

CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
September 27, 2011
7:30 A. M.

The City Council of the City of Lubbock, Texas met in regular session on the 27th of September, 2011, in City Council Chambers, City Hall, 1625 13th Street, Lubbock, Texas at 7:30 a. m.

7:32 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; City Manager Lee Ann Dumbauld; City Secretary Rebecca Garza; City Attorney Sam Medina

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

- *Citizen Comments; 3.1-3.5; 4.1; 5.1-5.1.2; 5.3-5.9; 5.11-5.12; 5.14; 5.16-5.18; 5.2-5.2.8; 5.10; 5.13; 5.15; and 6.1-6.6.*

1. **Citizen Comments - Any citizen wishing to appear before any regular meeting of the City Council shall advise the City Manager's office of that fact no later than seven calendar days before the meeting at which the citizen wishes to appear. Any citizen wishing to so appear shall inform the City Manager's office, in writing, of the subject of the appearance. The subject matter shall be sufficiently detailed as to inform the City Council and the public of its nature. Such notice shall contain the name and address of the requestor. The appearance of any citizen giving such notice to the City Manager's office shall take precedence in addressing the City Council during the Citizen Comments period. Any citizen failing to advise the City Manager's office of his/her wish to appear before the City Council as hereinabove set forth shall, time permitting, be permitted to address the City Council after those having given notice. In accordance with the Texas Open Meetings Act, the City Council may not take action on public matters during Citizen Comments.**

- Mikel Ward appeared before Council to discuss LP&L rates.

2. **Executive Session**

The meeting was called into a closed public session at 7:35 a.m. under the provisions of Section 551, Texas Government Code. The meeting was called back into open session at 9:38 a.m.

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. Health Benefits: Cause No. CC-08-01067-B in the County Court at Law No. 2 of Dallas County, Texas

- 2. 1. 2. 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. 3. 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. 4. Ted Parker v. City of Lubbock Case No. 141 241783 09 in the 141st District Court, Tarrant County
- 2. 1. 5. Facilities
- 2. 1. 6. Public Works
- 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. 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, deliberate, and take action on plans, studies, proposals, and analyses for system improvements and risk management information and related strategies
 - 2. 4. 3. to discuss, deliberate, and take action on bidding and pricing information for purchased power, generation and fuel, purchased power agreements, and related services and strategies

3. Proclamations and Presentations

3. 1. 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. 2. Invocation by Reverend Merle Fulmer, Slide Road Baptist Church

Reverend Merle Fulmer, Slide Road Baptist Church, led the invocation.

3. 3. Presentation of a special recognition designating the week of October 2 - 8, 2011, as Mental Illness Awareness Week.

Mayor Martin presented a special recognition designating the week of October 2 - 8, 2011, as Mental Illness Awareness Week. Beth Glass, Librarian at South Plains College, accepted the recognition and gave comments urging the community to become aware of mental illness.

3. 4. Presentation of special recognition honoring the Lubbock Independent School District Band representing Texas at the Tournament of Roses Parade.

Mayor Martin presented special recognition honoring the Lubbock Independent School District Band representing Texas at the Tournament of Roses Parade. Rick Jackson, President of Tournament of Roses, gave comments on the band's accomplishments and gave thanks for continued support.

3. 5. Board Recognitions -

Building Board of Appeals:
Ken Ellis

4. **Minutes**

4. 1. August 25, 2011, Regular City Council Meeting
August 29, 2011, Special City Council Meeting
September 1, 2011, Special City Council Meeting

Motion by Council Member Todd R. Klein, seconded by Mayor Pro Tem Floyd Price to approve the August 25, 2011 Regular City Council minutes, the August 29, 2011 Special City Council minutes, and the September 1, 2011 Special City Council minutes.

Vote: 7 - 0 Motion carried

5. **Consent Agenda - Items considered to be routine and enacted by one motion without separate discussion. If the City Council desires to discuss an item, the item is removed from the Consent Agenda and considered separately.**

Motion by Mayor Pro Tem Floyd Price, seconded by Council Member Todd R. Klein to approve items 5.1-5.1.2; 5.3-5.9; 5.11-5.12; 5.14; and 5.16-5.18.

Vote: 7 - 0 Motion carried

5. 1. **Budget Ordinance Amendment 2nd Reading – Finance** : Ordinance 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. Highway 84.

