

# Lavon City Council Meeting Minutes



April 5, 2011

## I. MEETING CALLED TO ORDER AT 7:00 P.M. BY MAYOR MARTIN

Members Present: Mayor Norma Martin  
Council Member Place 1, Chris Kane, Mayor Pro-Tem  
Council Member Place 2, Deborah Nabors  
Council Member Place 4, Aaron Heatley  
Council Member Place 5, Charles Teske

Members Absent: Council Member Place 3, Gary Meeks

Staff Present: City Manager, Mike Jones  
City Secretary, Linda Ardis  
Administrative Supervisor, Laura Kennemer  
City Services Coordinator, Jennifer Wolfe

Commission and Board Members: None

## II. MAYOR MARTIN TO LEAD THE COUNCIL AND VISITORS IN THE PLEDGE OF ALLEGIANCE.

Mayor Martin led the City Council and visitors in the Pledge of Allegiance.

## III. INVOCATION

Mayor Martin led the invocation.

## IV. ITEMS OF INTEREST/CITY COUNCIL COMMUNICATIONS

**Members of City Council have the opportunity to notify others of community events, functions and other activities. There will also be an opportunity to briefly comment on City Council business, City operations, projects and other items coming before the City Council.**

Council Member Heatley reminded everyone about the May 7, 2011 Craft Fair at the Assembly of God church from 9:00 a.m. until 5:00 p.m. A "Broken Log" quilt will be raffled. The tickets are \$1. For further information contact Jeaneen Eli or Becky Cooper.

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Council Member Nabors said that NeSmith's Carnival will be May 20, 2011. Everyone was encouraged to come.

## V. CONSENT AGENDA

### A. City Council to Consider and Act on approval of the consent agenda:

#### 1. March 15, 2011 City Council Meeting Minutes\*

Corrections were verbally made by Mayor Martin and Council Member Nabors.

**Motion:** Mayor Pro-Tem Kane, "I move we table the Consent Agenda."

**Second:** Council Member Nabors

**Motion:** Council Member Heatley, "I move we amend the motion for clarification to read Item 1 of the Consent Agenda."

**Second:** Council Member Nabors

**In Favor:** Mayor Pro-Tem Kane, Council Member Nabors, Council Member Heatley and Council Member Teske

**Opposed:** None

**Abstained:** None

**Motion:** Passed

Mayor Martin told the Council that they already had a motion and second to table Item 1 of the Consent Agenda.

**In Favor:** Mayor Pro-Tem Kane, Council Member Nabors, Council Member Heatley and Council Member Teske

**Opposed:** None

**Abstained:** None

**Motion:** Passed

#### 2. Changing the payroll status of the Chief of Police from hourly to salaried exempt\*

City Manager Jones told the Council that he had put the item on the agenda because it would benefit the City by cutting down Comp Time. City Attorney Andy Messer said Chief Rector was a professional exempt supervisory employee and had other officers assigned to work under him.

**Motion:** Council Member Heatley, "I move we approve Item 2 of the Consent Agenda."

**Second:** Council Member Nabors

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Mayor Pro-Tem Kane asked if there was any pay change and if the City Manager was figuring his pay and multiplying it by 40. City Manager said there was no change in his pay. Mayor Pro-Tem Kane said he just wanted to make sure it fit within the budget.

Mayor Martin called for a vote after the discussion.

**In Favor:** Mayor Pro-Tem Kane, Council Member Nabors, Council Member Heatley and Council Member Teske

**Opposed:** None

**Abstained:** None

**Motion:** Passed

## VI. PUBLIC RECOGNITION

None

## VII. CITIZENS' COMMENTS

**Citizens, who wish to address the Council, may discuss matters not on the agenda and who have not previously expressed to the Council or City Hall a desire to discuss such matters. The only response from the Council can be to request these items to be placed on a future agenda for action.**

Citizen Joan Aquatero told the Council that after the garbage truck runs, there is trash left over in the streets. City Manager Jones told Mrs. Aquatero to call Laura Kennemer at City Hall and she will call and have them come and clean it up.

## VIII. ITEMS FOR DISCUSSION

A. City Council to discuss research finding related to deed restriction and Collin County Appraisal District property valuations. (Nabors)

Council Member Nabors told the Council that several questions had been posed at the last meeting concerning the two deed restricted acres currently owned by the City. Prior to the transfer, CCTAD had appraised the property at one value. After the restricted acres were transferred, the property went into an exempt status. As a result, CCTAD could collect no taxes on the properties. CCTAD indicated the properties were of nominal value to anyone outside of the City of Lavon. As of 4-29-11, the value expressed on the properties by CCTAD will be "next to nothing."

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City Attorney Andy Messer went over the approximated costs of \$25,000 to \$40,000 thousand dollars to have the deeded restrictions removed by the court. Council Member Nabors had also researched the matter with another attorney who gave only a 30 % chance of winning the case.

Citizen Pat Kavanagh expressed his opinion along with Council Member Heatley and Mayor Pro-Tem Kane.

The discussion concluded that due diligence had been served by the research provided enabling the Council to make an informed decision.

