

MINUTES

LANCASTER CITY COUNCIL REGULAR MEETING OF JUNE 13, 2022

The City Council of the City of Lancaster, Texas, met in a called Regular Meeting in the Council Chambers of City Hall on June 13, 2022, at 7:00 p.m. with a quorum present to-wit:

Councilmembers Present (City Hall & Zoom):

Mayor Clyde C. Hairston (Zoom)
Carol Strain-Burk
Mayor Pro-Tem Stanley M. Jaglowski
Marco Mejia
Keithsha C. Wheaton
Mitchell Cheatham
Deputy Mayor Pro Tem Betty Gooden-Davis

City Staff Present (City Hall & Zoom):

Opal Mauldin-Jones, City Manager
Sorangel O. Arenas, City Secretary
David T. Ritter, City Attorney
Andrew Waits, Director of Public Works
Carey Neal, Assistant City Manager (Zoom)
Chris Youngman, Emergency Management Chief
Dori Lee, Director of Human Resources
Kenneth Johnson, Fire Chief
Mike Delmore, Director of Finance
Sam Urbanski, Police Chief
Shane Shepard, Director of Economic Development
Vicki Coleman, Director of Development Services
Cynthia Smith, Admin & Community Relations Supervisor
Keturah Barnett, Assistant to the City Manager
Michelle Evans, Assistant Director Human Resources
Ron Gleaves, IT Manager
Scott Finley, Communications and Public Relations Coordinator

Call to Order:

Mayor Hairston called the meeting to order at 7:00 p.m. on June 13, 2022.

Invocation:

Pastor Kenneth Johnson, from The Truth Church gave the invocation.

Pledge of Allegiance:

Councilmember Mitchell Cheatham led the pledge of allegiance.

Recognition:

American Heart Association, representative Douglas Dunsavage recognized the City of Lancaster for their achievement of the gold level status for work place health. The national recognition achievement was presented to Dori Lee, Director of Human Resources and Michelle Evans, Assistant Director of Human Resources for the City of Lancaster.

Proclamations:

Mayor Hairston read the Juneteenth Proclamation.

Public Testimony/Citizen's Comments:

Billy Grates, 1366 Roan Dr., shared his concerns on the constructions of warehouses between Houston School Rd. and Wintergreen Rd.

Dori Lee, 211 N. Henry St., shared employee recognition for Officer's Caleb Elly and Michael Scott who assisted a family in a car accident. Dori Lee also shared employee recognition for Deborah Bunton on her excellent customer service in City Hall.

Consent Agenda:

1. Consider approval of minutes from the City Council Regular Meeting held on April 11, 2022, City Council Special Meeting held on April 18, 2022, City Council Regular Meeting held on May 9, 2022 and City Council Special Meeting held on May 16, 2022.
2. Consider a resolution authorizing the award of bid Requests For Proposal (RFP) 2022-08 to Urban Landscaping & Irrigation, for the purpose of Landscape & Irrigation Maintenance at Houston School Road/University Hills Boulevard at Interstate 20 and Dallas Avenue from Cedardale Road to Oak Street in an amount not to exceed one hundred forty-five thousand two hundred dollars and zero cents (\$145,200.00).
3. Consider a resolution authorizing the award of Requests for Proposal (RFP) 2022-07 to Atkins Bros. Equip. Co., Inc. as the primary contractor and QKB Inc. as the secondary contractor for the purpose of water & wastewater repair & replacements within the City of Lancaster consistent with the prices submitted in (RFP) 2022-07.
4. Consider a resolution approving the terms and conditions of an agreement with Reynolds Asphalt & Construction Company for the reconstruction of a portion of Wintergreen Road between Telephone Road and Dallas Avenue in an amount not to exceed one million fifty-nine thousand twelve dollars and zero cents (\$1,059,012.00).
5. Consider a resolution approving the terms and conditions of an agreement with Reynolds Asphalt Company for the reconstruction of a portion of Bear Creek Road between Bluegrove Road and State Highway 342 in an amount not to exceed one million two hundred ninety-one thousand four hundred twenty-seven dollars and fifty cents (\$1,291,427.50).
6. Consider a resolution authorizing the award of Requests For Proposal (RFP) 2022-06 to Reynolds Asphalt & Construction Company for the purpose of resurfacing and repairing asphalt roadways within the City of Lancaster consistent with the prices submitted in (RFP) 2022-06.

