

**CITY OF LUBBOCK**  
**REGULAR CITY COUNCIL MEETING**  
**March 8, 2006**  
**7:30 A. M.**

The City Council of the City of Lubbock, Texas met in regular session on the 8th day of March, 2006, in the City Council Chambers, first floor, City Hall, 1625 13th Street, Lubbock, Texas at 7:30 A. M.

**7:38 A.M. CITY COUNCIL CONVENED**  
City Council Chambers, 1625 13th Street, Lubbock, Texas

**Present:** Mayor Marc McDougal, Mayor Pro Tem Tom Martin, Council Member Gary O. Boren, Council Member Linda DeLeon, Council Member Jim Gilbreath, Council Member Phyllis Jones, Council Member Floyd Price

**Absent:** No one

**1. CITIZEN COMMENTS**

**1.1. Ken Flagg and others to appear before the City Council to discuss road dedication in Tivoli Estates.**

Ken Flagg addressed Council regarding Item 6.6 on today's agenda. He spoke on behalf of 29 families in Tivoli Estates, asking Council to accept dedication of the street, which would make it a public street. He also answered questions from Council.

**1.2. Ryan Blakley addressed Council regarding Item 5.1 on today's agenda. He is the owner of Walter's World of Pets and is concerned with several areas of the proposed animal ordinance.**

**2. EXECUTIVE SESSION**

**Mayor McDougal stated: "City Council will hold an Executive Session today for the purpose of consulting with the City Staff with respect to pending or contemplated litigation; the purchase, exchange, lease, or value of real property; personnel matters; competitive matters of the public power utility; and commercial or financial information that the governmental body has received from a business prospect with which the governmental body is conducting economic development negotiations, as provided by Subchapter D of Chapter 551 of the Government Code, the Open Meetings Law."**

**7:52 A. M. CITY COUNCIL RECESSED TO EXECUTIVE SESSION**  
City Council/City Manager's Conference Room

All council members were present.

- 2.1. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.071, to discuss pending or contemplated litigation or settlement agreement, and hold a consultation with attorney (Water Utilities, Cemetery, Right-of-Way).
- 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 (Water Utilities, Fire Department, Parks and Recreation, Right-of-Way).
- 2.3. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.074 (a)(1), to discuss personnel matters (City Attorney, City Manager, City Secretary) and take appropriate action.
- 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 deliberate, vote and take final action on electric rates of Lubbock Power and Light;
  - 2.4.2 to discuss, vote and take final action on a competitive matter regarding operation, financial and capital statements and budgets, revenue and expense projections, strategic and business plans and studies of Lubbock Power and Light;
  - 2.4.3 to discuss and deliberate a competitive matter regarding the strategies, goals, funding and strategic purpose of the City of Lubbock's relationship with and membership in the West Texas Municipal Power Agency.
- 2.5. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.087 to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations (Business Development).

**9:35 A. M. CITY COUNCIL REGULAR MEETING RECONVENED**  
City Council Chambers

**Present:** Mayor Pro Tem Tom Martin; Council Member Gary O. Boren; Council Member Linda DeLeon; Council Member Jim Gilbreath; Council Member Phyllis Jones; Council Member Floyd Price; Lee Ann Dumbauld, City Manager; Anita Burgess, City Attorney; and Rebecca Garza, City Secretary

**Absent:** Mayor Marc McDougal

Mayor Pro Tem Martin reconvened the meeting at 9:35 A. M.

**3. PROCLAMATIONS AND PRESENTATIONS**

**3.1. Invocation by Pastor Jerry Ramirez, Associate Pastor for Student Activities, Oakwood Baptist Church.**

**3.2. Pledge of Allegiance to the Flags.**

Pledge of Allegiance was given in unison by those in the City Council Chambers to both the United States flag and the Texas flag.

**3.3. Presentation of a special recognition to Matthew Scott Edwards for his Carnegie Hall Debut performance with the National Festival Orchestra.**

Mayor Pro Tem Martin read a special recognition to Matthew Scott Edwards for his Carnegie Hall Debut performance with the National Festival Orchestra. Mr. Edwards gave comments.

**3.4. Presentation of a special recognition - Lubbock Reads 2006: "Turning Pages, Touching Lives."**

Mayor Pro Tem Martin read a special recognition to Jane Clausen, Library Director, and Ann Boggs with Friends of the Lubbock Public Library. Ms. Boggs and Ms. Clausen gave comments. Ms. Clausen handed out an autographed copy of the book *Salvation on Sand Mountain* to members of City Council.

**3.5. Presentation of a special recognition to Catholic Family Services proclaiming March 12-18, 2006 as National Safe Place Week.**

Mayor Pro Tem Martin presented special recognition to Catholic Family Services, which proclaimed March 12 – 18, 2006 as National Safe Place Week. Tanya Robles was present to accept the presentation. She also gave comments.

**4. MINUTES**

**4.1. Approval of Prior Meeting Minutes: Regular City Council Meeting, February 9, 2006**

Motion was made by Council Member Gilbreath, seconded by Council Member Jones to approve the minutes of the Regular City Council Meeting of February 9, 2006 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

Mayor McDougal arrived.

**5. CONSENT AGENDA (Items 5.2-5.10, 5.13, 5.16-5.17)**

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Price to approve Items 5.2-5.10, 5.13, 5.16-5.17 on consent agenda as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**5.1. This item was moved from consent agenda to regular agenda and considered following Item 5.17.**

**5.2. Code of Ordinances Ordinance 2nd Reading - Finance: Ordinance No. 2006-O0022 making modifications to the Street Lighting Cost Recovery Program.**

The City currently provides the installation of street lighting to developers in new developments for a \$600 cost recovery fee per standard/fixture. The installation work is performed by Lubbock Power and Light for the City at an approximate cost of \$2,500 per standard/fixture. It has been more than 10 years since the cost recovery fee has been reviewed or changed. Because of the lack of adjustment to this fee, the City is providing and subsidizing the installation of street lights within new developments at a cost of approximately \$1,900 per street light funded from the General Fund.

The adoption of this ordinance will accomplish the following objectives:

1. Eliminate the cost to the General Fund for the installation of street lights in new developments.
2. Provide an appropriate cost recovery fee of \$70 per standard/fixture for the design of materials, installation and specifications, and the inspection of construction. This will help ensure the installation of street lighting is performed in compliance with appropriate City specifications.
3. Provide developers with the freedom to select their contractor for the installation of street lighting in new developments and only require that the developers meet the necessary engineering standards and pass a final construction inspection.
4. Allow LP&L to participate as a contractor and provide this service to the development community directly without involvement from the City.
5. Allow developers a means to select non-traditional standards/fixtures within a new development at their cost while meeting engineering and construction standards.

**FISCAL IMPACT**

The adoption of this ordinance will eliminate the cost to the General Fund of street lighting in new developments. The new cost recovery fee of \$70 per standard/fixture will recover the actual cost to the General Fund for the needed engineering and inspection that must occur before the City will accept the improvements, much like the current practice for street and storm water improvements. Estimated revenue will be based on the planned new developments and the number of standards/fixtures required. The revenue estimate will be included in the FY 2006-07 Operating Budget. Current staff levels should be sufficient to provide this service.

LP&L will provide the service to the development community as a contractor. They will receive all revenues generated by the fee of \$2,500 per traditional standard/fixture for the actual installation work. Non-traditional standard/fixture cost will be negotiated by LP&L. The LP&L Board will make

the determination on needed budgetary and operational changes necessary to fulfill the requirements of this ordinance.

Staff recommended approval of the second reading of this ordinance.

**5.3. Budget Amendment #11 2nd Reading - Finance: Ordinance No. 2006-O0024 amendment #11 amending the FY 2005-06 Capital Improvement Program and Grant Fund.**

Amend Capital Improvement Project 91048 City Hall HVAC Renovations by appropriating an additional \$525,000 of 2006 Certificate of Obligation Bonds for the renovation of the City Hall HVAC system, with estimated revenues increased accordingly.

Amend Capital Improvement Project 91207 New Northwest Little League Complex by transferring \$98,000 of 2003 General Obligation Bonds from Capital Improvement Project 91205 Northwest Little League Improvements for the construction of the Northwest Little League.

Accept and appropriate a \$48,927 grant from the Texas Department of State Health Services to provide for HIV/AIDS Surveillance. This grant funds the active surveillance and reporting activities for Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome (HIV/AIDS) – includes personnel, benefits, travel, and supply costs.

No City matching funds are required.

Staff recommended approval of the second reading of this ordinance.

**5.4. Right-of-Way Ordinance 2nd Reading – Right-of-Way: Ordinance No. 2006-O0020 abandoning and closing a portion of 19th Street west of Dixie Drive, property located at 1902 Dixie Drive.**

This ordinance was read for the first time at the February 24, 2006 City Council meeting.

In September 1945, City Council passed Ordinance 726 establishing the building lines for the south side of 19th Street, from University Avenue to Avenue D in anticipation of the widening of that street. In 1947, Buster Welch conveyed to the City additional right-of-way located at the southwest corner of 19th Street and Dixie Drive (one block east of Avenue Q) for the widening of 19th Street along the north side of Lot 24, Dixie Land Addition. Shortly after, a building was constructed on Lot 24 and the building plans indicated that the building was to be built on the south lot line. However, either due to a survey mistake or to human error, the building was constructed approximately six feet north of the south property line putting the north portion of it into the recently dedicated south right-of-way of 19th Street.

