

CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
February 23, 2012
7:30 A. M.

The City Council of the City of Lubbock, Texas met in regular session on the 23rd of February, 2012, in City Council Chambers, City Hall, 1625 13th Street, Lubbock, Texas at 7:30 a. m.

7:31 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

- Mayor Pro Tem Floyd Price was away from the dias during Consent and Regular Session items.

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

- *Citizen Comments (1.1-1.2); Sign-ups (1.3); Executive Session; 3.1-3.4; 4.1; 5.1; 5.3-5.5; 5.8-5.14; 5.2; 5.6-5.7; 6.3-6.4; 7.1; 6.1-6.2; 2.1.1 (Executive Session Item); Executive Session; and 6.5.*
- *Item 7.2 was deleted.*

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.

1. 1. Scott Stephenson will appear before the City Council to discuss Knox Box requirements.

Mr. Stephenson did not appear.

1. 2. Pete Gotsis will appear before the City Council to discuss street use licenses.

Pete Gotsis appeared before Council to discuss his application for a street use license.

1. 3. Citizen Comments (sign-ups)

Maurice Stanley, Mary Vines, Maggie Trejo, and Lance Cansino appeared before Council to discuss evening City Council meetings.

2. **Executive Session**

The meeting was called into a closed public session at 7:44 a.m. under the provisions of Section 552, Texas Government Code. The meeting was called back into open session at 9:05 a.m.

Council recessed into Executive Session again at 10:46 a.m. and reconvened in open session at 2:04 p.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. Atmos Gas Utility

Alfred "Freddy" R. Herrera, Attorney at Law, Herrera & Boyle PLLC, gave an update in open session on the possible rate increases proposed by Atmos Energy.
 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. Cause No. 2007-538,383; City of Lubbock v. The Parker Group, Inc., et al; 72nd District Court; Lubbock County, Texas
Cause No. 2007-540,024; In Re: Icon Benefit Administrators, II, L.P. and AAG, Inc., 72nd District Court; Lubbock County, Texas
 2. 1. 4. Cause No. 2011-559,814; City of Lubbock v. Christopher Hennisley; 72nd District Court; Lubbock County, Texas
 2. 1. 5. Litigation/Appeal: Martha Ellerbrook v. City of Lubbock, Texas, No. 11-10058, In the United States Court of Appeals for the Fifth Circuit
 2. 1. 6. Structural Standards Issues for the property located at 1206 14th Street, Lubbock, Texas
 2. 1. 7. Appaloosa Development, LP and Lubbock Water Rampage, LLC v. City of Lubbock; Cause No. 2011-559,102; 99th District Court; Lubbock County, Texas
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. Health
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), to discuss personnel matters regarding the duties, responsibilities, and/or appointments to the Electric Utility Board.

3. **Proclamations and Presentations**

3. 1. Invocation by Reverend William Hendricks, Lubbockview Christian Church

Reverend William Hendricks, Lubbockview Christian Church, led the invocation.

3. 2. Pledges of Allegiance

Pledges of allegiance were given by those in City Council Chambers to the United States flag and the Texas flag.

3. 3. Appointments Advisory Board:

L.V. Andrews

Cultural Arts Grants Review Standing Sub Committee:

Martha Ann McDonald (unable to attend)

Lubbock Housing Finance Corporation Board of Directors:

Calvin Davis (unable to attend)

Dwight Overton (unable to attend)

Public Transit Advisory Board:

T.J. Patterson

3. 4. Mr. David Shelburne, Executive Director of Pray Lubbock, will appear before the council to discuss plans for a day of prayer for rain.

David Shelburne, Executive Director of Pray Lubbock; and Tom Head, County Court Judge, appeared before Council to discuss the upcoming plans for a day of prayer for rain.

4. **Minutes**

4. 1. January 26, 2012 Regular City Council Meeting
January 26, 2012 Special City Council Meeting

Motion by Council Member Todd R. Klein, seconded by Council Member Paul R. Beane to approve the January 26, 2012 Regular City Council minutes and the January 26, 2012 Special City Council minutes.