Mayor Hairston pulled item C2.

MOTION: Councilmember Wheaton made a motion, seconded by Mayor Pro Tem Jaglowski to approve consent items C1, C3, C4, C5, and C6. The vote was cast 7 for, 0 against.

2. **Consider a resolution authorizing the award of bid Requests For Proposal (RFP) 2022-08 to Urban Landscaping & Irrigation, for the purpose of Landscape & Irrigation Maintenance at Houston School Road/University Hills Boulevard at Interstate 20 and Dallas Avenue from Cedardale Road to Oak Street in an amount not to exceed one hundred forty-five thousand two hundred dollars and zero cents (\$145,200.00).**

City Manager Opal Mauldin-Jones shared clarification for item C2. This item consists of bi-weekly maintenance for landscape and irrigation on Houston School Road /University Hills Boulevard at Interstate 20 and Dallas Avenue from Cedardale Road to Oak Street in an amount not to exceed one hundred forty-five thousand two hundred dollars and zero cents (\$145,200.00). The agreement reflects 12 times per year and should reflect 24 times per year.

MOTION: Deputy Mayor Pro-Tem Gooden-Davis made a motion, seconded by Councilmember Strain-Burk to Approve C2. The vote was cast 7 for, 0 against.

ACTION:

7. **Discuss and consider a resolution of the City Council of the City of Lancaster, Texas suspending the June 17, 2022, effective date of Oncor Electric Delivery company's requested rate change to permit the city time to study the request and to establish reasonable rates; approving cooperation with the Steering Committee of Cities served by Oncor (OCSC) to hire legal and consulting services and to negotiate with the company and direct any necessary litigation and appeals; finding that the meeting at which this resolution is passed is open to the public as required by law; requiring notice of this resolution to the company and legal counsel for the steering committee.**

City Manager Opal Mauldin-Jones shared recommendation to suspend the request from Oncor Electric Delivery. If approved the request would result in an 11.2% increase in residential rates and a 1.6% increase in street lighting rates. Approval of this resolution suspends the June 17, 2022, effective date of the Company's rate increases for the maximum period permitted by law to allow the City, working in conjunction with the Steering Committee of Cities Served by Oncor (OCSC), to evaluate the filing. The law permits the City to suspend the rate change for 90 days after the date the rate change would otherwise be effective. Staff recommends approval of the resolution as it has been presented.

Councilmember Wheaton asked if there will be any disruption that the residents will experience during the suspension. City Manager Opal Mauldin-Jones clarified there will be no changes or disruptions of service related to the rate request.

MOTION: Councilmember Wheaton made a motion, seconded by Councilmember Strain-Burk to approve item 7. The vote was cast 7 for, 0 against.

8. **Discuss and consider a resolution authorizing the submission of applications to Dallas County for funding under the Fiscal Year 2022 United States Department of Housing and Urban Development (HUD), Community Development Block Grant (CDBG) Program for reconstruction of existing roadways.**

City Manager Opal Mauldin-Jones shared the submission of applications to Dallas County for funding under the Fiscal Year 2022 United States Department of Housing and Urban Development (HUD), Community Development Block Grant (CDBG) Program for reconstruction of existing roadways. CDBG funds may only be used on projects that eliminate blight and community-threatening conditions

or primarily benefit low/moderate-income residents identified in Exhibit A. Staff recommends approval of the resolution for continuation of the projects that were submitted in 2019. This is the request for the Fiscal Year 2022 program, for which the City of Lancaster will move forward the previously submitted projects not funded: W. 6th Street from Dallas Ave. to Elm Street (\$101,240.00), Wilson Street from W. 4th Street to W. 7th Street (\$101,240.00), and N. Hall Street from 8th Street to W. 6th Street (46,620.00). The City of Lancaster has a fiscal year 2022 allocation amount of two hundred, forty-nine thousand, one hundred dollars (\$249,100.00). Staff recommends approval of resolution.

