

CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
August 11, 2011
7:30 A. M.

The City Council of the City of Lubbock, Texas met in regular session on the 11th of August, 2011, in City Council Chambers, City Hall, 1625 13th Street, Lubbock, Texas at 7:30 a. m.

7:34 A.M. CITY COUNCIL CONVENED

City Council Chambers, 1625 13th Street, Lubbock, Texas

Present: Mayor Tom Martin; Mayor Pro Tem Floyd Price; Council Member Paul R. Beane; Council Member Karen Gibson; Council Member Jim Gilbreath; Council Member Victor Hernandez; Council Member Todd R. Klein; Lee Ann Dumbauld, City Manager; Thomas Harris III, Deputy City Secretary; and Sam Medina, City Attorney.

Absent: No one.

Note: City Council addressed agenda items in the following order:

- *Citizen Comments; Executive Session; 3.1-3.4; 4.1; 5.1-5.6; 5.10-5.11; 5.14-5.16; 5.7-5.9; 5.12-5.13; and 6.1-6.7.*
- *Item 6.5 was reconsidered following item 6.7*
- *Item 7.1 was deleted.*

1. CITIZEN COMMENTS

- David Buckberry appeared before Council to discuss Senate Bill 100 and a possible change to election dates.
- LeEarl Bryant appeared before Council to ask for public hearings on Lubbock High School restorations and closings, and to support a new Police Department facility.
- Celia Davis, President of the Guadalupe/Parkway Summerville Center Board; Randy Sanders, Vice President of the Guadalupe/Parkway Summerville Center Board; and Dela Esqueda, Executive Director of the Guadalupe/Parkway Summerville Center, appeared before Council to speak in favor of item 5.13.
- Dr. Brian Carr, Wendy Thomson, and Carrie Taylor appeared before Council to speak on the closing of the Health Department.
- Charles Shue appeared before Council to speak on water rates.

7:58 A.M. CITY COUNCIL RECESSED INTO EXECUTIVE

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 Icon Benefit Administrators II, L.P. American Administrative Group, Inc., and HealthSmart Preferred Care, II, L.P. v. Greg Abbott, Attorney General of Texas, and the City of Lubbock, Case No. D-1-GN-11-001866 in the 345th District Court, Travis County, Texas**
 - 2.1.2 Health Benefits: Cause No. CC-08-01067-B in the County Court at Law No. 2 of Dallas County, Texas**
 - 2.1.3 Health Benefits: In the matter of arbitration between the City of Lubbock and HealthSmart Holdings, Inc., et al Case No.71-193-Y-00084-08**
 - 2.1.4 Ted Parker v. City of Lubbock Case No. 141 241783 09 in the 141st District Court, Tarrant County**
 - 2.1.5 Atmos Energy**
- 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 Parks and Recreation**
- 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 Attorney**
 - 2.3.2 City Manager**
 - 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 discuss, vote, and take final action on customer billing and electric power pricing**
 - 2.4.2 to discuss and deliberate plans, studies, proposals, and analyses for system improvements and risk management information and related strategies**

- 2.4.3 to discuss and deliberate bidding and pricing information for purchased power, generation and fuel, purchased power agreements, and related services and strategies**
- 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 Water Board of Appeals.**

9:17 A.M. CITY COUNCIL RECONVENED

Council Chambers

3. PROCLAMATIONS AND PRESENTATIONS

3.1. Invocation by Samer Altabaa, Imam, Islamic Center of the South Plains

Samer Altabaa, Imam, Islamic Center of the South Plains, 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. Presentation of a special recognition commemorating the week of August 7-13, 2011, as National Health Center Week

Mayor Martin presented special recognition to Linda McMurray, Executive Director; Michelle Hunter, Marketing and Community Outreach; Deborah Brather, Board Member; Aurora Hernandez, Board Member; and Herminia Martinez, Board Member, all of the Larry Combest Community Health and Wellness Center; and Michael Sullivan, Executive Director; and Liz Lopez, Chief Development Officer, both of the Community Health Center of Lubbock. This recognition was to commemorate the week of August 7-13, 2011, as National Health Center Week. Ms. McMurray and Mr. Sullivan gave thanks to the Council and to the community for all of their support.

