

**CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
JULY 12, 2007
7:30 A. M.**

The City Council of the City of Lubbock, Texas met in regular session on the 12th day of July, 2007, in the City Council Chambers, first floor, City Hall, 1625 13th Street, Lubbock, Texas at 7:30 A. M.

7:30 A.M. CITY COUNCIL CONVENED
City Council Chambers, 1625 13th Street, Lubbock, Texas

Present: Mayor David A. Miller, Mayor Pro Tem Jim Gilbreath, Council Member Todd R. Klein, Council Member Linda DeLeon, Council Member John Leonard, Council Member Floyd Price

Absent: Council Member Phyllis Jones

1. CITIZEN COMMENTS

Citizens who expressed comments to Council were:

- Rob Meyer addressed Council and gave reasons why he is in support of a Visitors Center.
- Benny Brito, Lynda McBride, Ana Villalobos, and Michael Sulaica addressed Council and shared their reasons for supporting the proposed name change of Canyon Lakes Drive to Cesar E. Chavez Drive.

2. EXECUTIVE SESSION

Mayor Miller 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; and competitive matters of the public power utility, as provided by Subchapter D of Chapter 551 of the Government Code, the Open Meetings Law."

7:48 A. M. CITY COUNCIL RECESSED TO EXECUTIVE SESSION
City Council Conference Room

All council members were present, except Council Member Jones.

- 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 (City Council Staff, Finance, Police, Right-of-Way, Solid Waste, Water Utilities).**

- 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 (Auditorium Coliseum, Right-of-Way, Solid Waste, Water Utilities).
- 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, City Council Chief of Staff) 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 551.074(a)(1), to discuss personnel matters regarding duties, responsibilities, and/or appointments to the Building Board of Appeals, the Junked Vehicle Compliance Board, and the Permit & License Appeal Board.

9:40 A.M. CITY COUNCIL REGULAR MEETING RECONVENED
City Council Chambers

Present: Mayor David A. Miller; Mayor Pro Tem Jim Gilbreath; Council Member Todd R. Klein; Council Member Linda DeLeon; Council Member John Leonard; Council Member Floyd Price; Lee Ann Dumbauld, City Manager; Anita Burgess, City Attorney; and Rebecca Garza, City Secretary

Absent: Council Member Phyllis Jones

Mayor Miller reconvened the meeting at 9:40 A. M.

3. PROCLAMATIONS AND PRESENTATIONS

- 3.1. Invocation by Pastor Paul Lively, Bellaire 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.

4. MINUTES

4.1. Approval of Prior Meeting Minutes: Regular City Council Meeting, May 24, 2007; Special City Council Meeting, May 24, 2007; Special City Council Meeting, June 1, 2007; Regular City Council Meeting, June 14, 2007

Motion was made by Council Member DeLeon, seconded by Council Member Price to approve the minutes of the Regular City Council Meeting of May 24, 2007; Special City Council meeting of May 24, 2007, Special City Council Meeting of June 1, 2007; and Regular City Council Meeting of June 14, 2007, as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

5. CONSENT AGENDA (Items 5.1-5.10, 5.14-5.33)

Motion was made by Council Member DeLeon, seconded by Council Member Price to approve Items 5.1-5.10, 5.14-5.33 on consent agenda as recommended by staff. Motion carried: 6 Ayes, 0 Nays, except Item 5.24 – motion carried: 5 Ayes, 0 Nays. Mayor Pro Tem Gilbreath recused himself.

5.1. Ordinance Amendment 2nd Reading - Zoning: Ordinance No. 2007-O0060 Zone Case No. 2072-A (2123 15th Street) Consider request of ADC Architects Developers Contractors (for Alberto Chavez) for a zoning change from A-2 limited to a church and church related uses to A-1 Specific Use (for apartments with reduced parking) on Lot 12, Block 52, Overton Addition.

The City Council held a public hearing and considered this ordinance amendment, first reading, April 26, 2007. In the week prior to the public hearing, amended information concerning the number of units on the second floor (six versus five) and an amended number of units proposed on the ground floor (four one bedroom units versus three two bedroom and one single bedroom unit on the ground floor) was provided to staff and included in the discussion with City Council.