MOTION: Councilmember Strain-Burk made a motion, seconded by Deputy Mayor Pro Tem Gooden-Davis to approve item 8. The vote was cast 7 for, 0 against.

Mayor Pro Tem Jaglowski shared his thoughts on this project being available. He stated that this project would improve the road services and he also extended his appreciation to Dallas County for their involvement with the construction project.

- 9. M22-16 Discuss and consider a resolution accepting two water easements, a 300 square feet or .007 acre and a 440 square feet or 0.010 acre easement from CP Lancaster Lan, LP (Grantor) to the City of Lancaster, Texas (Grantee) for the purpose of construction, maintenance and operation of water lines and any appurtenances related thereto to provide a connection to the City water system; establishing conditions, providing for the furnishing of certified copy of this resolution for recording in the property records of Dallas County, Texas as a deed.**

City Manager Opal Mauldin-Jones shared this is a request for acceptance of water easements. This property is located southeast of Beltline Road and the project is for construction of a distribution facility that will be developed by Cawley EBL Logistics. The easements will serve as the location for water meter vaults. Staff recommends approval of the item as presented.

MOTION: Councilmember Mejia made a motion, seconded by Mayor Pro-Tem Jaglowski to approve item 9. The vote was cast 7 for, 0 against

- 10. Discuss and consider appointment of City Council liaisons to City Boards and Commissions.**

City Secretary Arenas shared that annually, Councilmembers select the boards/commissions that they would like to serve as Council liaison. A Council liaison for each board or commissions shall be selected by the City Council by order of seniority:

Councilmember Mejia	Economic Development Corp. (4A)
Mayor Pro Tem Jaglowski	Capital Improvement Advisory Committee
Councilmember Strain-Burk	Planning & Zoning Commission / Sign Control Board / Tree Advisory
Councilmember Wheaton	Recreational Development Corp. (4B)
Deputy Mayor Pro Tem Gooden-Davis	Did not select
Councilmember Cheatham	Did not select
Councilmember Mejia	Did not select
Mayor Pro Tem Jaglowski	Animal Shelter Advisory Committee
Councilmember Strain-Burk	Historic Landmark Preservation Committee
Councilmember Wheaton	Civil Service Commission
Deputy Mayor Pro Tem Gooden-Davis	Did not select

Councilmember Cheatham	Youth Advisory Committee
Councilmember Mejia	Airport Advisory Board
Mayor Pro Tem Jaglowski	Museum Advisory Board
Councilmember Strain-Burk	Zoning Board of Adjustment
Councilmember Wheaton	Property Standards & Appeals Board
Deputy Mayor Pro Tem Gooden-Davis	Parks and Recreation Advisory Board
Councilmember Cheatham	Did not select
Councilmember Mejia	Did not select
Mayor Pro Tem Jaglowski	Library Advisory Board

Recap:

Councilmember Mejia	Economic Development Corp. (4A)	Did not select	Airport Advisory Board	Did not select
Mayor Pro Tem Jaglowski	Capital Improvement Advisory Committee	Animal Shelter Advisory Committee	Museum Advisory Board	Library Advisory Board
Councilmember Strain-Burk	Planning & Zoning Commission / Sign Control Board / Tree Advisory	Historic Landmark Preservation Committee	Zoning Board of Adjustment	
Councilmember Wheaton	Recreational Development Corp. (4B)	Civil Service Commission	Property Standards & Appeals Board	
Deputy Mayor Pro Tem Gooden-Davis	Did not select	Did not select	Parks and Recreation Advisory Board	
Councilmember Cheatham	Did not select	Youth Advisory Committee	Did not select	

11. Reading of a notice of censure against Councilmember Strain-Burk; the Councilmember's response; and consideration of whether good cause exists to set a formal hearing on the merits of the notice

City Attorney David Ritter shared the notice of censure, rules and regulations for Councilmembers. Attorney Ritter asked councilmembers if they would like the notice of censure to be read for the record.

Councilmember Mejia stated he would like the notice to be read.