5. 1. 1. **Contract Amendment Resolution – Public Works Engineering** : Resolution No. 2011-R0404 authorizing the Mayor to execute Amendment 1 to a development agreement with Northwest Passage Joint Venture associated with paving improvements on Slide Road from Marshall Street to U.S. Highway 84.

5. 1. 2. **Contract Resolution – Public Works Engineering** : Resolution No. 2011-R0405 authorizing the Mayor to execute an Advanced Funding Agreement with the Texas Department of Transportation for the design and construction of Slide Road from Marshall Street to U.S. Highway 84.

5. 2. **Budget Ordinance Amendment 2nd Reading – Finance** : Ordinance 2011-O0084, Amendment 17, amending the Adopted FY 2010-11 Budget respecting the Grant Fund to accept and appropriate funding from the Texas State Library and Archives Commission for the Interlibrary Loan (ILL) Center Grant; accept and appropriate funding from the Texas State Library and Archives Commission for the Library System Operation Grant; accept and appropriate funding from the Texas State Library and Archives Commission for the Technical Assistance Negotiated Grant (TANG); accept and appropriate funding from the Texas Department of State Health Services (DSHS) for the Milk and Dairy Grant; accept and appropriate funding from the Texas DSHS for the Local Public Health Services Grant; accept and appropriate funding from the Texas DSHS for the Community Prevention Section – Bioterrorism Preparedness Grant; accept and appropriate funding from the Texas Department of Transportation (TxDOT) for the Driving While Intoxicated (DWI) Selective Traffic Enforcement Program (STEP) and the Speed STEP; accept and appropriate funding from the United States States Department of Justice for the Edward Byrne Memorial Justice Assistance Grant (JAG) to fund the Lubbock County Joint Enforcement Initiative Program; respecting the Capital Program to establish Capital Improvement Project (CIP) No. 92281, Design Runway 17R/35L Rehab; amend CIP No. 92257, Phase III Runway 8/26 Improvements; amend CIP No. 9395, GIS System Improvements; respecting the LP&L Operating Fund to increase the transfer from the LP&L Operating Fund to the LP&L Capital Project Fund as a funding source for CIP No. 9395; respecting the LP&L Operating Fund to increase the transfer-out to the General Fund and the Gateway Fund for the FY 2009-10 franchise fee true-up (FFE true-up); respecting the General Fund to increase the transfer from the LP&L Fund for the FFE true-up; and respecting the Gateway Fund to increase the transfer from the LP&L Fund for the FFE true-up.

Andy Burcham, Chief Financial Officer, and Lee Ann Dumbauld, City Manager, gave comments and answered questions from Council.

Motion by Council Member Jim Gilbreath, seconded by Mayor Pro Tem Floyd Price to approve Ordinance No. 2011-O0084 with the following amendment made by Council Member Hernandez:

- to increase the Health Department budget by \$275,000 in the General Fund.

Vote: 7 - 0 Motion carried

Contract Resolution - Library : Resolution No. 2011-R0417 authorizing the Mayor to execute an ILL Center Grant Agreement with the Texas State Library and Archives Commission. The term of the grant is September 1, 2011, through August 31, 2012.

Andy Burcham, Chief Financial Officer, and Lee Ann Dumbauld, City Manager, gave comments and answered questions from Council.

Motion by Council Member Jim Gilbreath, seconded by Mayor Pro Tem Floyd Price to approve Resolution No. 2011-R0417.

Vote: 7 - 0 Motion carried

5. 2. 2. **Contract Resolution – Library** : Resolution No. 2011-R0418 authorizing the Mayor to execute a Library System Operation Grant Agreement with the Texas State Library and Archives Commission.

Andy Burcham, Chief Financial Officer, and Lee Ann Dumbauld, City Manager, gave comments and answered questions from Council.

Motion by Council Member Jim Gilbreath, seconded by Mayor Pro Tem Floyd Price to approve Resolution No. 2011-R0418.

Vote: 7 - 0 Motion carried

5. 2. 3. **Contract Resolution – Library** : Resolution No. 2011-R0419 authorizing the Mayor to execute a TANG Agreement with the Texas State Library and Archives Commission.

Andy Burcham, Chief Financial Officer, and Lee Ann Dumbauld, City Manager, gave comments and answered questions from Council.

Motion by Council Member Jim Gilbreath, seconded by Mayor Pro Tem Floyd Price to approve Resolution No. 2011-R0419.