Mr. Malcom Womack has owned this property since 1976. He has decided to sell this property and a recent survey shows this building encroachment. In order to convey title to the new owner, Mr. Womack is asking that the City abandon and close this 407 square foot portion of 19th Street under his building. Since Mr. Womack was not the original owner, there will be a

charge for this 407 square feet. From adjacent property values and a review of existing sales comparables, a value of \$3.00 per square foot is determined. Therefore, the value of this street closure area to be charged to Mr. Womack is  $\$3.00 \times 407 \text{ square feet} = \$1,221$ .

**FISCAL IMPACT**

Revenue of \$1,221.

Staff recommended approval of the second reading of this ordinance.

**5.5. Quitclaim Deed Resolution - Right-of-Way: Resolution No. 2006-R0105 authorizing the Mayor to execute a quitclaim deed to Malcom Gene Womack and Dorothy M. Womack for a portion of 19th Street west of Dixie Drive, property located at 1902 Dixie Drive.**

Item 5.4 on today's agenda is the second reading for Ordinance No. 2006-O0020 which abandons and closes a 407 square foot portion of 19th Street just west of Dixie Drive and east of Avenue Q. This resolution authorizes the Mayor to sign a quitclaim deed that conveys this street area to the Mr. and Mrs. Womack.

**FISCAL IMPACT**

Revenue of \$1,221.

Staff recommended approval of this resolution.

**5.6. Right-of-Way Ordinance 2nd Reading – Right-of-Way: Ordinance No. 2006-O0021 abandoning and closing a portion of Albany Avenue just north of 68th street, property located at 6601 Albany Avenue.**

This ordinance was read for the first time at the February 24, 2006 City council meeting.

This ordinance abandons and closes a 9,234.72 square foot portion of Albany Avenue just north of 68th Street. This portion of Albany Avenue was dedicated by the plat of Lot 2, Sentry Park Addition in 1977. At that time, all that was dedicated was the east one-half of the street. In 1994, the City constructed the 66th Street to 69th Street crossover street from Slide Road westward to Bangor Avenue. This street design made this portion of Albany Avenue no longer needed and also created an unusable remnant between Lot 2 and the new alignment of 66th Street, 69th Street, and Albany Avenue. This unusable 6,959 square foot remnant was sold in 2002 by the City to Benny Nixon for Commercial Property Services for \$2,000 and who is the requestor of this Albany Avenue street closure. The appraised value for this Albany Avenue street area being closed is \$2,770.42 ( $\$0.60 \times 9,234.72 \text{ square feet} = \$5,540.83$  less 50% remaining as an easement).

The City of Lubbock's street closure resolution allows for a credit against the charge for this street area being closed, but not in excess thereof, for the dedication of other property to the City in exchange for this portion of Albany Avenue being closed. At 7336 82nd Street, the City of Lubbock installed a

water line along the east side of Lot 2-A, A&O Addition west of Upland Avenue. This was in an area of the subdivision that was originally an alley but was closed when the addition was replatted by the County. Lot 2-A is owned by Mr. Nixon and he is willing to give the City an easement for our water line in exchange for this portion of Albany Avenue being closed. The value of this 10-foot water line easement along the east 10 feet of Lot 2-A is valued at \$2,937.38.

Following the guidelines of the City's street closure resolution, this area of Albany Avenue being closed will be evenly exchanged for the water line easement at 7336 82nd Street with Mr. Nixon.

Staff recommended approval of the second reading of this ordinance.

**5.7. Grant Resolution - Police: Resolution No. 2006-R0106 waiving the right of the City of Lubbock to apply for a Juvenile Accountability Incentive Block Grant and designating Lubbock County as the recipient of the funds.**

The Governor's Criminal Justice Division is preparing to award Juvenile Accountability Incentive Block Grant funding to the City of Lubbock in the amount of \$12,719 with a cash match of \$1,413 for FY 2006-07. Lubbock County is eligible for \$14,487 with a cash match of \$1,665.

The City of Lubbock has waived its right to these State juvenile grant funds for the past several years in order to increase the amount of funding from this grant for the Lubbock County Juvenile Justice Center. Lubbock County pays the City of Lubbock's portion of the local match required by the grant.

Lieutenant Jerry Brewer with the Lubbock Police Department will receive periodic reports from the Lubbock County Juvenile Justice Center to help monitor the use of these funds. Les Brown, Lubbock County Juvenile Justice Center Director, will be the individual responsible for expending the funds on behalf of Lubbock County.

**FISCAL IMPACT**

The City of Lubbock is waiving receipt of \$12,719 in funding. This funding is currently not budgeted in the FY 2005-06 budget. However, these funds will be used for juvenile justice purposes by Lubbock County at the Lubbock County Juvenile Justice Center.

Staff recommended approval of this resolution.

**5.8. Street Use License Resolution - Right-of-Way: Resolution No. 2006-R0107 authorizing the Mayor to execute a street use license with Grimes and Associates Consulting Engineers, L.P. to use a portion of Akron Avenue street right-of-way for an underground conduit located at 3405 Akron Avenue.**

This street use license will allow Grimes and Associates Consulting Engineers, L.P. to bore under Akron Avenue just south of 34th Street for the purpose of installing a private underground pipeline conduit. The properties at

2555 34th and 2603 34th Street had underground gasoline storage tanks that leaked in the past. Grimes & Associates is the consulting company for these properties and TCEQ asked them to design a system that will clean up the contamination on both sides of Akron Avenue. The system will have seven recovery wells on the east side of Akron Avenue and two recovery wells on the west side of the street. The recovery system requires a horizontal bore under Akron Avenue with an eight-inch conduit that will contain two vacuum lines, two compressed air lines, and two water lines. These lines will connect the recovery wells on the west side of Akron Avenue to the remediation equipment on the east side of the street. The charge for this license will be the \$50 minimum per year and the license will be for 20 years, payable every five years in advance for the amount due now of \$250. All utility companies are in agreement with this license.

#### **FISCAL IMPACT**

Annual revenue of \$50.

Staff recommended approval of this resolution.

**5.9. Interlocal Agreement Resolution - Human Resources: Resolution No. 2006-R0108 authorizing the Mayor to execute an Interlocal Participation Agreement by and between the City of Lubbock and the Public Employees Benefits Alliance in order to cooperatively purchase goods, services, and other items to be used in the member's (City of Lubbock) provision of employee benefits.**

This interlocal participation agreement with Public Employee Benefits Alliance (PEBA) will allow the City of Lubbock to cooperatively purchase goods, services, and other items to be used in the City's provision of employee benefits. The City's past practice has been to solicit insurance proposals either directly from the provider of goods and services or through an insurance broker.

The Public Employee Benefits Alliance was created by a group of Texas government leaders working together for more than a year to develop strategies to manage the rising costs of healthcare benefits. Their efforts have resulted in the creation of a purchasing alliance designed to provide political subdivisions the leverage required to effectively negotiate with benefit vendors and continue to be sensitive to the service requirements of public employees. Although there is widespread support for the joint purchasing alliance, finalizing the organizational structure and legal foundation required thorough review. PEBA was established in January 13, 2006, and was created pursuant to Chapter 791 of the Texas Government Code and Subchapter of Chapter 271 of the Texas Local Government Code. PEBA is organized to achieve economies of scale for the alliance of Political Subdivision in the State of Texas.

PEBA membership will be open to all Texas local governments who pay an annual membership fee and execute a PEBA Participating Interlocal

Agreement. An additional per proposal fee will be established for proposal participation.

**FISCAL IMPACT**

\$700 annual membership plus selected proposal costs for specific types of RFPs.

Staff recommended approval of this resolution.

**5.10. Contract Resolution - Human Resources: Resolution No. 2006-R0109 authorizing the Mayor to execute a contract with MaxorPlus, LTD for pharmacy benefits management and provision of prescription drugs for all participants of the City of Lubbock Health Benefits Plan.**

This contract establishes and provides prescription drug benefits programs in connection with established networks of participating retail pharmacies and operates a system for the processing fulfillment and payment of claims for prescription drugs.

Maxor will disclose all charges and discounts associated with the prescription drug benefit program and provide prescriptions through pricing on all drugs purchased through retail or mail order pharmacy.

Maxor will provide all services through a complete disclosure program subject to the terms and conditions of this agreement.

Maxor pledges to provide the pharmacy benefit management services under this contract in accordance with the Code of Ethics attached in Exhibit E.

Quotes solicited from five companies were based on prescription data from January 1, 2005 through November 18, 2005. The companies solicited include Medco, Express Scripts, Partners RX, Script Care, and Maxor. An analysis and breakdown of pricing quotes is provided.

Based on comparative analysis from American Administrative Group, formerly ICON, Maxor Plus has projected to save the City of Lubbock \$441,421 in cost of pharmaceutical drugs and services.

**FISCAL IMPACT**

Estimated cost savings is \$441,421.

Staff recommended approval of this resolution.

