorizing the Mayor to execute Grant Project Grant Agreement ICB0901(05)32 with the Texas Department of Transportation to fund architect/engineering services for the expansion of the Downtown Transfer Plaza.

John Wilson, Executive Director of Citibus, gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Price to approve Resolution No. 2009-R0450. Motion carried: 7 Ayes, 0 Nays.

5.19. Contract Resolution - Emergency Management: Resolution No. 2009-R0451 authorizing the Mayor to execute Contract 9222 with Nursefinders for nursing personnel to administer H1N1 vaccine during Health Department sponsored clinics in public school districts within Lubbock County.

Lewis Treadwell, Emergency Management Coordinator, gave comments and answered questions from Council.

Motion was made by Council Member Klein, seconded by Council Member Price to approve Resolution No. 2009-R0451. Motion carried: 7 Ayes, 0 Nays.

5.20. Contract Resolution - Emergency Management: Resolution No. 2009-R0452 authorizing the Mayor to execute Contract 9215 with Advantage Medical Staffing for nursing personnel to administer H1N1 vaccine during Health Department sponsored clinics in public school districts within Lubbock County.

Lewis Treadwell, Emergency Management Coordinator, gave comments and answered questions from Council.

Motion was made by Council Member Klein, seconded by Council Member Price to approve Resolution No. 2009-R0452. Motion carried: 7 Ayes, 0 Nays.

- 6.2. Variance Resolution - Planning: Resolution No. 2009-R0453 approving and granting a variance from the applicable 300-foot minimum distance provisions of City of Lubbock Ordinance No. 2009-O0060 at the location of La Michoacana Meat Market, 2131 Clovis Road, a business requesting an off-premise alcoholic beverage permit.**

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

Motion was made by Council Member Klein, seconded by Council Member DeLeon to approve Resolution No. 2009-R0453. Motion carried: 5 Ayes, 2 Nays. Council Members Leonard and Beane voted nay.

- 6.3. Variance Resolution - Planning: Resolution No. 2009-R0454 approving and granting a variance from the applicable 300-foot minimum distance provisions of City of Lubbock Ordinance No. 2009-O0060 at the location of Red Hana Restaurant, 411 University Avenue, Suite 100, a business requesting an on premises alcoholic beverage permit.**

Randy Henson, Director of Planning, 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-R0454. Motion carried: 6 Ayes, 1 Nay. Council Member Beane voted nay.

- 6.4. Minuted Action - Community Development: Consider scheduling on December 3, 2009, a public hearing to receive public input on adopting a resolution amending the Urban Renewal Plan and amending the Comprehensive Land Use Plan to allow reversion of Lot 1, Block 37, Coronado Addition, (1002 Coronado Drive), a parcel of land located south of Coronado Drive and east of Juniper Avenue, from Park designation to Light Industrial for a railroad spur and dock.**

Motion was made by Council Member Klein, seconded by Council Member Price to approve the minuted action. Motion carried: 7 Ayes, 0 Nays.

- 6.5. Resolution - Community Development: Resolution No. 2009-R0455 authorizing the Community Development Department to submit to the United States Department of Housing and Urban Development a request for an exception for a conflict of interest pursuant to the Community Development Block Grant (CDBG) pertaining to a request for application by Ms. Ruth Berry, first cousin of Councilman Floyd Price, for the Community Development Department's Barrier Free Program funded from the City's annual CDBG allocation.**

Motion was made by Council Member DeLeon, seconded by Council Member Klein to approve Resolution No. 2009-R0455. Motion carried: 6 Ayes, 0 Nays. Council Member Price recused.

9:55 A.M. CITY COUNCIL RECESSED

10:05 A.M. CITY COUNCIL RECONVENED

Council Chambers

6. REGULAR AGENDA (CONTINUED)

6.1. Public Hearing 10:00 a.m. - Planning: Ordinance No. 2009-O0104, Zone Case 2931-B (5502 Auburn Street), request of KLR Properties, L.L.C., (for First Pentecostal Church) for a zoning change from High Density Apartment District (A-2) to Garden Office District (GO) for a medical office on 5.82 acres out of Tract A, Light of the World Addition; and to consider an ordinance.

Mayor Martin opened the public hearing at 10:06 a.m.

Dr. Karen Rogers appeared and spoke in favor of the Ordinance. No one appeared to speak in opposition.

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

Motion was made by Council Member Leonard, seconded by Council Member Price to approve Ordinance No. 2009-O0104. Motion carried: 7 Ayes, 0 Nays.

10:09 A.M. CITY COUNCIL RECESSED INTO EXECUTIVE SESSION

12:07 P.M. CITY COUNCIL ADJOURNED

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