City Council was concerned that there was no discussion of the changes occurred during the Planning Commission review of the case. In addition, public testimony of activities at the facility were not described to the Planning Commission, and the applicant or his agent was not present to address questions and issues. The applicant obtained the assistance of a local real estate agent the day before the Planning Commission hearing. The agent made a compelling but unacceptable proposal (for the neighbors) that the ground floor be allowed to remain as an open space for social functions, or a coin operated laundry, and to not reinstate the curb line and landscaping along Avenue V as noted in the recommendations of the Planning Commission below.

Staff “started from scratch” with regard to comments and recommendations for the case.

Presented in the first case, background for this property was speculated as possibly a “mom and pop” grocery store or some other small business on the

first floor and apartments on the second floor prior to the current zoning ordinance that was adopted in 1975. Since then, the original use has been determined as a structure with six upstairs apartments, with the ground floor being primarily a laundry for the residents and the public, as well as a small area where a pool table was located.

In 1976, the First Baptist Church purchased the building and requested zoning that would allow the ground floor as extended church activity area (Sunday school and other church gatherings), and the apartments were either rented or used in some capacity for the church.

Several months ago, the applicant requested Zoning Board of Adjustment approval to expand a nonconforming use to allow conversion of the bottom floor into three two-bedroom and one single-bedroom apartments. As staff researched the case the need for the request to be a zone case versus a ZBA request became clear as the bottom floor has never been used for apartments and the current zone case ties the property to the church and church related uses.

Adjacent land uses:

N – a small business now zoned C-1

S – residential

E – residential

W – vacant, zoned residential

The structure has been at this location for years. While the Comprehensive Land Use Plan indicates “single family residential” for this vicinity of Overton South, a number of parcels were zoned for apartments that exist in the area, as well as one Apartment Medical (AM) office and several commercial parcels.

In the case of the current building, with the change of zoning for church and church related use in 1976, the ability to claim the apartments as nonconforming apartments for rent to the general public was dissolved. If approved as “residential”, although A-1 is a higher density than R-1, it is staff's opinion that a minor amendment to the Comprehensive Land Use Plan will not be necessary.

The first hearing before the Planning Commission was delayed due to the absence of the owner and the inability of the representative to accurately represent exactly what is being proposed. The applicant also started renovation of the second story units with no building permit. Their opinion was that the work did not meet the level of needing a permit. With the first delay, the Planning Commission requested the applicant to acquire an investigative permit from Building Inspection. They did that, and the inspection revealed a host of issues that should have been completed under a construction permit and subject to inspections for compliance.

The inspection report from Building Inspection and the Fire Marshall's report are provided in agenda backup.

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Even before the lack of communication, permits, and attendance by the owner, one aspect of the zone case not clear in the original filing is related to the number of parking spaces available. The parcel has 15 “head in” 90-degree parking spaces from both adjacent streets. As the neighborhood has indicated in discussion with staff since the City Council meeting, 12 of the spaces are “head in” from Avenue V and are the result of someone breaking off the curb to allow parking. The result created two violations of City law – the first is parking across the sidewalk and parkway (the area between the original curb and sidewalk) and the fact that parking for apartments is supposed to be located entirely on the parcel with no backing into the adjacent street. When that process (breaking the curb) happened is not known, but the length of time does not alter the fact that it is not legal. The apartments were constructed prior to the date that the zoning code required any on-site parking.

A discussion between staff and some neighborhood residents creates a proposal significantly different from the stated objective of the applicant. As noted, it is verified that when the complex was constructed the side along Avenue V was landscaped with a sidewalk in place and no curb cuts. The actual parcel has only the three spaces on 15th Street that are semi-legal in that they are on-site but still back into the street. A list of conditions noted as recommendations below will illustrate what staff and at least most of the adjacent property owners indicate will allow an appropriate measure of use by the owner and not be a “step back” for the neighborhood as quoted by one Council member. The case will continue to need to be titled as Specific Use because the six one-bedroom units would normally require eleven spaces (nine for the apartments and two for guests). The final result will be short eight spaces.