Even though this item was considered and passed on consent agenda, there were amendments which were handed out to Council at the dais prior to the vote. Scott Snider, Human Resources Director, gave comments and answered questions from Council.

**5.11. This item was moved from consent agenda to regular agenda and considered following Item 5.1.**

**5.12. This item was moved from regular agenda to consent agenda and considered following Item 5.11.**

**5.13. Contract Resolution - Street Drainage Engineering: Resolution No. 2006-R0110 authorizing the Mayor to execute Change Order No. 4 to the Milwaukee Avenue from 34th Street to 92nd Street Paving Project.**

This paving improvement project is being constructed by Granite Construction Company.

This change order involves changes to the work to be performed on the Milwaukee Avenue from 34th Street to 92nd Street Paving Project.

Original Contract	\$17,316,933
Change Order No. 1 (7/14/05)	( 212,840)
Change Order No. 2 (10/27/05)	416,200
Change Order No. 3 (12/15/05)	147,269
This Change Order No. 4	74,367
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New Contract Amount	\$17,741,928

Change Order No. 1 was a deductive Change Order deleting some items from the construction contract in cooperation with Granite Construction Company, the Contractor.

Change Order No. 2 was adding utility ditch backfill remediation in Milwaukee from 92nd Street south to 98th Street, and on 98th Street from Milwaukee Avenue east to Juneau Avenue.

Change Order No. 3 was the change in the contract for five different items of work:

- (1) A change to use anti-corrosive material for the risers on 72" diameter manholes. This change was requested by the City Water Utilities Division. The change results in a deduction of the existing contract bid item of \$7,920 and an increase in cost of the new bid item for the anti-corrosive material of \$12,420 for a net contract increase of \$4,500 for this work.
- (2) The addition of work zone pavement markings that was not included in the original contract. These temporary pavement markings will be needed from 34th Street to 43rd Street where traffic will be maintained on Milwaukee Avenue for the school at 43rd Street. These pavement markings are estimated to be \$1,409.
- (3) Irrigation sleeves installed in the median between Brownfield Highway and Spur 327. In cooperation and coordination with Texas Parks and Wildlife Department, and the City Parks Department, it was determined to have a median constructed in this portion of Milwaukee Avenue crossing McAlister Park that would have an area for live planting material. These sleeves were added to the contractor's work to provide water lines for irrigation to these planting areas in the median. This cost is estimated at \$5,840.

- (4) Lowering the water line below planned elevation immediately north of 82nd Street. After the original design of the water line was completed, it was discovered there were some 3 or 4 utilities in direct conflict with the proposed water line to be constructed in Milwaukee Avenue. Included in the utility conflicts were a high pressure gas line, and fiber optic cables. It was determined to lower the water line in order to miss all the existing utilities. The additional work required to achieve the depth needed will cost \$28,519.
- (5) Asphalt stabilized base (black base) between the bottom of the concrete paving, and the top of culverts with less than 2 feet of cover. There was design concern of stability and waterproofing of dirt backfill in this shallow depth area of the cover over the culverts. There are six culverts, and all six culverts have shallow cover. This asphalt stabilized base over the culverts is estimated to cost \$107,000.

Change Order No. 4 is a change for five different items of work:

- (1) Remove loop detectors from contract resulting in a decrease in the contract amount of \$24,000.
- (2) Add advance detection cameras for traffic signal timing and detection of traffic at an increased cost of \$12,000.
- (3) Reduced cost due to a change in the testing requirements consistent with what was approved in Change Order No. 2. Reduction of \$19,647.
- (4) Add concrete paving for two right turn flares for driveways into the new Wal-Mart store located at the southeast corner of 82nd & Milwaukee. Wal-Mart will reimburse the City the cost to construct these two right turn lanes. This paving will increase the cost of the contract by \$38,161.
- (5) Add additional paving to provide dual left turn lanes on US 62/82 for east and west bound traffic to make left turns onto Milwaukee Avenue. This additional work will increase the contract by \$67,853.

#### **FISCAL IMPACT**

The 2005-06 Capital Projects Budget has a budget for this project of \$20.5 million. With the contracted construction (including this change order) and engineering, a total of \$19,343,971 will be obligated for this project.

Staff recommended approval of this resolution.

- 5.14. This item was moved from consent agenda to regular agenda and considered following Item 5.12.**
- 5.15. This item was considered following Item 5.14 and then held until Council reconvened at 1:00 P.M., and was considered following Item 6.11.**

**5.16. Purchase Resolution - Water Utilities: Resolution No. 2006-R0111 for the purchase of fire service compound water meters - BID #06-007-BM.**

Large meters are defined as three-inch and above. These meters generally serve non-residential customers. Generally speaking, the larger the meter, the greater the water consumption, the greater the loss of revenue if the meter is old and/or malfunctioning. The City has 600 large meters in a system with 75,000 meters. While large meters represent less than one percent of the meters in the system, water consumption through large meters is 45% of the City's total water consumption.

Water Utilities staff has identified 280 large meters that are older than 10 years and 80 meters that are malfunctioning. Staff have adopted the American Water Works Association's recommendation to change out large meters every ten years.

Based on system averages, it is estimated that these old and malfunction meters result in a loss of approximately 48 million gallons of water each month, which is equivalent to \$900,000 in combined revenue for the water and sewer funds.

**FISCAL IMPACT**

A total of \$220,535 was appropriated in account 91049.9241.40000 for this purpose.

Staff recommended bid award to KW Sharp of Lubbock, Texas for \$123,064 and to Morrison Supply of Lubbock, Texas for \$29,619.50.

**5.17. Purchase Resolution - Police Department: Resolution No. 2006-R0112 for the purchase of a walking bomb rescue service truck and related equipment through the Houston-Galveston Area Council (H-GAC) purchasing cooperative.**

This purchase is for a walking bomb rescue service truck completely equipped with related items including transport boxes, hook and line kit, protective bomb suit and helmet, disrupter kit, assorted hand tools and self-contained breathing apparatus. This truck and related equipment will be used by Lubbock Police Department bomb technicians to respond to explosive device situations. Funding is through the Texas State Homeland Security 2005 grant award. The truck will be purchased through the Houston-Galveston Area Council (HGAC). H-GAC is a regional planning commission created under Acts of the 59th Legislature, Regular Session, 1965, re-codified as Texas Local Government Code, Chapter 391.

The truck will be purchased through the Houston-Galveston Area Council (HGAC). H-GAC is a regional planning commission created under Acts of the 59th Legislature, Regular Session, 1965, re-codified as Texas Local Government Code, Chapter 391.

The Homeland Security Grant Program CFDA 97.073 provides funds for the purchase of equipment to enhance the city's capability for response to all hazards with particular emphasis on terrorism response.

#### **FISCAL IMPACT**

A total of \$408,363 was appropriated with \$408,363 available in account 87019.9226, State Homeland Security Program 2005.

Staff recommended contract award to DACO Fire Equipment of Lubbock, Texas for \$199,431, through the H-GAC purchasing cooperative.

**5.1. Code of Ordinances Ordinance 2nd Reading - Health: Ordinance No. 2006-O0025 amending Chapter 4 of the Code of Ordinances with regard to regulating the keeping of animals within the City of Lubbock; providing for criminal penalties; providing a savings clause; and providing for publication.**

The Council approved the first reading of the amended animal ordinance on February 24, 2006 with recommended changes to Section 4-33(a)(1). The ordinance passed the first reading 7-0.

Review and discussion of an amended animal ordinance began approximately two years ago. The amended ordinance is the result of significant collaborative efforts between two city appointed advisory boards, citizen comments, staff input, and public hearings. The Animal Shelter Advisory Board, under the leadership of Dr. Larry Farley, and the Lubbock Board of Health, under the leadership of Immediate Past-Chair Dr. John Selby, participated in the development of this ordinance.

A comprehensive ordinance is essential for establishing a successful animal care and services program and for helping ensure immediate, as well as long-term, results. Effective animal control ordinances and state statutes typically evolve over a period of years. The proposed animal ordinance allows for the following:

- protects public safety through mechanisms for preventing animal bites, attacks, and accidents caused by free-roaming animals;
- protects public health through mechanisms for preventing the spread of zoonotic diseases, especially rabies;
- discourages the breeding of cats and dogs and encourage their spaying and neutering;
- ensures that every pet is traceable to its owner in order to foster responsible pet-owner accountability and increase the numbers of lost pets reunited with their owners;
- regulates all persons selling, boarding, displaying, harboring, or otherwise using animals;
- deals with the protection as well as the control of animals;

- treats dogs and cats as the primary concern, but also provide for the control and protection of other species;
- attempts to anticipate and provide remedies for animal-related problems likely to occur within the community;
- places penalties on irresponsible animal owners;
- includes strong implementation and enforcement procedures.

A public hearing was conducted on January 10, 2006 with approximately 100 citizens in attendance and 23 people signed up to speak. Many of the citizen recommendations were incorporated into the final version of the ordinance. The Animal Shelter Advisory Committee gave its final review and approval on February 7, 2006 followed by similar action by the Lubbock Board of Health on February 10, 2006.

The 37-page ordinance is divided into five major Articles with 41 Sections. Many of these sections are in the current ordinance and are receiving minor changes whereas other sections are entirely new.