Vote: 6 - 0 Motion carried

Other: Mayor Pro Tem Floyd Price (AWAY)

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 Council Member Jim Gilbreath, seconded by Council Member Karen Gibson to approve items 5.1; 5.3-5.5; and 5.8-5.14.

Vote: 6 - 0 Motion carried

Other: Mayor Pro Tem Floyd Price (AWAY)

5. 1. Budget Ordinance Amendment 2nd Reading - Finance : Ordinance 2012-O0013, Amendment 9, amending the Adopted FY 2011-12 Budget respecting the Grant Fund to accept and appropriate funding from the Texas Department of Public Safety / Texas Homeland Security State Administrative Agency (DPS/THSSAA) for the Homeland Security Grant Program (HSGP) - Metropolitan Medical Response System (MMRS), Grant No. 87070; respecting the General Fund and the Emergency Management Special Revenue Fund to amend civil service classifications and positions; respecting the 2011-12 Master Lease; respecting the Lubbock Power & Light Fund (LP&L) Capital Program, as recommended by the Electric Utility Board on January 24, 2012, to amend Capital Improvement Project No. 92267, "FY 2011-12 Overhead Distribution", No. 92268, "FY 2011-12 Underground Distribution", and No. 92269, "FY 2011-12 Distribution Transformers"; and respecting the LP&L Fund, as recommended by the Electric Utility Board on January 24, 2012, to increase transfers to the Capital Program and increase the utilization of LP&L Fund net assets.

5. 1. 1. Contract Resolution - Emergency Management : Resolution No. 2012-R0076 authorizing the City Council to ratify the Mayor's execution of a 2011 Sub-Recipient Agreement, Federal Grant Award No. EMW-2011-SS-00019, with DPS/THSSAA for the HSGP - MMRS.

5. 2. Budget Ordinance Amendment 1st Reading - Finance: Ordinance No. 2012-O0016, Amendment 11, amending the Adopted FY 2011-12 Budget respecting the Grant Fund to accept and appropriate additional funding from the Texas Department of Transportation (TxDOT) for a Section 5304 Grant, Grant No. 88024; accept and appropriate funding from the Texas Department of Housing and Community Affairs (TDHCA) for the Community Services Block Grant (CSBG), Grant No. 82047; respecting the Capital Program to amend Capital Improvement Project (CIP) No. 92171, "Lake Alan Henry Water Treatment Plant and Terminal Reservoir"; amend CIP No. 92069, "Lake Alan Henry Raw Water Line/Pump Stations"; and amend CIP No. 91003, "Bailey County Wellfield Improvements".

Motion by Council Member Karen Gibson, seconded by Council Member Victor Hernandez to approve Ordinance No. 2012-O0016 pertaining to all other items except the funding from the Texas Department of Housing and Community Affairs (TDHCA) for the Community Services Block Grant (CSBG), Grant No. 82047.

Vote: 6 - 0 Motion carried

Other: Mayor Pro Tem Floyd Price (AWAY)

Motion by Council Member Jim Gilbreath, seconded by Council Member Paul R. Beane to approve Resolution No. 2012-O0016 pertaining to the funding from the Texas Department of Housing and Community Affairs (TDHCA) for the Community Services Block Grant (CSBG), Grant No. 82047.