Reconstruction of the adjacent curb on Avenue V will provide at least six spaces on street spaces that are not usually considered in a zone case but that are the preference of the neighborhood. Also, the neighbors are adamant that the numbers of units or bedrooms not be increased. The recommended conditions will speak to that issue. Many of the apartments in Overton were built before a zoning ordinance even existed, this particular unit was constructed during several “lax” years during the 1960s and 1970s. As noted in the last two hearings, the dilemma for the owners of this property and the City is to either have a change of zoning that will allow use of the building, or the building will remain vacant and subject to vandalism until it is referred to the Substandard Housing Commission and an order issued that it must be brought into compliance or torn down.

Approval of the request with the amended conditions should not have a significant impact on the area. This entire area is subject to congestion because of a significant number of accessory units, Texas Tech off-campus parking, and Lubbock High School to some extent.

The Planning and Zoning commission, after a lengthy discussion and some difference of opinion on which options to recommended to City Council, submits the following as a positive recommendation that has the support of at

least a majority of the neighborhood (the immediate neighbor to the east actually supported the additional units and expressed appreciation to the improvements made to the property by the new owner):

1. All of the units on the second floor shall meet a level of the construction and fire codes as determined acceptable by the Building Official and Fire Marshall.
2. The bottom floor shall be used only in the following manner: The area may be partitioned with a door installed in each partitioned space as storage for the unit above.
3. The exterior of the building be either painted and/or enhanced with regard to appearance.
4. The curb on Avenue V shall be replaced, the parkway and private portion of the parcel adjacent to Avenue V shall be landscaped, and the sidewalk shall be approved by the Building Official as acceptable or repaired to an acceptable condition.

FISCAL IMPACT

No fiscal impact.

Staff supports the recommendation of the Planning and Zoning Commission and recommended approval.

5.2. Ordinance Amendment 2nd Reading - Zoning: Ordinance No. 2007-O0061 Zone Case No. 2499-A (2411 20th Street) Consider request of Robin Sittre for zoning change from R-2 to AM on Lot 6, Block 2, Ellwood Place.

The applicant originally filled out the wrong form for the Zoning Board of Adjustment and the staff corrected the application as a zone case. Zoning required for a daycare with more than six children requires Apartment (A-2), Apartment Medical (AM) or commercial zoning.

Adjacent land uses:

N – commercial

S – residential

E – residential

W – office development

This block face is currently subject to a policy for conversion to offices within the Comprehensive Land Use Plan. Before development of the bank building and restaurants between 19th Street and 20th Street, the full block face was developed as upscale single family dwellings. While the original trend on the block was for offices, childcare is a permitted use in the AM District. The offices on the block are zoned AM limited to offices since the requests were made before the development of the Garden Office District. A number of homes remain on the block and will not be rezoned as a matter of policy until requested by the owner; presumably their appraisal is not affected until the

land is actually rezoned. As a matter of policy, the request is consistent with the Comprehensive Land Use Plan.

The applicant will be expected to meet the requirements for parking and building code issues for childcare occupancy with the exceptions that a circle drive is normally dictated, the width of the parcel will not allow construction of that requirement. The building will be part of an existing childcare operation across the street in the commercial area.

The project will have no impact on the thoroughfare system.

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

1. An attempt for appropriate on site parking shall be made, and the normally required circle drive will not be a requirement.
2. Should the business that is north of 20th Street that is the primary facility for the daycare be abandoned as a daycare facility, this structure will be required to submit a new zone case with site plan to prove up as a free standing facility.

FISCAL IMPACT

No fiscal impact.

Staff supports the recommendation of the Planning and Zoning Commission and recommended approval.

5.3. Ordinance Amendment 2nd Reading - Zoning: Ordinance No. 2007-O0062 Zone Case No. 2658-I (3103 50th Street) Consider request of Hugo Reed and Associates, Inc. (for U-Stor of America) for a zoning change from A-2 to C-4 Specific Use (for mini-warehouses) and C-2 on a 3.5 acre portion of Tract E Boardwalk Addition.