#### SIGNIFICANT NEW CHANGES BY ARTICLE AND SECTION

##### Article 1—In General

- At-Large definition — Cats are not confined but must be identified, spayed, neutered, and properly vaccinated if running loose.
- Feral Cats — new definitions are now included.
- Dangerous Wild Animals — outlawed except for existing that are grand fathered.
- Section 4-7 Tethering of Animals — prohibits prolonged tethering unless properly fenced.
- Section 4-9 Defecation of Dogs on Public and Private Property — this is a new section prohibiting the defecation of dogs on public or private property and requires the dog owner to have materials in possession to immediately remove any excreta the dog may have deposited.
- Section 4-10 Unabated Nuisances — new section and new tool to address recurring animal related problems.
- Section 4-14 Number of Dogs and Cats at Residences / Multi-Pet Permit — This section places a limit on the number of adult dogs a single resident can possess at four and the number of adult cats at four. There is a provision to exceed that number by obtaining a multi-pet permit. These changes are being coordinated with the Zoning Board but there may be a slight period of conflict between adoption of the Animal Ordinance and adoption of zoning requirements.
- Section 4-15 Feral Cat Management — This is a new section dealing with managed feral cat colonies within the city limits. Considerable input was

received from concerned citizens to establish this section and have a managed feral cat program.

#### Article II-Rabies and Zoonosis Control

- Section 4-20 Identification/Registration Tag and/or Microchip Required — This re-establishes the registration tag program for cats and dogs. Microchipping is new technology that is being addressed in the ordinance.
- Section 4-24 Animal Assistance Program — This is a new section to promote a sterilization program to eventually reduce the number of unwanted animals having to be euthanized on an annual basis. Only those fees generated from the registration tags would be directed into this new program.

#### Article III-Animal Establishments

- Section 4-30 Private Animal Sales

#### Article IV—Other Animals

- Section 4-33 Keeping of Dangerous Wild Animals — This section outlaws the keeping of dangerous wild animals. Exceptions include:
  - (1) if a person and his or her facility housing such dangerous wild animal(s) complies with all applicable federal, state, and local laws and regulations, including, but not limited to, the acquisition and retention of all applicable permits, prior to final adoption of this ordinance, said person may maintain dangerous wild animal(s) in the above-described facility in compliance with all federal, state and local laws, including, but not limited to Chapter 822 of the Texas Health and Safety Code, as amended;
  - (2) a governmental agency or entity acting in an official capacity;
  - (3) a government-operated zoological park;
  - (4) a permitted Wildlife Educational Center, animal exhibitions with valid state or federal permits; or
  - (5) a holder of an Animal Dealer or Animal Establishment with a Wild Animal permit. The possessor of the Dangerous Wild Animal shall have all applicable state and/or federal permits to possess the species in question.

#### Article V—Fees

- Section 4-40 Fees for Registrations — Several new fees have been proposed and several others adjusted. Revenue from the dog and cat fee registration will be used in an animal population control fund to promote sterilization of animals. A rabies quarantine fee will be implemented to address 10 day quarantine periods for biting animals. Adoption fees have been standardized. A non-resident fee is established.

**FISCAL IMPACT**

Total annual revenue is expected to increase by \$100,000. Approximately \$60,000 of this revenue is attributed to registration fees and re-establishing that program.

The Lubbock Health Board, Animal Shelter Advisory Committee, Health Department and Animal Services staff recommended approval of the second reading of this ordinance.

Council Member Gilbreath recognized Dr. Ted Hartman, who is the new Chairman of the Board of Health.

Tommy Camden, Health Director, gave comments and answered questions from Council.

Motion was made by Council Member Gilbreath, seconded by Mayor Pro Tem Martin to pass on second and final reading Ordinance No. 2006-O0025 with amendments to the language in Section 4-18(b) and 4-33(a)(1). Motion carried: 7 Ayes, 0 Nays.

**5.11. Contract Resolution - Community Development: Resolution No. 2006-R0113 authorizing and directing the Mayor to execute for and on behalf of the City of Lubbock a Community Development Funding Contract and all related documents between the City of Lubbock and the South Plains Association of Governments to fund 2-1-1 Information and Referral Program.**

Grantee: South Plains Association of Governments

Program: 2-1-1 Information and Referral Program

Funding Source: 2006 Community Services Block Grant through Texas Department of Housing and Community Affairs

Use of Funds: The funds will be used to conduct information and referral services for Lubbock County residents and for the production and update of the information and referral guide.

Amount: \$63,800

Match: None

Return of Investment: None.

Terms: March 8, 2006 through December 31, 2006

Comments: Funding for this Contract was approved by the Community Development and Services Board during their regularly scheduled meeting held on February 8, 2006 in response to directive provided by City Council during their meeting held on January 31, 2006. SPAG's policy regarding "Pregnancy Counseling/Abortion Referrals" is attached for your review.

### **FISCAL IMPACT**

State funds will be used from the Community Services Block Grant. The maximum to be allocated to this project is \$63,800.

Staff recommended approval of this resolution.

Nancy Haney, Executive Director of Community Development, gave comments and answered questions from Council. She explained to Council that the policy statement from SPAG states that they do not make abortion referrals or refer individuals to the telephone book. Community Development staff would also go out and routinely check the 2-1-1 system and specifically check to make sure SPAG is in compliance with this policy. Community Development will have documentation in their office to that effect, any time Council wants to look at it.

Mayor Pro Tem Martin read the exact language of his motion that was made before the SPAG Board, which said, "It was the policy of the South Plains Association of Governments that the Information Referral Specialist shall make no referrals to any agency that advocates abortion or any agency that funds or provides abortion as a method of birth control." This was adopted by the SPAG Board in January 2005.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Price to pass Resolution No. 2006-R0113 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**5.12. Contract Resolution - Storm Water: Resolution No. 2006-R0114 authorizing the Mayor to execute a contract between the City of Lubbock and Parkhill, Smith and Cooper, Inc. for the feasibility and planning study associated with the Master Drainage Plan Update for Maxey Park and Northwest Lubbock Drainage Planning Area.**

The results of the Maxey Park Feasibility Study for upsizing the storm sewer from Maxey Park to Tech Terrace Park were presented at the January 13, 2005 City Council meeting. The study results illustrated that there was no good alternative that would improve the flood risk at Maxey Park without increasing the flood risk at Tech Terrace Park. During this presentation, staff recommended additional study with other options for Maxey Park. City Council instructed Staff to proceed with the additional alternatives and to take a look at drainage on the Northwest part of the City and how all of the storm water could possibly be tied in for future use as a water resource.

Staff has been negotiating a contract for this work for some time due to the variety of studies that are being combined into this one contract and because of other high priority projects. This contract includes three sub-projects including Maxey Park Feasibility Study, Quaker Avenue from 34th Street to 50th Street Feasibility Study, and the Master Drainage Plan Update and Extension for the Northwest part of the city.

The Maxey Park Feasibility Study includes a look at upstream detention at playa lake #42 and a separate outfall line as possibilities for reducing flood

risks around Maxey Park. This study will include monitor wells at playa lake #42 to determine groundwater depths and types of material. The separate outfall line to east or north will be looked at to determine feasibility of routing, flood risk protection and probable costs of each alternative.

Quaker Avenue from 34th to 50th Streets has flooded several times over the years even though it is not shown on the FEMA flood maps. The study will attempt another look at the possibility of either a center channel or side channels to reduce the depth of water running down Quaker Avenue in heavy storm events. The feasibility of each alternative will be reviewed and probable costs will be determined.

The Northwest Master Drainage Plan update will include updating the current Master Drainage Plan for playa systems A, B, and C. It will also look at portions of the ETJ that extend north to the Clovis Highway and west to FM 179. These areas have not yet been studied by the City and this will give City staff and developers needed information for developments proposed in the future for the northwest side of the city.

The contract also includes one public meeting and three City Council presentations on the findings of the studies. The total amount of the contract is a not to exceed amount of \$799,653. The contract includes estimated completion by June 2007.

#### **FISCAL IMPACT**

\$800,000 was appropriated in the Northwest Lubbock Master Plan and Maxey Park Study, Project 91050, FY 2005-06 capital projects budget.

Staff recommended approval of this resolution.

Marsha Reed, Civil Engineer, gave comments and answered questions from Council. Council Member Boren asked Ms. Reed to keep Council posted on how the plan and study develops.

Mayor Pro Tem Martin brought it to Council's attention that on February 24, 2006, the Lubbock Engineers Association recognized Marsha Reed as the Engineer of the Year in Lubbock.

Motion was made by Council Member Price, seconded by Council Member Gilbreath to pass Resolution No. 2006-R0114 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**5.14. Contract Resolution - Street Drainage Engineering: Resolution No. 2006-R0115 authorizing the Mayor to execute a contract with Allen Butler Construction, Inc. for construction of paving and drainage improvements on 98th Street from Slide Road to Juneau Avenue - BID #05-150-BM.**

This project involves the reconstruction of an existing unstable utility ditch from Slide Road to Juneau Avenue, construction of a regional storm sewer to improve local drainage, construction of an extension to the South Lubbock Drainage System from Slide and Juneau, and construction of thoroughfare

paving improvements on 98th Street from Slide Road to Frankford Avenue. Asphalt strip paving from Frankford Avenue to Juneau Avenue is included in the project to provide all weather access to the new subdivisions being developed along that portion of 98th Street.