Vote: 7 - 0 Motion carried

5. 2. 4. **Contract Resolution - Health** : Resolution No. 2011-R0420 authorizing the Mayor to execute Contract 2012-038793 with the Texas DSHS for Milk and Dairy Product Services.

Andy Burcham, Chief Financial Officer, and Lee Ann Dumbauld, City Manager, gave comments and answered questions from Council.

Motion by Council Member Jim Gilbreath, seconded by Mayor Pro Tem Floyd Price to approve Resolution No. 2011-R0420.

Vote: 7 - 0 Motion carried

5. 2. 5. **Contract Resolution - Health** : Resolution No. 2011-R0421 authorizing the Mayor to execute Contract 2012-039501 with the Texas DSHS for a grant to fund services or goods to improve or strengthen the local public health capacity to respond to both emerging and continuing public health threats.

Andy Burcham, Chief Financial Officer, and Lee Ann Dumbauld, City Manager, gave comments and answered questions from Council.

Motion by Council Member Jim Gilbreath, seconded by Mayor Pro Tem Floyd Price to approve Resolution No. 2011-R0421.

Vote: 7 - 0 Motion carried

5. 2. 6. **Contract Resolution - Emergency Management** : Resolution No. 2011-R0422 authorizing the Mayor to execute Contract 2011-038944 with the Texas DSHS for public health emergency preparedness.

Andy Burcham, Chief Financial Officer, and Lee Ann Dumbauld, City Manager, gave comments and answered questions from Council.

Motion by Council Member Jim Gilbreath, seconded by Mayor Pro Tem Floyd Price to approve Resolution No. 2011-R0422.

Vote: 7 - 0 Motion carried

5. 2. 7. **Contract Resolution - Police** : Resolution No. 2011-R0423 authorizing the Mayor to execute a grant agreement with the TxDOT for the Comprehensive STEP combining the DWI STEP and the Speed STEP.
- Andy Burcham, Chief Financial Officer, and Lee Ann Dumbauld, City Manager, gave comments and answered questions from Council.
- Motion by Council Member Jim Gilbreath, seconded by Mayor Pro Tem Floyd Price to approve Resolution No. 2011-R0423.
- Vote:** 7 - 0 Motion carried
5. 2. 8. **Contract Resolution - Police** : Resolution No. 2011-R0424 authorizing the Mayor to execute an agreement with the United States Department of Justice for an Edward Byrne Memorial JAG to fund the Lubbock County Joint Enforcement Initiative Program.
- Andy Burcham, Chief Financial Officer, and Lee Ann Dumbauld, City Manager, gave comments and answered questions from Council.
- Motion by Council Member Jim Gilbreath, seconded by Mayor Pro Tem Floyd Price to approve Resolution No. 2011-R0424.
- Vote:** 7 - 0 Motion carried
5. 3. **Budget Amendment Ordinance 1st Reading - Finance** : Ordinance No. 2011-O0086, Amendment 1, amending the Adopted FY 2011-12 Budget respecting the Grant Fund to accept and appropriate funding from the Texas Department of Transportation (TxDOT) for the Teaching Kids to be Street Smart grant and accept and appropriate funding from TxDOT for a Section 5311(f) Grant.
5. 4. **Ordinance 2nd Reading - Finance** : Ordinance 2011-O0082 supplementing Ordinances 2007-O0058, 2008-O0079, 2009-O0090, and 2010-O0075 pursuant to which assessments were levied on property within Vintage Township Public Improvement District (PID) to provide public improvements for the district.
5. 5. **Resolution - Finance** : Resolution No. 2011-R0406 giving Notice of Intent to consider the designation of a Reinvestment Zone at Lubbock Railport.
5. 6. **Ordinance 2nd Reading – Right-of-Way** : Ordinance 2011-O0077 abandoning and closing a portion of 20th Street and 21st Street and all utility and drainage easements located in lots 5-34, 35, 37, and 38, Alexander Land Addition.
5. 7. **Ordinance 2nd Reading - Public Works Traffic Engineering** : Ordinance 2011-O0083 amending Section 20.05.103 of the Code of Ordinances of the City of Lubbock with regard to the establishment of school zones.
5. 8. **Contract Resolution – Public Works Streets** : Resolution No.'s 2011-R0407, 2011-R0408, 2011-R0409, 2011-R0410 authorizing the Mayor to execute Contract 10268 with West Texas Paving, Contract 10268-2 with Western Emulsions, Contract 10268-1 with Armor Asphalt; and Contract 10268-3 with Heartland Asphalt for asphalt products for street maintenance and repair, Bid 11-10268-CI.
5. 9. **Contract Resolution - Public Works Water Utility** : Resolution No. 2011-R0411 authorizing the Mayor to execute Contract 10158 with W.R. Construction for construction services related to security upgrades at various municipal water facilities, Bid 11-10158-MA.