City Secretary Angie Arenas read Deputy Mayor Pro Tem Gooden-Davis Notice of Censure. Ms. Arenas shared on May 10, 2022;

To Whom This May Concern:

I, Betty Gooden-Davis, Lancaster City Councilmember am writing this letter to report the unacceptable standard of practice performed by my fellow City Councilmember Carol Strain-Burk/ District 1 during this 2022 Local City Election. Photographs of fellow councilmembers should not be utilized for

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promoting a candidate's campaign without written permission or consent. Councilmember Carol Strain-Burk/ District 1 chose to use a city photograph to promote her election campaign. Is there a copyright infringement? She also approved the same city photograph that featured herself along with Mayor Clyde C. Hairston and myself Councilmember Betty Gooden-Davis which shows the mayor, and I are wearing our official city attire. Lastly, keep in mind the timing of this photograph during the election season and it is symbol that was used to Influence the public most notably that the 2 councilmembers are endorsing Councilmember Carol Strain-Burk/ District 1. This photograph has created a false impression of me during this election season. As Councilmembers, we are held to a higher standard of character and integrity than the average citizen.

The Lancaster City Council Code of Ethics. Sec..2.02.005 Political activities of officers.

(a) In any election, a member of the city council may not:

- (1) Use the prestige of the member's position with the city on behalf of a candidate.
- (2) Solicit or receive contributions: or

(b) In any election, a member of a city council board, commission or committee, whether government or advisory, may not:

- (1) Use the prestige of the member position with the city on behalf of a candidate.
- (3) Personally, solicit or receive contributions for candidate.

Councilmember Strain-Burk did not demonstrate respect and professional courtesy with her actions. Her behavior was deliberate and cunning especially because I am not in her district or on her mailing list to receive this political flyer containing my photograph. This behavior is downright disrespectful because Councilmember Strain-Burk had many opportunities to convey her intentions to me. I contend photographs of fellow councilmembers should not be utilized for promoting a candidate's campaign without written permission or consent.

Sincerely,
Councilmember Betty Gooden-Davis/ District 6
Councilmember Marco Mejia/ District 3

City Attorney Ritter shared that the election material is attached as well as a list of witnesses.

City Secretary shared Councilmember Strain-Burks' response to the Notice of Censure.

I am writing in response to the notice of censure (the "Censure Notice") filed by Deputy Mayor Pro Tem Betty Gooden-Davis and Councilmember Marco Mejia. I want to state clearly and unequivocally that I did not violate the City of Lancaster Code of Ethics (the "Code").

The Code deals with city business, and does not even purport to regulate political campaigns. And it could not, because by definition, campaigns involve citizens trying to join the City Council for an upcoming term that has not yet begun.

The text of the Code makes this point clear. Section 2.02.005 of the code, titled "Political activities of officers," says that I may not "[u]se the prestige of the member's position with the city on behalf of a candidate." In other words, Carol Strain-Burk, as a Council member, cannot endorse or campaign on behalf of another political candidate running for an office. And in the recent election, as a sitting Council member, I did not go out and use my office to campaign or endorse any candidate.

The picture in question was within a group of photos requested by my political consultant from me, showing group activities in which, I participated in locally, regionally, and statewide, plus a selection of individual headshots. All group photos supplied were pictures from the public domain that I had used in social media, along with City stock photos that it had used in City social media.

The language in the political material does not call attention to the photo in any manner. There is no listing of anyone's names, no location was written in the political flyer, and no written statement singled out anyone in the photo as personally promoting any person or action. There was no deliberate action taken to connect anyone in the picture toward any specific promotion of support, or fund solicitation, for any candidate. I did not intentionally select any person for inclusion in these general-purposed pictures (other than myself) and certainly had no malicious intent or desire to disrespect anyone.

The Code also says that I may not "[p]ersonally solicit or receive contributions for a candidate." Again, this means that Carol Strain-Burk, as a Council member, may not use the prestige of office to obtain money on behalf of another political candidate running for an office. And here again, in the recent election, as a sitting Council member, I did not go out and use my office to solicit or receive any contributions for another political candidate.

Exhibit A to the Censure Notice does not suggest otherwise. There is no mention in it of any other political candidate. There is no form of written solicitation for any campaign funds for another political candidate. Indeed, there is not even any solicitation for any contributions to my individual 2022 campaign. My financial filings are fully consistent with the lack of any solicitation in this instrument, as they show that there were no contributions to my campaign until the end of the election time frame, when I received three nominal unsolicited contributions.