Allen Butler Construction Company, Inc. submitted the low bid of \$14,746,414. One other bidder, Granite Construction Company, submitted a bid of \$18,451,391. Both bids exceed the engineer's opinion of probable cost, which was \$12.2 million.

### **FISCAL IMPACT**

The funding for this contract in the amount of \$17,543,000 is available from three sources as follows:

1. 98th Street from Slide Road to Frankford Avenue 90093	\$6,643,000
2. South Lubbock Storm Sewer 90141	4,400,000
3. 98th Street Compaction Repair 91081	6,500,000

The City of Lubbock has had satisfactory experience with Alan Butler Construction related to new subdivision street paving construction and reconstruction of streets in the Overton Park redevelopment area. The City has also had satisfactory experience with the subcontractors listed in Allen Butler Construction Company's bid. The City has had satisfactory experience with Granite Construction Company related to construction of concrete street construction on Milwaukee Avenue from 34th Street to 92nd Street. Both contractors are considered to be capable of completing the construction project.

Staff recommended contract award to Allen Butler Construction Company, Inc. of Lubbock, Texas for \$14,746,414.

Larry Hertel, City Engineer, gave comments and answered questions from Council.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Price to pass Resolution No. 2006-R0115 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

Council Member Gilbreath recused himself.

## **6. REGULAR AGENDA**

- 6.1. Public Hearing - 10:00 AM - Zoning: Ordinance No. 2006-O0026 Zone Case No. 1811-E (8301 Indiana Avenue): Hold a public hearing to consider request of Bobby McQueen (Xstream Partners) for a zoning change from C-2 to C-3 limited to a drive through car wash and all unconditionally permitted C-2 uses on Lots 17-A and 18-A, Iris Gardens Addition.**

Mayor McDougal opened the public hearing at 10:35 a. m. No one appeared on behalf of Xstream Partners. No one appeared in opposition. Mayor McDougal closed the hearing at 10:35 a. m.

The request is to rezone the property, which is the site of the former Mickey's Steak House, from C-2 to C-3 with a limitation to a car wash.

Adjacent land uses:

N – commercial

S – church

E – commercial

W – split between commercial and residential

The request is consistent with the Comprehensive Land Use Plan in that it is within the 660-foot area at the corner of two major thoroughfares. With the proposed layout of the facility (the dryers will be located toward the east, which is existing commercial, vacant property owned by the seller of this parcel), the proposal is consistent with zoning policy.

The proposal should have no effect on the thoroughfare system since the property has been used as commercial for years. One condition is noted below that relates to curb cuts on Indiana and is consistent with the proposed site plan proposed for the redevelopment.

The Planning Commission recommended the request with three conditions:

1. The parcel shall be zoned C-3 limited to a car wash and all permitted C-2 uses.
2. During redevelopment of the property, curb cuts to Indiana will be limited to one.
3. The dryers of the tunnel shall be oriented toward the east.

#### **FISCAL IMPACT**

No impact.

Staff is in agreement with the recommendation of the Planning Commission.

Motion was made by Council Member Price, seconded by Council Member Jones to pass on first reading Ordinance No. 2006-O0026 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

Mayor Pro Tem Martin was away from the dais.

**6.2. Public Hearing - 10:00 AM - Zoning: Ordinance No. 2006-O0027 Zone Case No. 2126-F (53rd Street and Chicago Avenue): Hold a public hearing to consider request of Hugo Reed and Associates, Inc. (for Lubbock Apartment Association) for zoning change from CA to GO on 2.7 acres of unplatted land out of Section 28, Block E-2.**

Mayor McDougal opened the public hearing at 10:35 a. m. No one appeared on behalf of Lubbock Apartment Association. No one appeared in opposition. Mayor McDougal closed the hearing at 10:35 a. m.

The request is to downzone a portion of a larger lot that is now CA (Commercial Apartment) to Garden Office. The Lubbock Apartment Association intends to locate their office on the property.

Adjacent property:

N – apartments

S – vacant

E - apartments

W – apartments

The proposal is consistent with both the Comprehensive Land Use Plan and zoning policy. The project will have no effect on the thoroughfare system.

#### **FISCAL IMPACT**

No impact.

The staff supports the recommendation of the Planning Commission.

Motion was made by Council Member Price, seconded by Council Member Jones to pass on first reading Ordinance No. 2006-O0027 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

Mayor Pro Tem Martin was away from the dais.

**6.3. Public Hearing - 10:00 AM - Zoning: Zone Case No. 1357-A (East Kent to East Ursuline, I-27 to MLK): Ordinance No. 2006-O0028 Hold a public hearing to consider the request of Lubbock Economic Development Alliance for a zoning change from R-1 and M-1 to Industrial Park (IDP) on 586.097 acres of unplatted land out of Section 7, Block A.**

Mayor McDougal opened the public hearing at 10:35 a. m. No one appeared on behalf of Lubbock Economic Development Alliance. No one appeared in opposition. Mayor McDougal closed the hearing at 10:35 a. m.

The applicant is requesting that the majority of the square mile between Ursuline, Kent, MLK and Interstate 27 be zoned for an industrial park. The applicant is Lubbock Economic Development Alliance (LEDA).

Adjacent land uses:

N – residential, targeted as IDP

S – residential

E – mostly vacant, and a mixture of nonconforming commercial and residential, targeted as IDP

W – I-27

The square mile has been targeted as IDP since 1975 on the Comprehensive Land Use Plan. The small neighborhood north of the requested zone case, which is sparsely developed as residential, is targeted over the long range as an industrial park. The neighborhood was annexed prior to the adoption of the current Comprehensive Land Use Plan, and there is no insinuation by the designation on the Plan that the residential will melt away, but the long-term designation is the result of adjacent land uses and particularly the location just south of the airport.

Beyond the fact that much of the industrial development in Lubbock has been to the North and Southeast, one reason for the industrial status is the location of the Airport and the orientation of the north/south runway. If a plane happens to land short, or flames out and goes down just after take-off, the theory in land use is that an industrial area is better than a residential area.

Because of the aircraft noise and potential danger, the entire area around the airport that is in the City is targeted as heavy commercial or industrial due to the influence of the aircraft and airport related activities.

Several adjacent owners have indicated in written returns a concern for diminished property value. The staff is not in agreement that will be the case due primarily to the existing conditions in the area. In addition, LEDA does not have an immediate prospect, so the build-out of the section will be long-term. Unless the resident lived in their home prior to 1975, the Comprehensive Plan has indicated "IDP" as the proposed land use and should not be a surprise. At least two adjacent residents were at the meeting, but no citizen spoke in opposition. The Planning staff had visited with several folks that received notice letters prior to the meeting.

The request complies with the Comprehensive Land Use Plan and future development will comply with IDP development standards. The best location in Lubbock that typifies IDP (although it is zoned M-1) is the former Texas Instruments campus. LEDA has the same objective for this area, that a quality, viable industrial park be available for development as prospects are generated.

The Planning and Zoning Commission recommended approval of the request with the following conditions:

1. A fifty foot setback for any structure shall be required for lots that are adjacent to Kent or Ursuline.
2. No screening fences adjacent to a street shall be required on the entire perimeter of the project. (Screening of outside storage is already a Code requirement in IDP).

Motion was made by Council Member Price, seconded by Council Member Jones to pass on first reading Ordinance No. 2006-O0028 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

Mayor Pro Tem Martin was away from the dais.

**6.4. Public Hearing - 10:00 AM - Zoning: Ordinance No. 2006-O0029 Zone Case No. 2519-D (6015 Spur 327): Hold a public hearing to consider the request of Parkhill, Smith & Cooper (for RCS Land Company, Inc.) for a zoning change C-4 to Interstate Highway Commercial (IHC) on 3.39 acres of unplatted land out of Section 36, Block AK.**

Mayor McDougal opened the public hearing at 10:35 a. m. No one appeared on behalf of RCS Land Company, Inc. No one appeared in opposition. Mayor McDougal closed the hearing at 10:35 a. m.

The applicant is requesting Interstate Commercial in a location surrounded primarily by IHC and C-4. The existing zoning is C-4, limited to new car sales. The zoning on this location is from a remnant zone case from when the area was just developing and patterns of adjacent land uses had yet to be established. Since that time, all of the area to the west between Spur 327 and 66th Street has been zoned IHC, and most of the land to the east is zoned C-4 with a list of uses that are not permitted. IHC does not allow billboards as a permitted use.

Adjacent land uses are commercial in all directions.

The request is compatible with the Comprehensive Land Use Plan, since Spur 327 is a regional highway and eligible for heavier commercial zoning. The applicant has been informed of what is allowed to be displayed outside in the IHC District. The project will not have an impact on the thoroughfare system.

#### **FISCAL IMPACT**

No impact.

Staff supports the recommendation of the Planning Commission.

Motion was made by Council Member Price, seconded by Council Member Jones to pass on first reading Ordinance No. 2006-O0029 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

Mayor Pro Tem Martin was away from the dais.