The applicant is requesting new zoning for the site at 50th Street and Elgin Avenue behind W.D. Wilkins Furniture and Rosa's Restaurant. The east portion is requested as C-4 Specific Use to expand the current mini-warehouse project. The west portion is requested as C-2 to enable development with a light commercial use. A gate or entry to the mini warehouse project is indicated as a part of the site plan through the C-2 area. The entire block, except for the former Second Baptist Church, was the location of the former Monterey Shopping Center.

The applicant is requesting C-2 zoning from the west edge of the proposed mini-warehouse expansion to Gary Avenue. Several years ago, a case for this same parcel was proposed except that the area desired as C-2 within this request was targeted as C-4 for a general contractor office and shop compound that was heavily screened from Gary Avenue. That case was denied by City Council based on the recently completed, but yet to be adopted, Central Lubbock Study that discouraged heavy commercial zoning along the 50th Street corridor. This proposal is much closer to the intent of the study than the last request.

A portion of the proposed C-2 parcel in this case (south of Rosa's Restaurant and W.D. Wilkins Furniture) is across from residential on 53rd Street and it backs up to the senior living center to the south. The staff and the owner have explored a number of uses for this out of the way parcel to be redeveloped and become an asset as an infill project, while not a detriment to the adjacent property owners. It is important to note that a majority of this zone case is north of the single level portion (cottages) of the senior living center, not the multi-story portion. Screening of the development from the senior living parcel and a small portion along Gary Avenue will be required either by the Zoning Code or the recommended staff conditions.

Adjacent land use:

N - commercial

S - senior care facility

E - commercial and a small portion of residential

W - commercial (C-4 Specific Use for a mini-warehouse project)

The project is reasonably consistent with the intent of the Comprehensive Land Use Plan. Approval of the expansion of the adjacent mini-warehouse project is screened from Gary Avenue and should have no impact on the area with the existence of the current project in the interior area of the old Monterrey Shopping Center tract. The proposed C-2 is across Gary Avenue from existing C-3 except the approximate south 50 to 75 feet.

The project should have less impact on overall traffic in the area since the occupants should not attract a customer base like general retail.

The Planning Commission recommended the request to the City Council with conditions:

1. The C-4 Specific use development shall be in substantial compliance with the site plan proposed in Zone Case 2658-G for the expansion of the mini-warehouse project (see item 3).
2. A steel post wood picket fence is in place on the south side of the C-2 property. The same fencing shall be constructed along for 75 feet north from the southwest corner on the tract adjacent to Gary Avenue.
3. The screening fence on the mini-warehouse portion of the request shall comply with the SD1 site plan from the file from ZC 2858-G. A gated opening shall be allowed in the fence.

FISCAL IMPACT

No fiscal impact.

Staff supports the recommendation of the Planning and Zoning Commission and recommended approval of the second reading of this ordinance.

5.4. Ordinance Amendment 2nd Reading - Zoning: Ordinance No. 2007-O0063 Zone Case No. 3055-A (Avenue R and Glenna Goodacre Boulevard) Consider request of Hugo Reed & Associates (for McCanton Woods, Ltd) for zoning change from R-3 to C-3 on Lots 6-10, Block 113, Overton Addition.

The applicant is requesting Commercial-3 (C-3) on lots along Avenue R between 7th Street and Glenna Goodacre (8th Street) to join with already commercially zoned lots that face Avenue Q. A proposed plat will close the alley and the entire block will be eligible for redevelopment.

Adjacent Land Uses:

N – commercial

S – high density residential eligible for redevelopment as commercial

E – commercial

W – commercial

The request is consistent with the amendment made to the Comprehensive Land Use Plan for the redevelopment of the Overton North area. When developed, the eventual use will comply with commercial development guidelines.

The project will have little impact on the thoroughfare system. Texas Department of Transportation will govern curb cuts allowed on Avenue Q.

The Planning and Zoning Commission supports the request as submitted.

FISCAL IMPACT

No fiscal impact.

Staff supports the recommendation of the Planning and Zoning Commission and recommended approval of the second reading of this ordinance.

5.5. Ordinance Amendment 2nd Reading - Zoning: Ordinance No. 2007-O0064 Zone Case No. 3083 (6302 114th Street) Consider request of Hugo Reed and Associates, Inc. (for Carl Mortensen) for a zoning change from R-1 to C-2 on 74.42 acres of unplatted land out of Block AK, Section 21.