Vote: 5 - 0 Motion carried

Other: Mayor Pro Tem Floyd Price (AWAY)

Council Member Victor Hernandez (RECUSE)

5. 3. **Resolution - Finance** : Resolution No. 2012-R0077 accepting the City of Lubbock Comprehensive Annual Financial Report (CAFR) for fiscal year ended September 30, 2011.
5. 4. **Budget Ordinance Amendment 2nd Reading – City Council** : Ordinance 2012-O0012, Amendment 10, amending the Adopted FY 2011-12 Budget respecting the General Fund to increase the Parks and Recreation Department Budget and increase the utilization of fund balance.
5. 5. **Contract Resolution – Public Works Streets** : Resolution No. 2012-R0078 authorizing the Mayor to execute unit price Contract 10500 with Ballou Pavement Solutions, Inc., for the 2012 Street Micro-Surfacing Project, Bid 12-10500-CI.
5. 6. **Contract Amendment Resolution - Public Works Engineering** : Resolution No. 2012-R0084 authorizing the Mayor to execute Amendment 2 to Contract 8734 with Hugo Reed and Associates, Inc., (HRA) for professional services for right-of-way coordination of the Gateway Streets Projects.

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

Motion by Council Member Jim Gilbreath, seconded by Council Member Todd R. Klein to approve Resolution No. 2012-R0084.

Vote: 6 - 0 Motion carried

Other: Mayor Pro Tem Floyd Price (AWAY)

5. 7. **Resolution - Public Works Engineering** : Resolution No. 2012-R0085 allowing islands in public streets in the Oakmont Estates Addition, between Slide Road and Utica Avenue and between 114th Street and 122nd Street.

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

Motion by Council Member Jim Gilbreath, seconded by Council Member Karen Gibson to approve Resolution No. 2012-R0085.

Vote: 6 - 0 Motion carried

Other: Mayor Pro Tem Floyd Price (AWAY)

5. 8. **Contract Amendment Resolution - Public Works Traffic Engineering** : Resolution No. 2012-R0079 authorizing the Mayor to execute Amendment 1 to Contract 10620 with the Texas Department of Transportation (TxDOT) to share fiber optic cable.

5. 9. **Contract Resolution - Public Works Traffic Engineering:** Resolution No. 2012-R0080 authorizing the Mayor to execute Contract 10621 with the Texas Department of Transportation (TxDOT) to share fiber optic cable and the associated infrastructure.

5. 10. **Contract Resolution - Fleet Services** : Resolution No. 2012-R0081 authorizing the Mayor to execute purchase order Contract 31009192 with Caldwell Country Chevrolet for a 2012 Chevrolet Tahoe for the Fire Department.

5. 11. **Ordinance 2nd Reading – Planning** : Ordinance 2012-O0014, Zone Case 3145-A (south of Marsha Sharp Freeway to 10th Street between Avenue R and Avenue K): request of the City of Lubbock for a zoning change from IHC (Interstate Highway Commercial District) and C-4 (Commercial District) to CB-5 (Central Business District 5) on Blocks 1, 2, 4-9A, Memorial Center Addition; Blocks 1 and 2, Ratliff Addition; Blocks 1 and 2, Safeway Addition; Tract A, Emmett Plaza Addition; Blocks 1, 4, 17, and 84, Original Town; Blocks 5 and 6, Merritt and Wilde Addition; Blocks 106, 109, 113, 114, and 117, Overton Addition; and Tracts 19-A, 19-B, Overton Park Addition; and more generally described as the northwestern portion of downtown Lubbock.
5. 12. **Ordinance 2nd Reading – Planning** : Ordinance 2012-O0015, Zone Case 2968-A (south of 98th Street west of Miami Avenue): appeal of AMD Engineering, LLC, (for Texas Tech University Federal Credit Union) for a zoning change from GO (Garden Office District) to AM (Apartment-Medical District) Specific Use for a bank on 1.46 acres of unplatted land out of Block E-2, Section 17.
5. 13. **Contract Resolution - Business Development** : Resolution No. 2012-R0082 authorizing the Mayor to execute unit price Contract 10386 with Deerwood Construction, Inc., for municipal water improvements, municipal sewer improvements, and street paving for Tract A and Lots 28-66, King's Dominion Phase II, BID 12-10386-CI.
5. 14. **Contract Resolution - Police** : Resolution No. 2012-R0083 authorizing the Mayor to execute Contract 10630 with Dr. Andrew Young for critical incident related counseling services.

