

**CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
January 14, 2010
7:30 A. M.**

The City Council of the City of Lubbock, Texas met in regular session on the 14th day of January, 2010, 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

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

Cliff Burnett appeared and spoke of concerns regarding various city issues.

- 1.1. Jason Davis, Peter Laverty, Larry Lindsey, and Andy Turner will appear before the City Council on behalf of the Miracles Christmas Parade Committee to make a brief presentation thanking the City Council, the City of Lubbock, and the following City of Lubbock employees whose support made the parade possible.**

Peter Laverty and Larry Lindsey appeared before the City Council on behalf of the Miracles Christmas Parade Committee and made a brief presentation thanking the City Council, the City of Lubbock, the following City of Lubbock employees, and others whose support made the parade possible.

**Brooke Allison, Museums and Special Events
Keith Baker, Streets Department
Brian Bearden, Streets Department
Pam Casarez, Parks and Recreation (unable to attend)
Jaime Coy, Solid Waste (unable to attend)
Zoltan Fekete, Water Department
Wood Franklin, Water Department
Alicia Gray, Parks and Recreation (unable to attend)
Kevin Lair, Streets Department**

**Captain James Shavers, Lubbock Police Department
Cuyler Smith, Solid Waste (unable to attend)
Utility Contractors of America**

7:39 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.**
 - 2.1.1 Police**
 - 2.1.2 Risk Management**
 - 2.1.3 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.**
 - 2.2.1 Right-of-Way**
 - 2.2.2 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 and take appropriate action.**
 - 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, asset purchase 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 and the Lubbock Business Park TIF Reinvestment Zone Board of Directors.

9:04 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 Sam Medina, City Attorney.

Absent: No one.

3. PROCLAMATIONS AND PRESENTATIONS

3.1. Invocation by Pastor Shon Wagner, Redbud Baptist Church

Pastor Shon Wagner, Redbud Baptist Church, led the invocation.

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. Board Recognitions - Animal Services Advisory Board

Kaylene Brown

Bill Howerton

Mary Whistler (unable to attend)

4. MINUTES

**4.1. December 2, 2009, Regular City Council Meeting
December 10, 2009, Special City Council Meeting**

Motion was made by Council Member DeLeon, seconded by Council Member Leonard to approve the December 2, 2009 Regular City Council Meeting Minutes and the December 10, 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:

- *5.1-5.13; 5.15-5.17; 5.19-5.29; 5.32-5.36; 5.14; 5.18; 5.30; 5.31; 6.7-6.9; 6.1-6.4; 6.5; and 6.6.*
- *Item 5.31 failed.*

5. CONSENT AGENDA

- Motion was made by Council Member Leonard, seconded by Council Member Klein to approve items 5.1-5.13; 5.15-5.17; 5.19-5.29; and 5.32-5.36 on consent agenda. Motion carried: 7 Ayes, 0 Nays.
- 5.1. Resolution - Human Resources: Resolution No. 2010-R0001 amending the Employee Benefit Plan in regard to treatment for Autism Spectrum Disorder.**
- 5.2. Resolution - Human Resources: Resolution No. 2010-R0002 amending the Employee Benefit Plan in regard to non-invasive tests for detection of cardiovascular disease for certain at risk individuals.**
- 5.3. Resolution - Human Resources: Resolution No. 2010-R0003 amending the Employee Benefit Plan in regard to amino acid-elemental formulas.**
- 5.4. Resolution - Human Resources: Resolution No. 2010-R0004 directing the City Manager, or her designee, to prepare and deliver the notice(s) required by the Health Insurance Portability and Accountability Act (HIPAA) to notify the Center for Medicare and Medicaid Services (CMS), City employees, retirees and dependents, and the third party administrator that the City of Lubbock has opted out and is electing exemption from the requirements of the Mental Health Parity and Addiction Equity Act (MHPAEA) requiring that inpatient and outpatient mental health care and the treatment of chemical dependency be covered as any other illness.**
- 5.5. Contract Resolution - Risk Management: Resolution No. 2010-R0005 authorizing the purchase of property insurance coverage from ACE Fire Underwriters Insurance Company for the John T. Montford Dam.**
- 5.6. Contract Resolution - Public Works Engineering: Resolution No. 2010-R0006 authorizing the Mayor to execute unit price Contract 9295 with Allen Butler Construction, Inc., for construction of the Indiana Avenue Paving Improvements from 103rd Street to FM 1585 Project, BID 10-022-MA.**
- 5.7. Contract Resolution - Public Works Engineering: Resolution No. 2010-R0007 authorizing the Mayor to execute an agreement for professional services with Kimley-Horn and Associates, Inc., for construction phase services on the Indiana Avenue Paving Improvements from 103rd Street to FM 1585 Project.**