## IX. EXECUTIVE SESSION

**EXECUTIVE SESSION:** In accordance with Texas Government Code, Section 551.001, *et seq.*, the City Council will recess into Executive Session (closed meeting) to discuss the following:

In accordance with Texas Government Code, Section 551.071: Consultation with City Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of

Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act: to receive legal advice regarding City of Lavon Code of Regulations Title 3 Administration, Subtitle 5 Ethics, Chapter 2 – Legislative Branch Ethics Review Board and related issues.

The City Council retired from the Council Chambers at 7:30 p.m. to the Conference Room.

## X. RECONVENE INTO REGULAR SESSION:

In accordance with Texas Government Code, Section 551.001, *et seq.*, the City Council will reconvene into Regular Session to take any action necessary regarding the following:

In accordance with Texas Government Code, Section 551.071: Consultation with City Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act: to receive legal advice regarding City of Lavon Code of Regulations Title 3 Administration, Subtitle 5 Ethics, Chapter 2 – Legislative Branch Ethics Review Board and related issues.

The City Council reconvened into regular session at 8:00 p.m. Mayor Martin recognized Mayor Pro-Tem Kane.

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**Motion:** Mayor Pro-Tem Kane, "I move we rewrite this section of the Code of Regulations to include citizens input as ethics is important, and we need direct input from citizens. Therefore, they should be included in the Board."

**Second:** Council Member Teske

Mayor Pro-Tem Kane and Council Member Heatley discussed the motion. The Mayor called for a vote.

**In Favor:** Mayor Pro-Tem Kane and Council Member Teske

**Opposed:** Council Member Nabors and Council Member Heatley

**Result:** Tie. Mayor Martin votes Opposed

**Abstained:** None

**Motion:** Failed 2 In Favor and 3 Opposed

A. City Council to Consider and Act regarding appointment of legislative branch representative(s) to the Ethics Review Board. (Mayor Martin)

**Motion:** Council Member Heatley, "I nominate Gary Meeks as the legislative branch representative and Deborah Nabors as the alternate."

**Second:** Council Member Chuck Teske

**In Favor:** Council Member Nabors, Council Member Heatley and Council Member Teske

**Opposed:** None

**Abstained:** Mayor Pro-Tem Kane

**Motion:** Passed by 4 For and 1 Abstained

B. City Council to Consider and Act regarding appointment of City Attorney as legal counsel for the Ethics Review Board. (Mayor Martin)

**Motion:** Council Member Heatley, "I move we appoint the City Attorney as legal counsel for the Ethics Review Board."

**Second:** Council Member Nabors

**In Favor:** Council Member Nabors, Council Member Heatley and Council Member Teske

**Opposed:** None

**Abstained:** Mayor Pro-Tem Kane

**Motion:** Passed by 3 For and 1 Abstained

C. City Council to Consider and Act regarding appointment or identification of City Liaison to City Attorney. (Mayor Martin)

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**Motion:** Council Member Heatley, "I move we appoint Deborah Nabors as the City Liaison to City Attorney."

**Second:** Council Member Teske

**In Favor:** Council Member Nabors, Council Member Heatley and Council Member Teske

**Opposed:** None

**Abstained:** Mayor Pro-Tem Kane

**Motion:** Passed by 3 For and 1 Abstained

- D. City Council to Consider and Act on approving and authorizing the Mayor to sign deeds trading approximately 2 acres of real property owned by the City and located at or near the intersection State Highway 78 and Burnett Drive for approximately 5.1 acres owned by World Land Developers LP and located at or near 500 Main Street. (Jones)

City Manager said this item has already been discussed. The developer had asked for an authorized signatory to sign the deeds to transfer the property. City Manager Jones said he would leave this decision up to the Council.

**Motion:** Council Member Nabors, "I move that the City Council approve and authorize the Mayor to sign deeds trading approximately 2 acres of real property owned by the City and located at or near the intersection State Highway 78 and Burnett Drive for approximately 5.1 acres owned by World Land Developers LP and located at or near 500 Main Street."

**Second:** Council Member Heatley

**In Favor:** Council Member Nabors and Council Member Heatley

**Opposed:** Mayor Pro-Tem Kane and Council Member Teske

**Result:** Tie. Mayor Martin votes In Favor

**Abstained:** None

**Motion:** Passed 3 In Favor and 2 Opposed

- E. City Council to Consider and Act on Interlocal Agreement between Collin County and the City of Lavon concerning the use of a portion of the World Land Developers, LP agreement Access Road Funds for right of way participation on SH 78 from SH 205 to FM 6. (Jones)

The City Manager told the Council that this was similar to the agreement in the last council packets but in a different format to widen Hwy. 78 thru the City. In the first draft, the City would have to pay 10% of the cost of the right-a-way or \$169,500.00 which the City does not have. He said he went back to Collin County and they have agreed to pay the \$169,500.00 up front, but the City has to agree to seek the

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\$169,500.00 from the developer. Collin County agreed to do this because of the time frame involved.

Mayor Pro-Tem Kane asked if the time line for starting the project was still June, 2012. City Manager Jones said it was to be let in June, 2012 and he was not aware of any time changes. City Manager Jones said he recommended the Council approve the agreement.