5. 10. **Contract Resolution – Public Works Water Utility** : Resolution No. 2011-R0425 authorizing the Mayor to execute Contract 10166 with G. Greenstreet, Inc., for a wastewater vehicle storage facility at the City's south fuel site located at 83rd Street and Avenue P, Bid 11-10166-MA.

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

Motion by Mayor Pro Tem Floyd Price, seconded by Council Member Paul R. Beane to approve Resolution NO. 2011-R0425. Council Member Klein recused.

Vote: 6 - 0 Motion carried

5. 11. **Resolution - Community Development** : Resolution No. 2011-R0412 granting the waiver of Payment in Lieu of Taxes (PILOT) for 2011 for the Lubbock Housing Authority (LHA).

5. 12. **Contract Resolution - Community Development** : Resolution No. 2011-R0413 approving the price and conditions of the sale of a vacant tract of land by the Urban Renewal Agency to Joe Daniel Jimenez and wife, Yolanda Jimenez, at 1602 Baylor Street designated as parcel 335000-2-10 and legally described as Lot 1, Block 2, Guadalupe Addition to the City of Lubbock, Lubbock County, Texas.

5. 13. **Contract Resolution - Parks and Recreation** : Resolution No. 2011-R0426 authorizing the Mayor to execute Contract 10162 with Hub City Waterboys, Inc., for renovations to the Mae Simmons Park Pavilion, Bid 11-10162-CI.

Motion by Council Member Jim Gilbreath, seconded by Mayor Pro Tem Floyd Price to approve Resolution No. 2011-R0426. Council Member Klein recused.

Vote: 6 - 0 Motion carried

5. 14. **Contract Resolution - Airport** : Resolution No. 2011-R0414 authorizing the Mayor execute Contract 10163 with West Texas Paving, Inc., for construction phase services for the Airfield Asphalt Repair Project, Bid 11-10163-MA.

5. 15. **Ordinance 2nd Reading - City Attorney** : Ordinance 2011-O0085 amending Chapter 1 of the Code of Ordinances of the City of Lubbock, Texas, by amending the language of Section 1.02.004(b) with regard to establishment of voting districts for City Council members based on the 2010 Federal Census; providing a map of the voting precincts and districts of the City of Lubbock; providing that all portions of Chapter 1 not amended shall remain the same; providing a savings clause; providing for publication; and providing for an effective date and implementation.

Motion by Mayor Pro Tem Floyd Price, seconded by Council Member Todd R. Klein to approve Resolution No. 2011-R0414.

Vote: 6 - 1 Motion carried

NAY: Council Member Victor Hernandez

5. 16. **Ordinance 1st Reading – City Attorney:** Ordinance No. 2011-O0087 amending Chapter 30, Lakes, Waterways, and Floodplains of the Code of Ordinances, providing for the amendment of such code; providing a savings clause; providing a penalty for the violation thereof; providing for publication; and providing when such code and this ordinance shall become effective.

5. 17. **Contract Resolution – Police** : Resolution No. 2011-R0415 authorizing the Mayor to execute Contract 9199 with the Child Advocacy Research and Education Center of the Texas Tech University Health Sciences Center (TTUHSC) School of Medicine Department of Pediatrics for medical examinations of children who are alleged victims of sexual assault.

5. 18. **Contract Resolution - Municipal Court** : Resolution No. 2011-R 0416 authorizing the Mayor to execute an Interlocal Agreement between City of Lubbock, Lubbock Independent School District, and Lubbock County to approve continued funding of the Specialized Treatment and Rehabilitation Program for FY 2011-12.

6. **Regular Agenda**

6. 1. **Public Hearing 9:30 a.m. - Planning** : Ordinance No. 2011-O0088, Zone Case 3163 (7753 19th Street): request of Atul Shah for a zoning change from Transition District (T) to Local Retail District (C-3) on Tract A, William Tanner Addition, and to consider an ordinance.