6. **Regular Agenda**

6. 1. **9:30 a.m. - Resolution - Right-of-Way** : Consider a resolution authorizing the Mayor to execute a street use license with Pete Gotsis, dba Pete's Curbside Grill, for the use of a portion of the parkway (public right-of-way) to operate a mobile food vending cart located in the 2400 Block of Broadway Avenue.

This item was denied.

Dave Booher, Right of Way Agent; and Pete Gotsis, owner of Pete's Curbside Grill, gave comments and answered questions from Council.

Motion by Council Member Jim Gilbreath, seconded by Council Member Paul R. Beane to deny the street use license.

Vote: 5 - 1 Motion carried

NAY: Council Member Victor Hernandez

Other: Mayor Pro Tem Floyd Price (AWAY)

6. 2. **Public Hearing 9:30 a.m. - Planning** : Ordinance No. 2012-O0017 prohibiting the use of intermodal shipping containers (sea containers) as components for primary and accessory structures in R-1 (Single-Family District) and R-2 (Two-Family District).

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

Mayor Martin opened the public hearing at 10:40 a.m.

No one appeared to speak in favor or opposition.

Mayor Martin closed the public hearing at 10:40 a.m.

Motion by Council Member Victor Hernandez, seconded by Council Member Paul R. Beane to approve Ordinance No. 2012-O0017.

Vote: 6 - 0 Motion carried

Other: Mayor Pro Tem Floyd Price (AWAY)

- 6. 3. Resolution - Finance :** Resolution No. 2012-R0086 giving Notice of Intent to enter into a tax abatement agreement with Red River Commodities, Inc., dba SunGold Foods, Inc. (Red River).

Cheryl Brock, Capital Project Manager; and Mike Williams, Red River Commodities, Inc., gave comments and answered questions from Council.

Motion by Council Member Victor Hernandez, seconded by Council Member Jim Gilbreath to approve Resolution No. 2012-R0086.

Vote: 6 - 0 Motion carried

Other: Mayor Pro Tem Floyd Price (AWAY)

- 6. 4. Resolution - Emergency Management :** Resolution No. 2012-R0087 authorizing the Mayor to adopt the 2012 City of Lubbock and Lubbock County Emergency Management Plan.

Motion by Council Member Jim Gilbreath, seconded by Council Member Todd R. Klein to approve Resolution No. 2012-R0087.

Vote: 6 - 0 Motion carried

Other: Mayor Pro Tem Floyd Price (AWAY)

- 6. 5. Resolution - City Council :** Introduce into record and discuss without action a proposed resolution amending certain policies and procedures, as set forth in the City of Lubbock Council Rules, Order of Business, and Procedures manual, respecting evening City Council meetings.

Council Member Todd R. Klein introduced into the record a proposed resolution amending certain policies and procedures. Formal action will be taken on this resolution at the next Regular City Council Meeting.

- 7. Work Session/Business Agenda - Items for presentations and discussions on such issues that may require more in-depth consideration of the City Council than Regular Agenda items. Action may be taken on a Work Session/Business Agenda item posting of the item indicates to the public the action to be taken.**

- 7. 1.** Update the City Council on discussions with Lubbock County regarding the funding of the City Health Department, Dr. Presley, Chairman of the Board of Health

Dr. Presley, Chairman of the Board of Health; Tom Head, County Court Judge; and Lee Ann Dumbauld, City Manager gave comments and answered questions from Council about discussions with Lubbock County regarding the funding of the City Health Department.

- 7. 2.** Budget discussion identifying core services and prioritization of the FY 2012-13 Operating Budget and Capital Program, Lee Ann Dumbauld, City Manager

This item was deleted.

Council recessed the Regular City Council Meeting and convened a Special City Council Meeting at 2:00 p.m. At 2:01 p.m., City Council reconvened the Regular City Council Meeting.

2:05 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