**6.5. Public Hearing - 10:00 AM - Zoning: Ordinance No. 2006-O0030 Hold a public hearing for changes to the Code of Ordinances, Section 29, regarding signs and electronic message signs.**

Mayor McDougal opened the public hearing at 10:36 a. m. No one appeared to speak in favor of changes to the Code of Ordinance, Section 29. Warren McNeill from Lubbock Christian University, Shirley Schleuse and Mike Webster with Lamar Advertising, Richard Whittenburg with City Bank, and Jimmy Reagan with Trinity Baptist Church appeared in opposition. Mayor McDougal closed the hearing at 10:45 a. m.

Over the last several years the Planning and Zoning Commission has held three work sessions and three public hearings on the topic of electronic message signs. The discussions have focused on the ability to use new technology (LED lights) to replace the old plastic letter reader boards, without creating a hazard to traffic. As was stated during one of the public hearings of the Planning and Zoning Commission, "one of these signs would be neat. However a whole mile of them changing at different times would definitely create a nuisance to traffic safety."

The primary reason for controlling electronic message signs can be found in the Purpose Statements (29-2) and the objectives of the City of Lubbock Zoning Code and the section of that code that controls signs (29-26).

The overall purpose of the City of Lubbock Zoning Code is to promote and protect the health, safety, comfort, convenience, prosperity and general welfare of the citizens of Lubbock. Purpose Statement 29-2(9) is a specific purpose stating: “to promote a safe, effective traffic circulation system.”

The overall purpose of the City of Lubbock Sign Code is to provide uniform sign standards which promote a positive city image reflecting order, harmony and pride and thereby strengthening the economic stability of Lubbock’s business, cultural and residential areas. Again, under the purpose section in 29-26 the following is stated:

- (1) To identify individual business, residential, and public uses without creating confusion, unsightliness, or visual obscurity of adjacent businesses.

The City of Lubbock Code does not outlaw signs with flashing, blinking or traveling lights. As a way of reducing the confusion these signs can create, and promote a safe traffic system, the City of Lubbock Code requires signs with flashing, blinking or traveling lights to be located at least 1,000 feet from a street intersection.

This section was not put in the sign code to specifically control electronic message signs. This section of the code was designed predominately to control flashing arrow signs, rotating beacons, emergency flashers and other types of signs with flashing or traveling lights. However, this section also controls the location of electronic message signs.

During their work sessions the Planning and Zoning Commission indicated they would like to hold a public hearing on an ordinance that allowed the utilization of the newer LED lighting technology of electronic message displays, and not discriminate against a businesses ability to have an electronic message display based on its proximity to an intersection. The Commission remains adamant about not allowing signs that create confusion, operate in an unsafe fashion, or detract from a positive city image.

With the sign code purpose statement as a guide, the Planning Commission adopted changes that:

- (1) Makes billboards with electronic message displays, operate in the same fashion as other electronic message display signs;
- (2) Eliminates rotating signs;
- (3) Outlines general provisions for “time and temperature signs” and their operation;
- (4) Outlines general provisions for “gasoline price signs” and their operation; and,
- (5) Defines “electronic message display signs” and their placement and operation.

The recommendation is that the sign be displayed with one message for one day, and that a change may be made between midnight and 6:00am.

A copy of the City of Lubbock Sign Code with the proposed changes that were unanimously approved by the Planning and Zoning Commission integrated into it and two DVD messages and public relations handbooks from companies that build, use or sell the electronic signs are provided.

The page numbers referenced in this memo correspond to the page numbers in the attached document where the proposed change appears:

Page 1

Sec. 29-3(14) changes the term “multi-prism” sign to the new term electronic message display. The definition of an electronic message display covers multi-prism signs and other types of changeable signs. This also adds the same operational controls to billboards with electronic message displays as with on premise signs with electronic message displays.

Sec. 29-3 (105h.1) is the proposed definition for an electronic message display. This definition is based on a sign that is electronically or mechanically changed in some form or fashion. This definition is not limited to the red LED signs but includes multi prism signs (where the message is changed by reorienting cards of contrasting color), LCD signs, LED signs, etc., any sign that is electronically or mechanically changed by remote or automatic means.

Page 3

Sec. 29-26(b)(12) separates time and temperature signs from other types of changeable signs. This section prohibits time and temperature signs from having other types of messages on them. This prevents a sign from alternating between time and temperature and a message. It’s either a time and temperature sign, or an electronic message display sign. A sign can’t be both a time and temperature sign, and an electronic message display sign.

Sec. 29-26(b)(13) does the same thing for gasoline price signs as (b)(12) does for time and temperature signs.

Sec. 29-26(c)(2) takes electronic message displays, time/temperature signs, and gasoline price signs out of the world of flashing, blinking, or traveling lights. However, it still requires other types of signs with flashing, blinking, or traveling lights to be at least 1,000 feet from any street intersection and have at least 43 feet of setback from any street right-of-way.

Page 5

Sec. 29-26(f)(1)(a) coordinates the nonconforming sign abatement section with the rest of the sign code.

Page 6

Sec. 29-26(f)(1)(j) gives electronic message display signs, time and temperature signs and gasoline price signs in newly annexed areas 6 months to

come into compliance with the City of Lubbock sign code. If this section were left out, the signs in a newly annexed area would have 6 ½ years to come into compliance with the operational requirements.

Page 8

Sec. 29-26 (h)(5)(b)(5) takes rotating freestanding signs out of the apartment, garden office and medical districts.

Page 11

Sec. 29-26 (i)(7)(b)(5) and Sec. 29-26(i)(8) takes rotating free-standing and rotating roof signs out of the commercial districts.

Page 12

Sec. 29-26(i)(10) Places operational requirements on all electronic message display signs. This includes freestanding signs, wall signs, canopy signs and any other types of signs that may include an electronic message display.

- (a) Controls the way the page/message is displayed on the sign. This section requires the page/message to be static with no movement or even the appearance of movement.
- (b) Limits each message to one page. This prevents, signs that kept your attention by only giving you a portion of the message. This technique keeps you looking at the sign in anticipate what the sign is going say next.
- (c) Requires the sign to change in the equivalent of a blink of the eye.
- (d) Based on the direction given to the staff by the Planning and Zoning Commission, several options pertaining to the minimum display time were prepared for their consideration.

Option 1, treats all lots, regardless of distance to a street intersection, the same.

”Each message/page on the sign must be displayed for a minimum of (to be discussed by Council) (minutes / hours).”

Option 2, still allows electronic message signs regardless of distance to a street intersection. However, it regulates the rate of change for signs at or near an intersection differently than signs away from an intersection. Option 2 also defines the type of intersection, and how the distance is to be measured.

”(i) Signs with electronic message displays which are located within (to be discussed by Council) (feet / tenth of a mile) of an intersecting street on the same side of the roadway, measured from the nearest portion of the sign to the center line of the intersecting street, must display each message/page on the sign for a minimum of (to be discussed by Council) (minutes / hours).

(ii) Signs with electronic message displays which are located greater than (to be discussed by Council) (feet / tenth of a mile) of an intersecting street on the same side of the roadway, measured from the nearest portion of the sign to

the center line of the intersecting street, must display each message/page on the sign for a minimum of *(to be discussed by Council)* (minutes / hours).”

In both options staff did not make a recommendation pertaining to the length of time a message/page had to be displayed.

In option 2 staff did make a recommendation pertaining to the distance from an intersection for the different rates of change. Based on ease of measurement for the sign owners, sign contractors and the code enforcement officers, the Planning Staff proposed 1/10 of a mile to be a good distance that would be easy to measure.

The Planning and Zoning Commission chose option 1, requiring all lots, regardless of distance to an intersection, to display each message/page at least 24 hours. And requiring that the message change occur during the hours of midnight and six in the morning.

The Planning Commission saw this as an effective way to allow the use of electronic display signs as an alternative to plastic letters on a reader board without creating the confusion associated with flashing red lights up and down the street.

Page 13

Sec. 29-26(o)(10) adds the same operational controls on billboards with electronic message display signs as on premise electronic message display signs

### **FISCAL IMPACT**

No impact.

Staff supports the unanimous recommendation of the Planning and Zoning Commission for all the changes including the 24-hour change rate.

Bill Boone, Planner, gave comments and answered questions from Council.

Mayor McDougal suggested doing away with Section 29-26(b)(12), which prohibits time and temperature signs from having other types of messages on them.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Gilbreath to pass on first reading Ordinance No. 2006-00030 with the following amendments:

- eliminate Section 29-26(b)(12),
- allow a change time of ten (10) seconds,
- instruct the staff to make the language fit so that it is modeled after the City Bank sign (i.e. a free-standing sign, unique messages on each flash),
- bring the suggested language back for second reading,

- include a statement that says it is the intent of the Council that this ordinance is not to replace, override, or reduce the underlying sign ordinance of the City, which regulates free-standing fascia, setbacks, height, square footage, etc., so that we have some legislative intent built into the ordinance.

Motion carried: 7 Ayes, 0 Nays.