3.4. Presentation of special recognition commemorating August 11, 2011, as Rose Hankson Day for 20 years of volunteer service

Mayor Martin presented special recognition commemorating August 11, 2011 as Rose Hankson Day in honor of her 20 years of volunteer service. Ms. Hankson gave thanks to the Council and the community for the years of continued support.

4. MINUTES

4.1. July 14, 2011, Regular City Council Meeting

Motion was made by Council Member Klein, seconded by Council Member Gibson, to approve the July 14, 2011 Regular City Council minutes. Motion carried: 7 Ayes, 0 Nays.

5. CONSENT AGENDA

Motion was made by Mayor Pro Tem Price, seconded by Council Member Klein, to approve items 5.1-5.6; 5.10-5.11; and 5.14-5.16. Motion carried: 7 Ayes, 0 Nays.

- 5.1. Budget Ordinance Amendment 1st Reading – Finance: Ordinance No. 2011-O0065, Amendment 14, amending the Adopted FY 2010-11 Budget respecting the Capital Program to amend Capital Improvement Project No. 92215, Slide Road from Marshall Street to U.S. 84.**
- 5.2. Resolution and Order - Finance: Resolution No. 2011-R0342 and order approving the method of assessment classification for the Valencia Public Improvement District (PID) and calling a public hearing on August 25, 2011.**
- 5.3. Ordinance 2nd Reading – Right-of-Way: Ordinance No. 2011-O0062 abandoning and closing a 75-foot drainage easement located out of the Southwest Quarter Section 18, Block A, Lubbock County, Texas, North Quaker.**
- 5.4. Contract Resolution - Right-of-Way: Resolution No. 2011-R0343 authorizing the Mayor to execute Contract 10342 with Carla Armstrong, for the acquisition of 0.0320 acre tract of land and 0.4384 acre tract of land out of Block AK, Section 22, for the widening of Milwaukee Avenue from 94th Street to 104th Street, 10320 Milwaukee Avenue.**
- 5.5. Contract Resolution - Right-of-Way: Resolution No. 2011-R0344 authorizing the Mayor to execute Contract 10366 with Shannon L. Fox, for the acquisition of improvements out of Tract 15, Block AK, Section 22, for the widening of Milwaukee Avenue from 94th Street to 104th Street, 10106 Milwaukee Avenue.**
- 5.6. Ordinance Amendment 1st Reading - Public Works Traffic Engineering: Ordinance No. 2011-O0066 amending Section 20.05.102 of the Code of Ordinances of the City of Lubbock, with regard to the establishment of speed limits.**
- 5.10. Contract Resolution - Facilities: Resolution No. 2011-R0345 authorizing the Mayor to execute purchase order Contract 10003375 with Filtration Concepts for HVAC filters.**
- 5.11. Contract Resolution - Citibus: Resolution No. 2011-R0346 authorizing the Mayor to execute Contract No. 10157 with A-1 Freeman North American, Inc., for the transport of buses from Cleveland, Ohio to Lubbock, Texas, Bid 11-10157-MA.**
- 5.14. Contract Resolution - Animal Services: Resolution No. 2011-R0347 authorizing the Mayor to execute Contract 10155 with Ark Pet Hospital of Lubbock for veterinary services, RFP 11-10155-DT.**

- 5.15. **Contract Resolution - Police Department: Resolution No. 2011-R0348 authorizing the Mayor to execute a Memorandum of Understanding with Lubbock County regarding the division of the local allocation from the United States Department of Justice for the Fiscal Year 2011 Justice Assistance Grant (JAG) Program.**
- 5.16. **Board Appointments - City Secretary: Resolution No. 2011-R0349 confirming the City Manager's appointment of Jimmy Castillo to the Civil Service Commission.**

6. REGULAR AGENDA

- 5.7. **Contract Resolution - Public Works Water Utility: Resolution No. 2011-R0350 authorizing the Mayor to execute Contract 10370 with the City of Littlefield for the purchase of water during emergency situations.**

Marsha Reed, Chief Operating Officer; and Aubrey Spear, Director of Water Utilities, gave comments and answered questions from Council.