The applicant originally requested that the entire boundary of the playa that abuts 114th Street and is surrounded by the proposed Fountain Hills development be zoned Commercial-2 (C-2). During the meeting, the applicant amended the request from C-2 to C-2A with a limited number of uses on a 450 deep parcel adjacent to 114th Street and as Residential-1 (R-1) on the balance. The applicant may, at a later date, submit a request to the ZBA for a golf course on the R-1 portion, which is a conditional use in R-1.

Adjacent land use is vacant to the north, east and west, and several older homes on large lots exist to the south across 114th Street. The proposal does not meet the criteria established for the Comprehensive Land Use Plan. The location is not at the corner of two major intersections. Development would be

recovered land from the playa along 114th Street and would constitute strip development along 114th Street contrary to current policy.

The applicant has developed a C-2A case on a reclaimed portion of the playa that will limit uses to several that they believe will benefit the neighborhood and limitations created by the configuration of the playa. The question to the Commission was presented by staff as whether the proposal is an asset to the development and fits the “lay of the land” better than any other proposal.

For the non-policy location proposed in this request the following is a theoretical discussion – that the amount of “strip commercial” along major thoroughfares in addition to the traditional 40 acres at each thoroughfare intersection is fostering the circumstances of the City of Lubbock zoning process becoming involved in an undesirable situation of providing too much commercial property than the market will sustain. While it is not the specific responsibility of the City to dictate the market, when zoning becomes a factor in the appraisal and creates zoning for which there is a lack of the ability of the owner to develop, someone loses. If the current or new owner pays retail values for property and then cannot find a buyer or tenants, he or she is highly likely to become the financial loser.

In the alternative, several well known examples of the viability of off-corner locations exist on the ground. The Falls Subdivision to the east on 114th Street between Quaker and Slide Road is one example. When the community responds to too many requests for commercial outside the bounds of established policy and there are not extenuating circumstances, the process is not, in the opinion of the staff, good business. While Lubbock has a number of very successful strip locations – 82nd Street west of Frankford is a hot market. South Slide Road is proving viable. But, both these streets represent more than the “normal” thoroughfare, with 82nd Street generating traffic from the Brownfield Highway and Slide Road being a major connection to many developed areas south of Lubbock, as well as a TxDOT facility (a Farm to Market Road). The other miles and miles of thoroughfares that are developed as Lubbock grows will not have the luxury of having enough roof tops to sustain both the ten-acre corner commercial groupings as well as the strips in between.

In the past, a number of locations that have been illustrated to prove up the “too much commercial” include:

- 98th Street and Slide Road, the northeast corner has a ten acre allotment in the original zone case for the Lakeridge Public Utility Department, but nine acres were rezoned to residential since that market is stronger in the long run for the consumption of land.
- 82nd Street and Frankford Avenue, the southeast corner was zoned as a ten acre commercial site. All of the land except the 82nd Street frontage was rezoned to residential and has been built out for a number of years.

The corner forty acre allocation of commercial at major intersections is intended to allow residential to occur between mile intersections, normally with every other street developed with a cul-de-sac – allowing the thoroughfare to function as designed with the least amount of interference from side streets or curb cuts. The original thinking behind the massing of commercial at intersections was to allow the development of major shopping areas for consumers to park in one location and visit a number of shops, and to not have to travel along the major street to visit each shop while exiting and entering from a thoroughfare. With this style of development, both the traveling public and the business community enjoyed access and a safer street system.

All this additional discussion is to indicate that the process of allocating commercial, apartment and residential areas is a vital asset and responsibility to the community that is accomplished through the Comprehensive Land Use Plan. Changes should be contemplated with forethought and reason.

The drawing and preliminary plat for Fountain Hills will show that a street could be connected in the vicinity of 112th Street or 113th Street, and with a cut and fill a series of single family cul-de-sac lots could be introduced on north/south streets as are the lots to the east. The applicant is of the opinion that the cut and fill costs for residential square footage would not create a return on investment.