**6.6. This item was considered following Item 6.8.**

**6.7. Reallocation Resolution - Community Development: Resolution No. 2006-R0116 accepting the recommendations for the reallocation of unspent 2005 funds from the Community Development Block Grant (CDBG).**

That the City Council of the City of Lubbock hereby accepts the recommendations for the reallocation of unspent 2005 funds from the Community Development Block Grant (CDBG). The recommendations for the reallocation are attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

On January 11, 2006, the Community Development Services Board (CDSB) met to discuss the reallocation of \$471,952 in unspent 2005 CDBG funds. After reviewing the spending priorities as presented by Council, the Board voted unanimously to approve the funding recommendations as listed below. The City Council then held a Public Hearing to give the citizens of Lubbock the opportunity to voice their opinions on the proposed reallocation of funds. The Public Hearing was held on February 24, 2006.

Agency	Project	Amount
COL-CD Department	Sidewalks, Habitat for Humanity	\$ 10,000
YWCA of Lubbock	Sun 'n Fun Phase II	96,952
COL-CD Department	Street Paving, W. End Neighborhood	250,000
Inside Out Ministry	Facility Renovation	45,000
COL-CD Department	Emergency Repair Program	70,000
Total		\$471,952

**FISCAL IMPACT**

The funds used are federal funds from the Community Development Block Grant that include unspent monies from past projects and from program income generated by other Community Development projects. The maximum to be allocated for these projects is \$471,952.

Community Development Staff supports the Board's recommendations.

Motion was made by Council Member DeLeon, seconded by Council Member Jones to pass Resolution No. 2006-R0116 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

Mayor Pro Tem Martin recused himself.

**6.8. Participation Agreement Resolution – Water Utilities: Resolution No. 2006-R0117 authorizing the Mayor to execute a resolution authorizing the City of Lubbock's (1) participation in the amount of project construction costs for the Canadian River Municipal Water Authority; and (2) the approval of and execution by the Mayor of the City of Lubbock of an amendment to the City's Conjunctive Use Groundwater Supply Agreement with the Canadian River Municipal Water Authority.**

The Canadian River Municipal Water Authority (CRMWA) is ready to move forward with their 2006 \$50 million bond issue for ground water right purchases and well field development projects. These purchases and projects are beneficial in the short range because they increase the annual volume of water that can be delivered by CRMWA from the Roberts County well field. They are also beneficial in the long range because they provide for a long-range water supply.

CRMWA has asked the City of Lubbock and the other 10 member cities to approve an agreement that authorizes the City of Lubbock to participate in the 2006 CRMWA Bond Issue. A resolution has been prepared for your consideration that authorizes the Mayor to execute the agreement.

CRMWA is progressing forward with their water right purchases and well field development plans and projects as a result of the 2005 Bond Issue. To date the following was reported at a February 1, 2006 meeting:

- CRMWA has purchased or contracted for \$55 million worth of additional water rights.
- CRMWA now has over 220,000 acres of water rights that are owned or under contract. This includes the original well field in Roberts County.
- CRMWA roughly estimates that it has 15 million acre feet of water that it owns or has under contract.
- CRMWA projects that the groundwater purchased could meet member city water needs for almost 100 years (various scenarios and assumptions).

In 1998 the Canadian Municipal River Authority (CRMWA) initiated an \$83 million well field project to supplement water supplies from Lake Meredith. The amount of water available from Lake Meredith has decreased due to drought and due to reservoirs in New Mexico that now capture almost all water flows from mountain watersheds. At present Lake Meredith is at 13.75% full. Lake Meredith reached its lowest point in 2004 at 11.98%. Water began to flow from the well field project in December of 2001. The well field is located in Roberts County, and is called the John C. Williams well field.

On December 15, 2004 the Panhandle Groundwater Conservation District adopted rules and regulations for the conservation of groundwater. These regulations adopted the 50/50 Standard, which means that water use will be restricted to ensure that 50% of the water will still be available in 50 years.

The new rules would restrict CRMWA's well field production unless additional water rights were purchased.

In April of 2005, CRMWA issued \$50 million in bonds for the purchase of additional water rights and for additional well field development. \$30 million was designated for the purchase of water rights and \$20 million for well field development. The opportunity for the purchase of water rights was excellent, and CRMWA has been able as of February 1, 2006 to sign contracts for about \$55 million worth of water rights.

With an estimated 15 million acre feet of water in place, CRMWA can meet the needs of member cities for about 90 to 100 years before the groundwater use restrictions would begin to impact the amount of water that can be produced. This also assumes a CRMWA II project in about 2050.

It is proposed now that CRMWA issue an additional \$50 million in bonds in 2006. These funds will be used to replenish \$20 million in the 2005 Bond issue so that the well field development can take place, and designate an additional \$30 million for water right purchases.

The 2006 CRMWA well field water allocation was 40,000 AF for all cities and 14,823 AF for Lubbock. When all necessary improvements are in place, CRMWA will be able to allocate about 69,000 AF from the well field for member cities, and Lubbock's share is estimated at 26,000 AF. In order for this to happen, the well field development project must be completed and the well field pump stations must be expanded to increase pumping capacity. Well field development limits production to 40,000 AF, pump station capacity limits production to 50,400 AF, and pipeline capacity limits production to 69,000 AF annually.

Completion of all necessary improvements will increase Lubbock's allocation from 14,823 AF to 26,000 AF. This amounts to an additional 11,180 AF annually from groundwater sources. The project will also allow Lubbock's daily allocation to increase from 13 mgd to 23 mgd from groundwater sources. The additional 11,180 AF annually and the additional 10 mgd will be a significant benefit during times of drought when Lake Meredith allocations are reduced.

At the February 24 City Council meeting, a resolution was approved which allowed the City of Lubbock to indicate its interest in participating in the 2006 Bond issue. That resolution indicated that the City would participate in the project, that the City would participate through the CRMWA bond issuance for the City's share of the funding and benefits (37.058%), and that the City of Lubbock would be interested in participating in any additional shares for the project due to the decision by other cities to not participate in the project.

The next step is to approve an agreement that enables the City of Lubbock to actually participate in the 2006 CRMWA Bond Issue and related projects. Staff hope to have the agreement, or Amendment #3 as it is called, attached for your consideration. Due to timing issues, staff may not have it for your

consideration until the meeting. If the actual document is not available for the meeting, a draft copy will be included. The only change will be the percent of participation by each member city.

The original groundwater agreement was approved in 1996 and is called "Agreement for the purchase and Acquisition of Conjunctive Use Groundwater Supply." This original agreement has been amended as additional and new projects have been approved. The first amendment came in 1999 and is related to the original well field project, the second amendment came in 2005 and is related to the 2005 CRMWA Bond Issue, and the third amendment will now be considered and is related to the 2006 CRMWA Bond Issue. The proposed amendment #3 will require a unanimous vote of the CRMWA Board for approval.

### **FISCAL IMPACT**

Lubbock's share in the well field project, based on the most recent indication of cities to participate or not, is about 38%. This percent of participation may change once all cities have made a final decision on their level of participation. Lubbock's annual debt service, based upon a 4.75% interest rate and a \$51 million issue amount is estimated to be about \$1.51 million. This may require a 3.8% increase in revenues to finance Lubbock's portion of the project. The debt service for the 2005 CRMWA Bond Issue is approximately \$1.46 million annually for 20 years.

CRMWA anticipates that a surety bond will be obtained for the 2006 Bond Issue. If for some reason this is not possible, additional funding of about \$4 million would be necessary for a debt service reserve, and Lubbock would bear its proportionate share. These debt service reserve funds plus any interest earnings would be used by CRMWA to make pay debt service payments as the debt service reserve requirements are met thereby reducing some future debt service payments.

The Lubbock Water Advisory Commission and staff recommended approval of the resolution for the agreement and full participation in the 2006 CRMWA Bond Issue and related projects.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass Resolution No. 2006-R0117 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.6. Public Street Resolution - Right-of-Way: Resolution No. 2006-R0118 establishing the intent of the City Council to accept the dedication of a private street, Tract "A" of Tivoli Estates Addition, as a public street.**

The developer of Tivoli Estates Addition, Dr. Jewell Davis, is requesting that the private street originally included in this subdivision be dedicated as a public street.

This subdivision was originally platted in 2003 and was initially planned to be a gated subdivision. There are no public streets within the interior of this subdivision. Tract "A" was platted as an access easement.

The developer furnished the staff with some passing test reports on subgrade and base density tests, and reports indicating that the asphalt surface thickness exceeded minimum thickness in places. There were some concrete test reports indicating passing results on the alleys and the 110th Street approach.

There were no test reports submitted on subgrade Atterberg Limits, asphalt surface mix design, gradation, asphalt content, or percent compaction.

The private street appears to be in good condition.

The following items do not meet City standards:

- Medians: There are four medians within this private street. By Code, medians in streets require Council approval. These medians have turf, irrigation, decorative lights, ground level lighting, a fountain, trees, and an arch extending over the entry private street.
- Curb and Gutter: These private streets have a roll curb with a small vertical rise for the curb (estimated at 2.5" or less). However, the City Council will be considering a change in the standards to allow a roll curb, but the roll curb being considered has a slightly larger vertical rise.
- Private Street Width: Currently, the minimum right-of-way (ROW) width allowed by the Code is 48', with a minimum paving width of 32'. The entry street (one half block in length) immediately south of 110th Street is 43' wide (Tract width), with a paved width of 26'. The other private streets have total tract widths of 58' and 66', with a paved width of 16' on either side of the medians.