Motion was made by Council Member Klein, seconded by Mayor Pro Tem Price, to approve Resolution No. 2011-R0350. Motion carried: 7 Ayes, 0 Nays.

- 5.8. **Contract Resolution - Public Works: Resolution No. 2011-R0351 authorizing the Mayor to execute professional services Contract 10073 with Hugo Reed and Associates, Inc., for the Federal Emergency Management Association (FEMA) restudy of System G, RFQ 11-10073-DT.**

Marsha Reed, Chief Operating Officer, gave comments and answered questions from Council.

Motion was made by Council Member Klein, seconded by Mayor Pro Tem Price, to approve Resolution No. 2011-R0351. Motion carried: 7 Ayes, 0 Nays.

- 5.9. **Contract Resolution - Fleet Services: Resolution No. 2011-R0352 authorizing the Mayor to reject all bids for the purchase of a pontoon boat and trailer for use at Lake Alan Henry, Bid 11-10153-RH.**

Leslie Cox, Director of Telecom and Fleet Operations Information Technology, gave comments and answered questions from Council.

Motion was made by Council Member Klein, seconded by Council Member Gilbreath, to approve Resolution No. 2011-R0352. Motion carried: 7 Ayes, 0 Nays,

- 5.12. **Contract Resolution - Citibus: Resolution No. 2011-R0353 authorizing the Mayor to execute Contract No. 10161 with Narvaez Paint and Body for bus painting services, Bid 11-10161-DG.**

Lee Ann Dumbauld, City Manager; and John Wilson, Citibus General Manager, gave comments and answered questions from Council.

Motion was made by Mayor Pro Tem Price, seconded by Council Member Klein, to approve Resolution No. 2011-R0353. Motion carried: 6 Ayes, 0 Nays. Council Member Hernandez recused.

5.13. Contract Resolution - Community Development: Resolution No. 2011-R0354 authorizing the Mayor to execute a Lease Renewal and Extension Agreement with the Guadalupe/Parkway Neighborhood Centers for property located at 123 North Avenue N.

Dela Esqueda, Executive Director of Guadalupe/Parkway Summerville Center; and Celia Davis, President of Guadalupe/Parkway Summerville Center Board, gave comments and answered questions from Council.

Motion was made by Council Member Klein, seconded by Council Member Gilbreath, to approve Resolution No. 2011-R0354. Motion carried: 7 Ayes, 0 Nays.

6.1. Public Hearing 9:30 a.m. - Planning: Ordinance No. 2011-O0067, Zone Case 3156 (1502 East 52nd Street): request of Steve Fuller for a zoning change from Light Manufacturing District (M-1) to Single-Family District (R-1) on Lot 36 and the western 140 feet of Lot 35, James Addition, and to consider an ordinance.

Andrew Paxton, Senior Planner, gave comments and answered questions from Council.

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

No one appeared to speak in favor or opposition.

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

Motion was made by Council Member Gilbreath, seconded by Council Member Klein, to approve Ordinance No. 2011-O0067. Motion carried: 7 Ayes, 0 Nays.

6.2. Public Hearing 9:30 a.m. - Planning: Ordinance No. 2011-O0068, Zone Case 3157 (3425 118th Street): request of Thom Vines for zoning change from Single-Family District (R-1) to R-1 Specific Use for a communications tower on a portion of Tract A, Second Cooper Middle School Addition, and to consider an ordinance.

Andrew Paxton, Senior Planner, gave comments and answered questions from Council.

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

No one appeared to speak in favor or opposition.

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

Motion was made by Mayor Pro Tem Price, seconded by Council Member Klein, to approve Ordinance No. 2011-O0068. Motion carried: 7 Ayes, 0 Nays.

6.3. Public Hearing 9:30 a.m. - Planning: Ordinance No. 2011-O0069, Zone Case 2269-P (8210 and 8214 Memphis Avenue): request of Dan Wilson Construction for zoning change from Apartment-Medical District (AM) Specific Use to Neighborhood Service District (C-1) limited to a beauty salon and garden office uses on Tracts E-2 and B-4, Kings Gate Addition, and to consider an ordinance.

Andrew Paxton, Senior Planner, gave comments and answered questions from Council.

Mayor Martin opened the public hearing at 10:05 a.m.