Staff is very cautious with regard to requests as represented by this zone case due to concern about over-abundance of commercial away from the corners of major thoroughfares. Mr. Mortenson has three such corners in this 416-acre development. Also, as noted at the beginning of this discussion, the applicant has asked that the number of uses be limited and perhaps even designed to take advantage of the rest of the playa.

The motion by the Planning Commission reflects that the action is a minor amendment to the Comprehensive Land Use Plan and recommended the request to the City Council with the following conditions:

1. The uses permitted in the C-2A District shall be limited to:
 - restaurants with no drive thru (no window service fast food)
 - professional and medical offices
 - health or athletic clubs
 - church
 - daycare
2. The approximate 1,432 length of the property would be limited to a curb cut plan approved by the Planning Commission before any portion of the property is developed.

FISCAL IMPACT

No fiscal impact.

With only the generic reservations described above and during several recent “strip” annexation cases, staff supports the recommendation of the Planning Commission and recommended approval of the second reading of this ordinance.

5.6. Ordinance Amendment 2nd Reading - Zoning: Ordinance No. 2007-O0065 Zone Case No. 3085 (6502, 6504, 6506, 6508, 6510, and 6512 21st Street) Consider request of Drue Gault (for Cameron Communities, L.L.C.) for zoning change from R-2 to GO on Lots 85-A-1 through 90-B-1, Ridgewood II Addition.

The applicant is requesting Garden Office as the zoning on a series of lots along 21st Street west of Milwaukee Avenue. The lots are currently zoned for garden homes, and four of the lots on the west end have actually been built as residential.

Adjacent land uses:

N – commercial
S – duplex development
E – commercial
W – residential

The request is different than most locations for Garden Office (although an area west of University Avenue on 81st Street has the same type of designation requested in this case). The row of lots across the street are developed as duplex lots and within the policy guidelines of the Comprehensive Land Use Plan – Garden Office zoning is considered a buffer in the same manner as the duplex zoning, or the current garden home zoning.

Regarding zoning policy, this case should depend a great deal upon what the owners of the duplex units (since they are the established use) think about the change. The only letter of protest is in the file.

As the property is now platted for Garden Homes, the number of curb returns and actual traffic associated with off thoroughfare offices may be less than average for garden home use, plus the office users normally are not present at night.

The Planning and Zoning Commission recommended the request to the City Council as presented.

FISCAL IMPACT

No fiscal impact.

Staff supports the recommendation of the Planning Commission and recommended approval. The Garden Office use will back up to true commercial that fronts on 19th Street and help buffer the existing duplex units to the south.

5.7. Ordinance Amendment 2nd Reading - Zoning: Ordinance No. 2007-O0069 Zone Case No. 3086 (South of 39th Street between Elgin Avenue and Flint Avenue) Consider request of the City of Lubbock Planning Department for zoning change from R-1 and R-2 to R-2 and A-2 (limited to a church and church related uses) on Lots 1-8, Block 1, McMath Addition and Lot 1, Block 1, New Home Addition.

The current Zoning Code requires that accessory living units or homes that were subdivided into more than one living unit in Residential-1 (R-1) and Residential-2 (R-2) be registered, a condition of a 1979 ordinance designed to bring a halt to the continued conversion of multiple units on R-1 and R-2 zoned lots, yet let owners keep what they had as “grandfathered”. Recently, the City Council enacted a new exception subject to a hearing by the Zoning Board of Adjustment to allow owners of properties with unregistered units that cannot meet the criteria for registration as a “grandfathered” unit provided in the 1979 ordinance to have approval to use both the front and back units, but a provision is that the owner must live in one of the units. The pride of ownership and maintenance of older neighborhoods is the emphasis of that approval.

Staff and several neighborhood associations initiated the new exception to allow the small units in back of a home or a main unit conversion constructed prior to 1980 to be approved for use with a stipulation that the owner of the property must live in one of the units. As noted, this exception is new, and does not interfere with the ability of an owner of a property that was not registered in 1980 to “prove up” the nonconforming status and have the property registered as nonconforming without the on-site residential requirement.