The problem here is not anything that I have done. It is the Censure Notice that violates the Code by "reflect[ing] discredit upon the government of the City," Code§ 2.02.003(a)14), as it asks the Council to take action that is clearly prohibited by the First Amendment to the Constitution:

- The First Amendment "has its fullest and most urgent application precisely to the conduct of campaigns for political office." *Brown v. Hartlage*, 456 U.S. 45, 53 (1982).
- Even accepting as true the claim in the Censure Notice - that the photograph somehow implies a person's support for my candidacy, the First Amendment would still apply and bar that claim. See *Serafine v. Branaman*, 810 F.3d 354,362 (5th Cir. 2016) ("Indeed, the Court has long held that "erroneous statement is inevitable in free debate, and ... it must be protected if the freedoms of expression are to have the 'breathing space' that they 'need ... to survive.'").
- See also *Weaver v. Bonner*, 309 F.3d 1312, 1319 (11th Cir. 2002) (reminding that a candidate's speech during an election campaign "occupies the core of the protection afforded by the First Amendment," and invalidating a Georgia law prohibiting "false statements negligently made" in campaign speech).

The Censure Notice is wrong factually, wrong in its reading of the Code, and wrongly asks this Council to violate the law (First Amendment). It must be rejected.

Respectfully,
City Council member Carol Strain Burk.

City Attorney Ritter shared Code of Ethics sections 2.02.005 Political Activities of officers:

(a) In any election, a member of the city council may not: (1) Use the prestige of the member's position with the city on behalf of a candidate; (2) Solicit or receive contributions.

Section B in any election, a member of city board commission or committee whether governmental or

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advisory, may not: (1) Use the prestige of the member's position with the city on behalf of a candidate; (2) Serve as the designated campaign treasurer for a candidate as required by chapter 252, Texas Election Code; or (3) Personally, solicit or receive contributions for a candidate. A member, however, is not prohibited from serving on a steering committee to plan a program of solicitation and listing the member's name without reference to the office held when the committee as a whole is listed. (c) Subsections (a)(1) and (b)(1) do not prohibit a member of the city council or of a board from lending the member's name in support of a candidate so long as the office held with the city is not mentioned in connection with the endorsement.

City Attorney Ritter also shared if Council would like to go into executive session to discuss the notice of censure.

Councilmember Mejia stated he would like to know what this has to do with the first amendment.

City Attorney Ritter briefed Council on regards of the Supreme Court case of Brown v. Hartlage 456 US 45-1982

City Attorney Ritter stated there has already been a motion and second to go into executive session, if the motion does not carry then it would go back to the floor and a vote could be called immediately for the censure.

MOTION: Councilmember Mejia made a motion, seconded by Mayor Pro Tem Jaglowski to move into executive session. The vote was cast 2 for, 5 against [Hairston, Strain-Burk, Wheaton, Cheatham, Gooden-Davis].

City Attorney Ritter stated the floor is now open to make a motion to proceed or a motion to dismiss.

MOTION: Deputy Mayor Pro Tem Gooden-Davis made a motion, seconded by Councilmember Wheaton for finding good cause and proceeding. The vote was cast 3 for, 4 against [Hairston, Strain-Burk, Jaglowski, Cheatham,

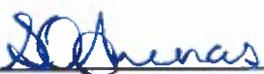
Mayor Hairston shared Birthday wishes for Councilmember Mitchell Cheatham.

MOTION: Councilmember Wheaton made a motion, seconded by Councilmember Strain-Burk to adjourn. The vote was cast 7 for, 0 against.

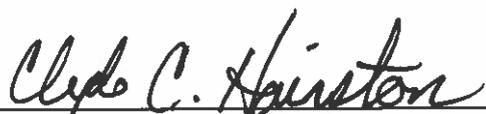
The meeting was adjourned at 8:05 p.m.

ATTEST:

APPROVED:



Sorangel O. Arenas, City Secretary



Clyde C. Hairston, Mayor