- 5.8. **Ordinance 2nd Reading - Traffic Engineering: Ordinance No. 2009-00118 amending Section 16-175.1 of the Code of Ordinances with regard to the establishment of speed limits within Lubbock.**
- 5.9. **Resolution - Traffic Engineering: Resolution No. 2010-R0008 amending Resolution 2009-R0547 dated December 2, 2009, authorizing the Mayor to execute an application with the Texas Department of Transportation for a Transportation Enhancement Program to upgrade signalized intersections.**
- 5.10. **Contract Resolution - Traffic Engineering: Resolution No. 2010-R0009 authorizing the Mayor to execute Contract 9375 with the Lubbock Metropolitan Planning Organization for professional services to enhance the City Engineering Department database functionality to provide more accurate data input to the Texas Department of Transportation's Travel Demand Model for forecasting future City traffic volumes within the Transportation Analysis Zones.**
- 5.11. **Ordinance 2nd Reading – Right-of-Way: Ordinance No. 2009-00116 abandoning and closing a portion of Santa Fe Drive south of 3rd Street and east of Boston Avenue in Section 20, Block A, 2717 3rd Street.**
- 5.12. **Ordinance 1st Reading – Right-of-Way: Ordinance No. 2010-O0001 abandoning and closing a 2.62 acre tract of a storm water storage and drainage easement located in Section 43, Block AK, Lubbock County, Texas, 1902 Milwaukee Avenue.**
- 5.13. **Ordinance 1st Reading – Right-of-Way: Ordinance No. 2010-O0002 abandoning and closing a portion of a 30-foot underground utility easement located in Block E-2, Section 17, 3801 106th Street.**
- 5.15. **Contract Resolution - Right-of-Way: Resolution No. 2010-R0010 authorizing the Mayor to execute Contract 9384 with Thomas H. Payton and wife, Terry A. Payton and John W. Payton and wife, Breena M. Payton for the acquisition of a permanent 60-foot wide pipe line easement and a 60-foot wide temporary construction easement for the construction of the Lake Alan Henry Pipe Line Project.**
- 5.16. **Contract Resolution - Right-of-Way: Resolution No. 2010-R0011 authorizing the Mayor to execute Contract 9385 with Samuel Sims, a/k/a/ Samuel J. Sims and Samuel James Sims and wife, Tina Sims, also a/k/a/ Tina Louise Sims for the acquisition of a permanent 60-foot wide pipe line easement and a 60-foot wide temporary construction easement for the construction of the Lake Alan Henry Pipe Line Project.**
- 5.17. **Contract Resolution – Water Utility: Resolution No. 2010-R0012 authorizing the Mayor to execute a services agreement with Big Country Electric Cooperative, Inc., to establish responsibilities for the construction, operations, and maintenance of electric facilities necessary to provide power to the proposed Lake Alan Henry Pump Station to be located near the Montford Dam.**