Most of the City Council members were briefed on this private street dedication request in December 2005.

### **FISCAL IMPACT**

Assuming a seal coat is applied approximately every 10 years, the annual cost of maintaining the asphalt paving would be about \$500. The turf, irrigation, lighting, fountains, etc. within the medians will remain under private ownership and private maintenance responsibility.

The Street/Drainage Engineering Staff recommended that these private streets not be accepted as public streets. However, should the Council determine it is in the best interest of the City to accept these streets as public streets, the staff recommended the Developer provide the following dedication requirements:

- The re-platting of Tract "A" to indicate the portion to be dedicated as a public street, and the median/islands that will remain under private ownership.
- Metes and bounds descriptions at no charge, and Street Use Licenses of all electric lines, water lines, or other private encroachments that cross this new dedicated public ROW to serve the privately owned medians/islands.

- Documentation of the description of who will own the median/islands within this new/dedicated public street, how these medians will be maintained, and the funding mechanism established for the ongoing maintenance needs.

Steve Hailey, Fire Chief; Larry Hertel, City Engineer; and, Randy Henson, Senior Planner, all gave comments and answered questions from Council.

Motion was made by Council Member Gilbreath, seconded by Council Member Boren to pass Resolution No. 2006-R0118 as recommended by staff. Motion carried: 4 Ayes, 2 Nays. Council Members DeLeon and Price voted Nay.

Mayor McDougal recused himself.

**6.9. Budget Ordinance 1st Reading - Finance: Ordinance No. 2006-O0031 amendment #12 amending the FY 2005-06 budget respecting the General Fund, Donations Fund, and Capital Improvement Program.**

The City Council approved the City's participation in the Junior Ambassador Program through the Approved FY 2005-06 Budget on September 8, 2005 (Ordinance 2005-O0106); however no funding was identified at that time. The projected budget for this program is \$28,750. Lubbock Independent School District will contribute \$5,000 to this program, leaving a funding requirement of \$23,750 for program implementation. A transfer of \$23,750 from the General Fund Balance to the Donations Fund will finance the Junior Ambassador Program for 2006.

A transfer of \$25,600 from Capital Improvement Project #90096 - Dip Reconstruction to a new Capital Improvement Project in the Streets Capital Projects Fund is needed for the City's participation in the construction of a concrete railroad crossing at Avenue U and the BNSF Railroad, located just north of Clovis Road. BNSF will be performing work at this location, and with the City's participation in the cost of one-third of a new concrete crossing, the Railroad will install the new crossing.

Motion was made by Council Member Gilbreath, seconded by Council Member Jones to pass on first reading Ordinance No. 2006-O0031 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.10. Budget Ordinance 1st Reading - Finance: Ordinance No. 2006-O0032 amendment #13 amending the FY 2005-06 budget respecting the Capital Improvement Program.**

Establish a new Capital Improvement Project and appropriate \$250,000 of Certificates of Obligation for the construction of a second cemetery entrance off of Canyon Lakes Drive.

A proposal to move the existing cemetery entrance to a location off of Canyon Lakes Drive was previously considered by the Parks and Recreation Board. At that time, the Parks and Recreation Board asked City staff to visit with adjacent neighborhood associations and obtain their input regarding the

proposal to move the cemetery entrance. Quincy White, Assistant City Manager; Randy Truesdell, Director of Civic Services; and Bob Goodwin, Cemetery Supervisor attended these neighborhood meetings. Council member Floyd Price also attended the final neighborhood meeting.

At the April 26th, 2005 Parks and Recreation Board Meeting, the Dunbar Manhattan Heights, Cherry Point, and Chatman Hill neighborhood associations, expressed their opposition to the proposal to move the cemetery entrance. The neighborhood associations' opposition was primarily based on their concerns about traffic safety on Martin Luther King Boulevard, traffic safety and a disruption of recreational and community activities on Canyon Lakes Drive, as well as a concern about negative remarks made about the housing conditions within the neighborhood.

At the May 24, 2005 Parks and Recreation Board meeting, the Board again heard input on the proposal and voted to support a staff recommendation to keep the cemetery's entrance at its current location. This recommendation was forwarded to the City Council, who has taken no subsequent action on the initial proposal.

The new proposal keeps the current entrance of the cemetery in place and proposes to build a second cemetery entrance off of Canyon Lakes Drive. The estimated cost of construction includes the need for demolition, landscaping, fencing, curb and gutter, retainage wall, new roadway, widening of existing roadway, a new cemetery entrance sign, and as well as architect and engineering fees. Neighborhood associations in proximity to the cemetery have been made aware of the new proposal to construct a second entrance.

#### **FISCAL IMPACT**

"Probable Cost of Construction" submitted by Cox/Dirks Architect, P.C. on February 25, 2005, estimated the cost of construction to be \$216,053. Street Engineering has subsequently indicated that the cost of road construction materials has increased over the past year and estimates an additional \$15,000 in roadway costs, based on these increases and the overall inflation in the cost of materials the new project estimate is \$250,000.

Motion was made by Council Member Gilbreath, seconded by Council Member Jones to pass on first reading Ordinance No. 2006-O0032 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**11:47 A. M. CITY COUNCIL RECESSED TO EXECUTIVE SESSION**

**1:00 P. M. CITY COUNCIL RECONVENED**

- 6.11. Option Agreement Resolution - Water Utilities: Resolution No. 2006-R0119 authorizing the Mayor to execute an option agreement to Cone & Petree Oil and Gas Exploration, Inc. to purchase an oil and gas lease from the City, covering 480 acres of land, more or less, being the east one-half (E/2) and the northwest quarter (NW/4) of Section 14, Block I, Certificate 360, Abstract No. 742, Lubbock County, Texas, and further authorizing the Mayor to execute all related documents thereto, including without limitation, the oil and gas lease attached as Exhibit A, upon the exercise by Cone & Petree Oil and Gas Exploration, Inc., of the option granted herein.**

The sole purpose of this agreement is to grant an option (six-month term) to Cone & Petree to enter into an oil and gas lease to explore, drill, operate for, and produce oil, liquid hydrocarbons, gas, and other respective constituent products. The oil and gas lease, if the option is exercised, allows Cone & Petree to lay pipelines, store oil, build tanks (but not tank farms), roads, and other structures necessary to produce, save, care for, treat, store, and transport said products from the specific tracts of land that are a part of the Lubbock Land Application Site, which is estimated to contain 480 acres.

The Lessee is limited to the use, without the consent of the City, of 5 acres or less, which pursuant to Section 191.0525 of the Texas Natural Resources Code and telephonic communications with the Texas Historical Commission (THC) will not require prior notification of activities to the THC.

This Agreement is in replacement of the Option Agreement (Resolution No. 2005-R0440) entered into on September 21, 2005, which expires on March 21, 2006. This option agreement is necessary due to the delay in obtaining an opinion from the Attorney General respecting the authority of municipalities to lease mineral lands owned by them.

#### **FISCAL IMPACT**

Revenues under the oil and gas lease (if the option is exercised) are based on a 25% royalty on oil and gas plus a \$100 per net mineral acre bonus.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Gilbreath to pass Resolution No. 2006-R0119 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

- 5.15. Contract Resolution – Aviation: Resolution No. 2006-R0120 for airport terminal parking lot renovation - BID #06-008-BM.**

This project involves the reconstruction of the public parking lot at the airport. The parking lot will be resurfaced, re-stripped, and re-configured for easier access and exit. New gates and signage will also be added for improved traffic flow.

Time for completion of this project is 150 calendar days and various liquidated damages are listed in the contract for different phases of the project. Sixty local contractors were notified of this Invitation to Bid and none responded.

### **FISCAL IMPACT**

A total of \$4,425,000 was appropriated with \$4,367,985 available in project 253.90403, Terminal Parking Lot Improvements.

Airport Staff and the Airport Advisory Board recommended contract award to Duinick Bros., Inc. of Roanoke, Texas for \$3,865,021.

James Loomis, Director of Aviation; Lee Ann Dumbauld, City Manager; and, John Hamilton, Engineer with Parkhill, Smith, and Cooper, gave comments and answered questions from Council.

Consensus from Council was to have the parking lot at the airport paved with concrete, rather than asphalt. Council asked City Manager Dumbauld to research options for finding funds to pave the parking lot with concrete instead of asphalt, and to bring options to them after lunch.

After Council reconvened at 1:00 p.m., City Manager Dumbauld stated that she took the September 30, 2005 financial statements and did a cash flow analysis, which revealed that the airport has positive cash balance of \$1.8 million, which is a lot like General Fund fund balance. This positive balance will allow the use of \$100,000 in 2007 and \$100,000 in 2008 in order to fund the total project, which includes putting in the concrete in lieu of the asphalt. Approximately 15% of revenues will remain in cash, which is a good target for the airport to maintain.

Motion was made by Council Member Price, seconded by Council Member Jones to pass Resolution No. 2006-R0120 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

## **7. WORK SESSION**

- 7.1. Presentation - Lubbock Economic Development Alliance: Presentation by David Alderson regarding Lubbock Economic Development Alliance office relocation (60 minutes).**

**This item was deleted.**

### **1:07 P. M. COUNCIL ADJOURNED**

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