No one appeared to speak in favor or opposition.

Mayor Martin closed the public hearing at 10:05 a.m.

Motion was made by Council Member Gilbreath, seconded by Council Member Klein, to approve Ordinance No. 2011-O0069. Motion carried: 7 Ayes, 0 Nays.

10:05 A.M. CITY COUNCIL RECESSED

10:27 A.M. CITY COUNCIL RECONVENED

Council Chambers

6.4. Property Tax Rate Resolution - Finance: Resolution No. 2011-R0355 adopting a proposed property tax rate that will result in additional revenues as outlined in Section 26.05(d) of the Tax Code of the State of Texas, and setting the dates for public hearings to discuss the proposed tax rate.

Andy Burcham, Chief Financial Officer, gave a presentation, comments and answered questions from Council.

Motion was made by Council Member Gibson, seconded by Council Member Hernandez, to approve Resolution No. 2011-R0355 adopting the property tax rate of \$0.47400 per \$100 valuation. Motion carried: 7 Ayes, 0 Nays.

11:13 A.M. CITY COUNCIL RECESSED

11:24 A.M. CITY COUNCIL RECONVENED

Council Chambers

6.5. Ordinance Amendment 1st Reading - City Council: Consider an ordinance amending the definition of food establishment in Section 8.16.001 of the City of Lubbock Code of Ordinances to exempt kitchens in private homes.

Chad Weaver, Assistant City Attorney, gave comments and answered questions from Council.

Motion was made by Council Member Klein, seconded by Council Member Gilbreath, to approve an ordinance amending Section 8.16.001 of the City of Lubbock Code of Ordinances to exempt kitchens in private homes.

Motion was made by Council Member Gibson, seconded by Mayor Pro Tem Price, to make the following amendment:

“ To strike the words ‘or feeding the general public, including the homeless or indigent at no charge,’ and adding in the following statement:

SECTION 2. THAT the Code of Ordinances, City of Lubbock, Texas is hereby amended by adding a section, to be numbered 8.16.006, which said section to read as follows:

Section 8.16.006 Kitchens in private homes; feeding the public

- a) Notwithstanding any provision to the contrary in Article 8.16, an individual, in a kitchen in a private home may prepare potentially hazardous food, to serve or distribute to the public, without charge or remuneration in exchange for the food, in conformance with this Section. The requirements of this section do not apply to the serving or distribution of non-potentially hazardous food.
- b) An individual serving or distributing food to the public pursuant to Section 8.16.006(a) shall:
 1. At least three days prior to the feeding, submit a completed registration form to the Environmental Health Department, which shall include:
 - (A) The individual’s name, address and telephone number(s), the location where the food service or distribution will take place (the “feeding site”), the dates and times of service or distribution and the signature of the individual. The registration shall be valid for one year, and no fee or charge shall be collected or required from the individual for the registration process;
 2. Transport the food to the feeding site in a clean conveyance and serve or distribute the food within four hours after preparation;
 3. Store the food at a temperature of:
 - (A) 41° F. (5 ° C) or below; or

- (B) 135 ° F. (57 ° C) or above;
4. Provide, at the feeding site, hand sanitizer and gloves for persons preparing or serving the food for hand sanitation purposes while food is being prepared or served at the feeding site;
 5. Leave the feeding site in a clean, waste-free condition.
- c) The feeding site shall be subject to inspection at any time by the City health officer to insure compliance with this Section. The City health officer shall not inspect the individual's private kitchen.
- d) In addition to the requirements of this Section, the regulations for Temporary Food Establishments adopted by the Texas Department of State Health Services set forth in Title 25 Texas Administrative Code, Section 229.170(c), (d)(1), (d)(4) and (h) shall be adhered to by the individual. A copy of these regulations shall be provided to the individual by the Environmental Health Department.
- e) At the feeding site, during the entire time food is served or distributed, the individual shall display a sign, in a clearly visible location, that in 72 point font reads as follows:

NOTICE

THIS FOOD WAS PREPARED
IN A KITCHEN
THAT IS NOT INSPECTED
BY ANY HEALTH INSPECTOR
OR HEALTH AGENCY”

Motion to amend failed: 3 Ayes, 3 Nays. Council Members Gilbreath, Hernandez, and Klein voted nay. Council Member Beane was away from the dais.