- 5.19. **Contract Amendment Resolution - Water Utility: Resolution No. 2010-R0013 authorizing the Mayor to execute Change Order 4 to Construction Contract 8354 with S.J. Louis Construction of Texas, Ltd., for the Downtown Waterline Replacement Project.**
- 5.20. **Contract Resolution - Water Utility: Resolution No. 2010-R0014 authorizing the Mayor to execute professional services Contract 9365 with Agri-Waste Technology for modeling and reporting of water and nitrogen balances at the Lubbock and Hancock Land Application sites as required by the Texas Commission on Environmental Quality Wastewater Permit.**
- 5.21. **Ordinance 2nd Reading - Planning: Ordinance No. 2009-O0119, Zone Case 2995-H (6302, 6304, 6306, 6308, and 6310 79th Street), request of George H. McMahan (for Bacon Crest, Ltd.) for a zoning change from Two-family District (R-2) Specific Use to R-2 Specific Use with amended conditions on Lots 154-158, Bacon Crest Addition.**
- 5.22. **Ordinance 2nd Reading - Planning: Ordinance No. 2009-O0120, Zone Case 2508-F (South of 111th Street, North of 114th Street, from Hartford Avenue to Akron Avenue), request of AMD Engineering, LP (for Lubbock Land Company) for a zoning change from Transition (T), Two-family District (R-2), and Family Apartment District (A-1) to Single-family District (R-1) Specific Use on 58.5 acres of platted and unplatted land out of Block E2, Sections 19 and 20.**
- 5.23. **Ordinance 2nd Reading - Planning: Ordinance No. 2009-O0121, Zone Case 3130 (1602 Avenue O), request of Beth Lawson (for Lubbock Regional Mental Health Mental Retardation Center) for a zoning change from General Retail District (C-3) to Central Business District (CB-3) on Lots 1 through 7 and the north half of Lot 8, Block 191, Original Town of Lubbock.**
- 5.24. **Ordinance 2nd Reading - Planning: Ordinance 2009-O0122, Zone Case 1190-B (4320 and 4322 50th Street), request of Salvatore Mazzamuto for a zoning change from Restricted Local Retail District (C-2A) to Local Retail District (C-2) on Lot 4 less the east 10 feet, Lot 5, and the east 42.06 feet of Lot 6, Commercial Addition.**
- 5.25. **Contract Resolution - Parks and Recreation: Resolution No. 2010-R0015 authorizing the Mayor to execute unit price Contract 9338 with West Texas Paving, Inc., for Fiesta Plaza Park Improvements, BID 10-030-DD.**
- 5.26. **Resolution - Civic Services: Resolution No. 2010-R0016 approving the recommendation from the Cultural Arts Grant Review Committee and the Civic Lubbock, Inc., Board of Directors for the second of two granting periods for the 2009 Cultural Arts Grant Program using Hotel Occupancy Tax funds collected at the end of FY 2007-08.**

- 5.27. **Grant Application Resolution - Citibus: Resolution No. 2010-R0017 approving a Federal Transit Administration FY 2010 Section 5307 grant application, to provide preventative maintenance, Americans with Disabilities Act paratransit, capital, planning assistance, and relocation expenses associated with the purchase of land for expansion.**
- 5.28. **Grant Application Resolution - Citibus: Resolution No. 2010-R0018 approving a FY 2010 New Freedom Mobility Management Grant application.**
- 5.29. **Grant Application Resolution - Citibus: Resolution No. 2010-R0019 approving a FY 2010 Jobs Access Reverse Commute Grant application.**
- 5.32. **Contract Resolution - Facilities Management: Resolution No. 2010-R0020 authorizing the Mayor to execute Job Order Contract 10-007-F-007-NJPA with Talon/LPE for the testing and balancing of the City Hall HVAC system.**
- 5.33. **Contract Resolution - Facilities Maintenance: Resolution No. 2010-R0021 ratifying Job Order Contract TX04-061908-TAL with Talon/LPE for interior renovations at the new Godeke Library.**
- 5.34. **Contract Resolution - Facilities Management: Resolution No. 2010-R0022 authorizing the Mayor to execute Contract 9276 with TIBH and Marion Moss Enterprises of Lubbock for maintenance of interior plants at City Hall and Lubbock Memorial Civic Center.**
- 5.35. **Contract Resolution - Telecommunications: Resolution No. 2010-R0023 authorizing the Mayor to execute Contract 9369 with Allegheny Answering Service for after hour call answering service, BID 10-014-DT.**
- 5.36. **Contract Resolution - City Attorney: Resolution No. 2010-R0024 authorizing the Mayor to execute Contract 9373 with Westlaw Publishing Corporation for online legal research services.**

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

- *5.14; 5.18; 5.30; 5.31; 6.7-6.9; 6.1-6.4; 6.5; and 6.6.*
- *Item 5.31 failed.*

6. REGULAR AGENDA

- 5.14. **Resolution - Right-of-Way: Resolution No. 2010-R0025 authorizing the Mayor to execute an underground electric utility easement lying in Section 12 Block B, Indianola RR CO survey, Lubbock County, Texas to Cielo Land and Cattle, LP, south of 19th Street on Wood Avenue.**

Motion was made by Council Member Leonard, seconded by Council Member Price to approve Resolution No. 2010-R0025 with the conditions placed at the dias. Motion carried: 7 Ayes, 0 Nays.