**Motion:** Council Member Heatley, "I move that we approve Item "E"."

**Second:** Mayor Pro-Tem Kane

**In Favor:** Mayor Pro-Tem Kane, Council Member Nabors, Council Member Heatley and Council Member Teske

**Opposed:** None

**Abstained:** None

**Motion:** Passed

- F. City Council to consider and act upon conducting a Town Hall Meeting to solicit feedback and citizen perspective related to 24x7 Police Department coverage and other public services prior to conducting City Council budget meetings and workshops. (Nabors)

Council Member Nabors said that the City Manager usually starts looking at his budget in April. He receives input from department heads, the Mayor and Council. There are several items funded in the budget such as public service that are based on the citizens feedback. It is crunch time for all city budgets. The Council needs to know what to fund or not to fund, the cost already there or an alternative with its associated costs. For example, the 24/7 police service. Mayor Pro-Tem Kane said all services needed to be looked at and not limit it to only one.

City Manager Jones said that he really does not submit his budget until July. Council Member Nabors reminded everyone it is not the budget that is going to be reviewed at the town hall meeting. We will be only looking at the City services provided, cost and options.

Mayor Pro-Tem said we needed someone to identify a date and coordinate a time and place.

**Motion:** Mayor Pro-Tem Kane, "I move we appoint Linda Ardis to head up the town hall meeting so she can set the agenda with the City staff, Council and set a date and location."

**Second:** Council Member Nabors

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**In Favor:** Mayor Pro-Tem Kane, Council Member Nabors, Council Member Heatley and Council Member Teske

**Opposed:** None

**Abstained:** None

**Motion:** Passed

- G. City Council to consider and act upon the City of Lavon TIF Reimbursement Obligation related to the Tax Increment Reinvestment Zone as outlined in the Amended and Restated City/Developer Master Development Agreement between the City of Lavon and World Land Developers, LP. (Nabors)

Council Member Nabors told the Council that in December of last year, the Council asked the City Attorney to provide a summary of all City obligations to Grand Heritage agreements. In reviewing the summary, she told the Council that we are behind in some items and quickly need to act on others. The TIF Reimbursement Obligation is one that we need to act on as soon as possible. Council Member Nabors continued saying the purpose of the TIF was to provide reimbursement for certain construction cost for public improvement in the TIF Reimbursement Zone. The Tax Increment Reinvestment Zone has already been created, but we are remiss in getting the TIF Board up and running and begin drafting the TIF Agreement per our obligations.

Council Member Nabors said she wanted to assign a Council liaison to the TIF Board to go back and get the board reconstituted, the members seated and get them started working on the TIF Reimbursement Obligation as outlined in the Amended and Restated City/Developer Master Development Agreement. She nominated Council Member Charles Teske as the liaison.

**Motion:** Council Member Nabors, "I nominate Charles Teske as the Council liaison to get the TIF Board reconstituted, seated and started on the TIF Reimbursement Agreement."

**Second:** Council Member Heatley

**In Favor:** Mayor Pro-Tem Kane, Council Member Nabors, Council Member Heatley and Council Member Teske

**Opposed:** None

**Abstained:** None

**Motion:** Passed

- H. City Council to consider and act upon the City of Lavon 4B EDC Reimbursement Obligation as outlined in the 4B Reimbursement Agreement. (Nabors)



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City Council Member Nabors said that in looking again at the summary of the obligations the City has to Grand Heritage, the City has an open obligation that is way past due.

**Motion:** Council Member Nabors, "I move we direct the Economic Development Board to work with the Developer and legal counsel to complete our obligation related to the 380 Agreement, which is in draft, as specified in the Amended and Restated City/Developer Master Development Agreement."

**Second:** Council Member Heatley

**In Favor:** Mayor Pro-Tem Kane, Council Member Nabors, Council Member Heatley and Council Member Teske

**Opposed:** None

**Abstained:** None

**Motion:** Passed

**XII. Council Members and staff may request items to be placed on a future agenda or request a special meeting be called. Each request that passes by a majority vote will be placed on the schedule by the City Secretary.**

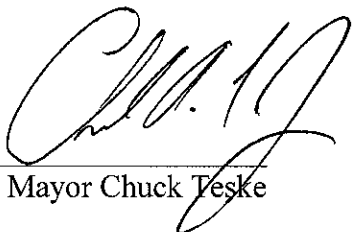
Mayor Martin told the audience that the Agenda is placed around town and the meeting minutes are posted on the internet. She wanted to make sure those that wanted more information could receive it. She also said that if someone wanted the information sent to them, contact Linda Ardis and she will see that you get that information at least once a month.

Mayor Pro-Tem Kane said he had been approached by Bricen Gibbons, a Life Scout for Troop 442, requesting to present his Eagle Project to the Council. He requested that this be placed on the next agenda.

**XIII. MAYOR MARTIN TO ADJOURN CITY COUNCIL MEETING**

Mayor Martin adjourned the City Council Meeting at 8:30 p.m.

Duly passed and approved on this 17<sup>th</sup> day of June, 2011.

  
Mayor Chuck Teske

Attest:

  
Linda Ardis, City Secretary