During investigation of this new ZBA conditional use, it was discovered that a row of duplex units exist on the south side of 39th Street between Elgin Avenue and Flint Avenue. They were built in the R-1 or single family district, how and why are lost to history. With the new ordinance in effect, staff filed this zone case to “clean up” that block (because the two units on one lot violate the current ordinance) and also to enable a long existing church to have updated zoning. When built, the church was a permitted use in R-1, in 1975 church use was relocated to the Apartment-2 (A-2) district.

Adjacent land uses:

N – residential
S – park
E – residential
W – residential

As noted, the nature of the current land use will not change; the request is just making the zoning conform to what has existed on the property for years.

The proposal will have no impact on the thoroughfare system.

The Planning and Zoning Commission recommended approval of this request with one condition:

The A-2 portion of the request shall be limited to church and church related use.

FISCAL IMPACT

No fiscal impact.

Staff supports the recommendation of the Planning and Zoning Commission and recommended approval of the second reading of this ordinance.

5.8. Ordinance Amendment 2nd Reading - Zoning: Ordinance No. 2007-O0066 Zone Case No. 3087 (5801 Erskine Street) Consider request of Randy Brooks (for Town & Country Food Stores) for zoning change from Commercial (C-2) to Commercial (C-3) on Tract B-1, Shadow Hills Addition.

The applicant is requesting a parcel located at Erskine and Frankford be amended from Commercial-2 (C-2) to C-3 to enable construction of a convenience store with gasoline sales. The shape of the C-2 parcel is a fat "L", and the applicant withdrew the "L" portion on the west from the zone case leaving a rectangular parcel that fronts Erskine and North Frankford Avenue.

Adjacent land uses:

N – undeveloped, subject of approval of a commercial zone request

S – existing C-2, originally developed as a garden center and now used as a child care facility

E – across Frankford, the town home project described below

W – a City of Lubbock fire station and several homes

The parcel is eligible for C-3 within the policies of the Comprehensive Land Use Plan. Why C-2 was requested originally probably had to do with the smaller than ten acre allotment the developer chose for the corner when Shadow Hills was master planned. The property to the east was originally zoned commercially.

Until this case was filed, there has been no market for commercial in this vicinity. The owner of the southeast corner down zoned the entire original commercial parcel to build a two cul-de-sac subdivision of townhomes. A similar down zone was done on a portion of the northeast corner, although a strip adjacent to Frankford and Erskine remains commercial.

One resident did object during the meeting, concerned about noise, trash, and lighting resulting from the convenience store. When informed that the store portion is eligible on the C-2 tract, the C-3 adds the sales of gasoline; the resident remained unsatisfied. The applicant withdrew the "L" portion of the parcel noted above and agreed to the fencing along the west property line as noted in the Commission recommendations below to attempt to satisfy the resident's concerns. The parcel will be isolated from the main development lot, but still zoned C-2. The resident's garden home backs up to the child care

facility (originally constructed as a garden center) rather than the tract in question.

The project will have little impact on the thoroughfare plan. A limitation of one curb cut on Erskine, located as far west as feasible from the intersection will be requested as a condition. Curb cuts on Frankford Avenue are within the jurisdiction of TxDOT.

The Planning and Zoning Commission recommended the request with the following condition:

The parcel shall be limited to one drive return on Erskine, as far west of the intersection with Frankford Avenue as feasible.

FISCAL IMPACT

No fiscal impact.

Staff supports the recommendation of the Planning and Zoning Commission and recommended approval of the second reading of this ordinance.

5.9. Ordinance Amendment 2nd Reading - Zoning: Ordinance No. 2007-O0067 Zone Case No. 3088 (East of Quaker Avenue at 108th Street) Consider request of AMD Engineering, LP (for Dr. Jewell Davis) for zoning change from T to R-1 Specific Use (for Garden Homes) on 1.12 acres of unplatted land out of Section 17, Block E2.

The request is to rezone a Residential-1 (R-1) area for development as garden homes.

Adjacent land uses:

N – vacant, zoned R-1

S – vacant, zoned R-1

E – vacant, zoned R-1

W – vacant, zoned Garden Office

The request is consistent with the Lubbock Comprehensive Land Use Plan and with zoning policy. The change is simply one style of residential construction to another (free standing single family to garden home single family).