Note the conditions read as follows:

This grant is made upon the following condition: that within eighteen (18) months after the grant of the easement, GRANTEE must have finally and completely installed, in compliance with all regulatory standards, electrical distribution lines to an electric utility transmission system. In the event this condition is not met, all rights otherwise granted to GRANTEE pursuant to, or in accordance with, this conditional easement agreement shall be of no further effect, and shall thereupon revert fully and without exception whatsoever to GRANTOR.

- 5.18. Contract Amendment Resolution – Water Utility: Resolution No. 2010-R0026 authorizing the Mayor to execute Change Order 9 to Contract 8119 with Eagle Contracting for the Southeast Water Reclamation Plant Improvements Project.**

Wood Franklin, Chief Engineer for Water Utilities, and Marsha Reed, Chief Operations 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. 2010-R0026. Motion carried: 7 Ayes, 0 Nays.

- 5.30. Grant Application Resolution - Citibus: Resolution No. 2010-R0027 approving a FY 2009 Section 5309 Discretionary Earmark Grant application.**

John Wilson, Executive Director of Citibus; Aubrey Spear, Director of Water Utilities; and Lee Ann Dumbauld, City Manager, gave comments and answered questions from Council.

Motion was made by Council Member Klein, seconded by Council Member Price to approve Resolution No. 2010-R0027. Motion carried: 7 Ayes, 0 Nays.

- 5.31. Contract Resolution - Citibus: Consider a resolution authorizing the Mayor to execute purchase order Contract 2010.1 with Gillig Corporation for a 35-foot low-floor hybrid electric bus, RFP 09-076-MA.**

This item failed.

Motion was made by Council Member Klein, seconded by Council Member Price to approve the Resolution. Motion failed: 2 Ayes, 5 Nays. Mayor Martin; Mayor Pro Tem Gilbreath; and Council Members Beane, Leonard, and Klein voted Nay.

- 6.7. Board Appointments Resolution - City Secretary: Resolution No. 2010-R 0028 authorizing the City Council to appoint five members to the Lubbock Business Park Tax Increment Financing Reinvestment Zone Board of Directors; and appointing one of those members to serve as Chairperson to the Board of Directors.**

Motion was made by Mayor Pro Tem Gilbreath , seconded by Council Member Leonard to make the following appointments to the **Lubbock Business Park Tax Increment Financing Reinvestment Zone Board of Directors**: Curtis Griffith, Chairman; David Sharbutt; Tony Whitehead; Kenny McKay; Chris Payen. Motion carried: 7Ayes, 0 Nays.

- 6.8. Board Appointments - City Secretary: Consider seven appointments to the City of Lubbock Charter Review Committee; and one appointment to the Lake Alan Henry Board of Appeals.**

Motion was made by Council Member Leonard, seconded by Council Member Klein to make the following appointments to the **City of Lubbock Charter Review Committee**: Alan Henry, Chairman; David Langston; Bill Bates; Dustin Burrows; Jim Dulin; Michael Epps; George Carpenter. Motion carried: 7 Ayes, 0 Nays.

Lake Alan Henry Board of Appeals: Appoint Jim Purtell or Melanie Barnes. Motion was made by Council Member Price, seconded by Council Member Klein to appoint Melanie Barnes to the **Lake Alan Henry Board of Appeals**. Motion carried: 4 Ayes, 3 Nays. Mayor Martin, Mayor Pro Tem Gilbreath, and Council Member Beane voted Nay.

- 6.9. Board Appointments - City Secretary: Declare two appointments by the Mayor to the Lubbock Housing Authority Board of Directors: Elena Quintanilla and Mamie Young.**

Mayor Martin declared the reappointment of Elena Quintanilla and the appointment of Mamie Young to the Lubbock Housing Authority Board of Directors.

9:37 A.M. CITY COUNCIL RECESSED

10:00 A.M. CITY COUNCIL RECONVENED

Council Chambers

6. REGULAR AGENDA

- 6.1. Public Hearing 10:00 a.m. - Planning: ZONE CASE NO. 2262-A (5202 4th Street): request of City of Lubbock for zoning change from Restricted Local Retail District (C-2A) Design Historical to C-2A on Tract A, Whisperwood Addition, and to consider an ordinance.**

Mayor Martin opened the public hearing at 10:01 a.m.

No one appeared to speak in favor or in opposition.