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

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

No one appeared to speak in favor or opposition.

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

Motion by Council Member Todd R. Klein, seconded by Council Member Karen Gibson to approve Ordinance No. 2011-O0088. Council Member Hernandez was away from the dais.

Vote: 6 - 0 Motion carried

6. 2. **Public Hearing 9:30 a.m. - Planning** : Ordinance No. 2011-O0089, Zone Case 3164 (9901, 10101, and 10307 U.S. Highway 87): request of Robert Campbell (for National Retail Properties, LP) for a zoning change from Transition District (T) to Interstate Highway Industrial District (IHI) on 2.935 acres of unplatted land out of Block E, Section 11, Tracts 1, 2, and 3, U.S. Highway 87 Retail Addition, and to consider an ordinance.

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

Mayor Martin opened the public hearing at 10:13 a.m.

No one appeared to speak in favor or opposition.

Mayor Martin closed the public hearing at 10:13 a.m.

Motion by Council Member Todd R. Klein, seconded by Mayor Pro Tem Floyd Price to approve Ordinance No. 2011-O0089.

Vote: 7 - 0 Motion carried

6. 3. **Public Hearing 9:30 a.m. - Planning** : Ordinance No. 2011-O0090, Zone Case 3142-A (northwest corner of Marsha Sharp Freeway and Quaker Avenue): request of Q19 Holdings, LP, for a zoning change from Interstate Highway Commercial District (IHC) Specific Use, Multifamily District (R-3), and Family Apartment District (A-1) to General Retail District (C-3) with conditions on 8.09 acres of platted and unplatted land out of Block B, Section 17, including Lots 5 through 21, 25 through 29, and 38, Alexander Land Addition, and to consider an ordinance.

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

Mayor Martin opened the public hearing at 10:18 a.m.

No one appeared to speak in favor or opposition.

Mayor Martin closed the public hearing at 10:18 a.m.

Motion by Council Member Todd R. Klein, seconded by Council Member Paul R. Beane to approve Ordinance No. 2011-O0090.

Vote: 7 - 0 Motion carried

- 6. 4. Contract Resolution – Public Works Engineering :** Resolution No. 2011-R0427 authorizing the Mayor to execute Change Order 1 to Contract 9413 with Archer Western Contractors, LTD, for installation of SCADA monitoring of the Lake Alan Henry Electrical Substation and other improvements, RFP 10-056-MA.

Wood Franklin, City Engineer, gave a presentation and answered questions from Council.

Motion by Council Member Paul R. Beane, seconded by Council Member Todd R. Klein to approve Resolution No. 2011-R0427.

Vote: 7 - 0 Motion carried

- 6. 5. Resolution - City Council :** Resolution No. 2011-R0428 in connection with a proposed repeal of Chapter 2, Article 2.03, Division 12, Sections 2.03.417(d) and 2.03.417(g) of the City of Lubbock Code of Ordinances.

Motion by Council Member Jim Gilbreath, seconded by Council Member Karen Gibson to amend Resolution No. 2011-R0428, directing the Electric Utility Board to study and deliberate on Chapter 2, Article 2.03, Division 12 and Chapter 22, Article 22.02 of the City of Lubbock Code of Ordinances, and report back to the City Council any and all recommended changes.

Vote: 7 - 0 Motion carried

- 6. 6. Resolution - Lubbock Power & Light :** Consider an order and resolution amending the current rate and tariff structure of Lubbock Power & Light, the City of Lubbock's municipally owned electric utility, as originally passed via Resolution No. 2007-R0227, as amended, applicable to all rate classes except Rate 16U, to be effective October 1, 2011.

Don Cullon, Director of System Planning with Lubbock Power & Light, gave a presentation and answered questions from Council. Mike Davis, Chairman of the Electric Utility Board, also gave comments and answered questions from Council.

No action was taken on this item as presented. The following directive was issued:

Minuted Action:

Motion by Council Member Jim Gilbreath, seconded by Council Member Karen Gibson to ask LP&L Board to look at recommendations of rates and bring back by December 1st.

Vote: 6 - 1 Motion carried

NAY: Council Member Paul R. Beane

1:40 P.M. CITY COUNCIL ADJOURNED

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

TOM MARTIN, MAYOR

ATTEST:

Rebecca Garza, City Secretary