Vote was then taken on the main motion. Motion failed: 3 Ayes, 3 Nays. Mayor Martin, Mayor Pro Tem Price, and Council Member Gibson voted nay. Council Member Beane was away from the dais.

This item was reconsidered following item 6.7.

6.6. Resolution - City Secretary: Resolution No. 2011-R0356 authorizing the City Secretary to continue with the City of Lubbock's regular elections in May of even-numbered years.

Motion was made by Council Member Hernandez, seconded by Council Member Gibson, to approve Resolution No. 2011-R0356. Motion carried: 5 Ayes, 1 Nay. Mayor Martin voted nay. Council Member Beane was away from the dais.

6.7. Board Appointments - City Secretary: Consider one appointment to the Water Board of Appeals.

Water Board of Appeals: Motion was made by Mayor Pro Tem Price, seconded by Council Member Gibson, to appoint Bill Basom. Motion carried: 6 Ayes, 0 Nays. Council Member Beane was away from the dais.

6.5. Ordinance Amendment 1st Reading - City Council: Ordinance No. 2011-00070 amending the definition of food establishment in Section 8.16.001 of the City of Lubbock Code of Ordinances to exempt kitchens in private homes.

Motion was made by Council Member Hernandez, seconded by Council Member Gilbreath, to reconsider item 6.5. Motion carried: 6 Ayes, 0 Nays. Council Member Beane was away from the dais.

Chad Weaver, Assistant City Attorney, gave comments and answered questions from Council.

Motion was made by Council Member Hernandez, seconded by Mayor Pro Tem Price, to approve Ordinance No. 2011-00070 with the following amendment:

“ To strike the words “or feeding the general public, including the homeless or indigent at no charge,” and insert in the following:

SECTION 2. THAT the Code of Ordinances, City of Lubbock, Texas is hereby amended by adding a section, to be numbered 8.16.006, which said section to read as follows:

Section 8.16.006 Kitchens in private homes; feeding the public

- a) Notwithstanding any provision to the contrary in Article 8.16, an individual, in a kitchen in a private home may prepare potentially hazardous food, to serve or distribute to the public, without charge or remuneration in exchange for the food, in conformance with this Section. The requirements of this section do not apply to the serving or distribution of non-potentially hazardous food.
- b) An individual serving or distributing food to the public pursuant to Section 8.16.006(a) shall:
 1. Transport the food to the feeding site in a clean conveyance and serve or distribute the food within four hours after preparation;
 2. Store the food at a temperature of:
 - (A) 41° F. (5 ° C) or below; or
 - (B) 135 ° F. (57 ° C) or above;
 3. Provide, at the feeding site, hand sanitizer and gloves for persons preparing or serving the food for hand sanitation purposes while food is being prepared or served at the feeding site;

4. Leave the feeding site in a clean, waste-free condition.
- c) The feeding site shall be subject to inspection at any time by the City health officer to insure compliance with this Section. The City health officer shall not inspect the individual's private kitchen.
- d) In addition to the requirements of this Section, the regulations for Temporary Food Establishments adopted by the Texas Department of State Health Services set forth in Title 25 Texas Administrative Code, Section 229.170(c), (d)(1), (d)(4) and (h) shall be adhered to by the individual. A copy of these regulations shall be provided to the individual by the Environmental Health Department.
- e) At the feeding site, during the entire time food is served or distributed, the individual shall display a sign, in a clearly visible location, that in 72 point font reads as follows:

NOTICE

THIS FOOD WAS PREPARED
IN A KITCHEN
THAT IS NOT INSPECTED
BY ANY HEALTH INSPECTOR
OR HEALTH AGENCY”

Motion carried: 5 Ayes, 1 Nay. Council Member Klein voted nay. Council Member Beane was away from the dais.

7. WORK SESSION/BUSINESS AGENDA

7.1. Public Health Services, Lee Ann Dumbauld

This item was deleted.

12:06 P.M. CITY COUNCIL RECESSED INTO EXECUTIVE

12:50 P.M. CITY COUNCIL ADJOURNED

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