Mayor Martin closed the public hearing at 10:02 a.m.

Motion was made by Council Member Leonard, seconded by Council Member DeLeon to approve Zone Case No. 2262-A. Motion carried: 7 Ayes, 0 Nays.

- 6.2. Public Hearing 10:00 a.m. - Planning: ZONE CASE NO. 1943-D (north of Erskine Street and west of North Memphis Avenue): request of Hugo Reed and Associates, Inc. (for Williams & Associates) for zoning change from Single-Family District and High-Density Apartment District (A-2) to A-2 Specific Use (for reduced setbacks) on 31.5 acres of unplatted land out of Block A, Section 18, and to consider an ordinance.**

Mayor Martin opened the public hearing at 10:01 a.m.

No one appeared to speak in favor or in opposition.

Mayor Martin closed the public hearing at 10:02 a.m.

Motion was made by Council Member Leonard, seconded by Council Member DeLeon to approve Zone Case No. 1943-D. Motion carried: 7 Ayes, 0 Nays.

- 6.3. Public Hearing 10:00 a.m. - Planning: ZONE CASE NO. 2206-A (2412 98th Street): request of Teinert Commercial Building Services (for Stripes Store 2253) for zoning change from Local Retail District to General Retail District on Tract A, Bicentennial Estates Addition, and to consider an ordinance.**

Mayor Martin opened the public hearing at 10:01 a.m.

No one appeared to speak in favor or in opposition.

Mayor Martin closed the public hearing at 10:02 a.m.

Motion was made by Council Member Leonard, seconded by Council Member DeLeon to approve Zone Case No. 2206-A. Motion carried: 7 Ayes, 0 Nays.

- 6.4. Public Hearing 10:00 a.m. - Planning: ZONE CASE NO. 2406-F (7515 Quaker Avenue): request of Sunwest Construction, Inc., (for Chadwick Sargent, D.D.S. for zoning change from Apartment-Medical Specific Use District to Apartment-Medical District on Tract A, Family Apartment District, and Lot 2, King's Park Addition, and to consider an ordinance.**

Mayor Martin opened the public hearing at 10:01 a.m.

No one appeared to speak in favor or in opposition.

Mayor Martin closed the public hearing at 10:02 a.m.

Motion was made by Council Member Leonard, seconded by Council Member DeLeon to approve Zone Case No. 2406-F. Motion carried: 7 Ayes, 0 Nays.

- 6.5. Public Hearing 10:00 a.m. - Community Development: Hold a public hearing for consideration by the City Council of an amendment to the Urban Renewal Coronado TEX. R-33 Land Use Plan and a minor change of the Comprehensive Land Use Plan for revision from Public/Parks to M-1 Light Manufacturing for a public railroad loading dock on a vacant tract of land located at 1002 Coronado Drive, a parcel of land located south of Coronado Drive and east of Juniper Avenue in Lot 1, Block 37, Coronado Addition to the City of Lubbock, Lubbock County, Texas.**

Mayor Martin opened the public hearing at 10:02 a.m.

No one appeared to speak in favor or in opposition.

Mayor Martin closed the public hearing at 10:03 a.m.

- 6.6. Resolution - Community Development: Resolution No. 2010-R0029 approval by the City Council of an amendment to the Urban Renewal Coronado TEX. R-33 Land Use Plan and a minor change of the Comprehensive Land Use Plan for revision from Public/Parks to M-1 Light Manufacturing for a public railroad loading dock on a vacant tract of land located at 1002 Coronado Drive, a parcel of land located south of Coronado Drive and east of Juniper Avenue in Lot 1, Block 37, Coronado Addition to the City of Lubbock, Lubbock County, Texas.**

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to approve Resolution No. 2010-R0029 with the following comments:

“After the hearing, the City Council makes the following findings in accordance with Tex. Local Gov. Code § 374.014 (d):

- (1) No individuals or families will be displaced by the Amendment; and
- (2) The Urban Renewal Plan Amendment conforms to the general plan for municipal development; and
- (3) The Urban Renewal Plan Amendment offers the maximum opportunity, consistent with the needs of the city as a whole, for rehabilitation or redevelopment of the urban renewal area by private enterprise.”

Motion carried: 7 Ayes, 0 Nays.

10:05 A.M. COUNCIL RECESSED INTO EXECUTIVE

1:07 P.M. COUNCIL ADJOURNED

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