The project will have no impact on the thoroughfare system.

The Planning and Zoning Commission recommended the request to the City Council as submitted.

FISCAL IMPACT

No fiscal impact.

Staff supports the recommendation of the Planning and Zoning Commission and recommended approval of the second reading of this ordinance.

5.10. Ordinance Amendment 2nd Reading - Zoning: Ordinance No. 2007-O0068 Zone Case No. 3089 (Frankford Avenue and 102nd Street) Consider request of Truett Craft (for CLCL Development) for zoning change from T to Apartment Medical (AM) Garden Office on 16.416 acres located in Section 21, Block AK.

The applicant is requesting a ten-acre parcel south of 98th Street on the west side of Frankford Avenue to be zoned to allow development of a convalescent/nursing home and offices that are allowed in the Apartment Medical (AM) District.

Adjacent land uses:

N – vacant

S – school under construction

E – single family across Frankford Avenue

W – vacant, zoned single family

The parcel is between a parcel being developed currently by Cooper Independent School District as a school and a ten-acre parcel on the corner of 98th Street and Frankford Avenue that is owned by a church. The applicant is developing the subdivision to the west (Lakewood Estates). Originally, this ten-acre tract was under contract by Lubbock-Cooper to build a secondary school. That agreement has since been abandoned.

The request is consistent with the Comprehensive Land Use Plan with regard to facilities such as a convalescent home, church and/or offices be developed on the perimeter of subdivisions and adjacent to the thoroughfares. One of the neighbors in the large lot subdivision across Frankford Avenue questioned the proposed land use as “strip commercial”, although AM and Garden Office are not officially included in commercial, they do not constitute single family.

The project will develop within the guidelines of AM when actual construction is proposed. A proposed condition will eliminate the Apartment-2 (A-2) development that is included in AM, and the intention of the developer does not include apartments. The project will have little additional impact on the thoroughfare system, particularly after Frankford Avenue is developed to full width. As noted, at one time Lubbock-Cooper had an option to build a junior high school on the parcel that would have created a significantly greater amount of traffic than this request.

The Planning and Zoning Commission recommended the request with one condition:

The A-2 permitted use listing in AM is prohibited on this parcel.

FISCAL IMPACT

No fiscal impact.

Staff supports the recommendation of the Planning and Zoning Commission and recommended approval and recommended approval of the second reading of this ordinance.

- 5.11. **This item was moved from consent agenda to regular agenda and considered following Item 5.33.**
- 5.12. **This item was moved from consent agenda to regular agenda and considered following Item 5.11.**
- 5.13. **This item was moved from consent agenda to regular agenda and considered following Item 5.12.**
- 5.14. **Contract Amendment Resolution - Water Utilities: Resolution No. 2007-R0297 authorizing the Mayor to execute a contract amendment with Lockwood, Andrews, and Newnam for professional engineering services for the calibration and modification of the City of Lubbock's existing water system model to meet the requirements of the Initial Distribution System Evaluation.**

The Stage 2 Disinfectants and Disinfectant Byproducts Rule (Stage 2 D/DBPR) finalized by the United States Environmental Protection Agency on January 4, 2006, requires water systems to conduct an evaluation of their distribution system, known as the Initial Distribution System Evaluation (IDSE). The IDSE will identify locations in the distribution system with high disinfectant byproduct concentrations. These locations will then be used as sampling sites for the Stage 2 D/DBPR compliance monitoring. As part of the City of Lubbock Pump Systems Evaluation project, Lockwood, Andrews, and Newnam will prepare and submit an IDSE report to Texas Commission on Environmental Quality (TCEQ). The existing water system model is not calibrated to the level required for the completion of the IDSE. This contract amendment provides calibration and modification of the existing water model, which is necessary for the preparation of the IDSE report. The IDSE report must be submitted to TCEQ by October 1, 2007, to comply with the requirements of the Stage 2 D/DBPR.

FISCAL IMPACT

The contract amendment will not exceed the \$32,000 budgeted as part of the adopted FY 2006-07 Water Utilities Operating Budget.

Staff recommended approval of this resolution.

- 5.15. **Contract Resolution - Water Utilities: Resolution No. 2007-R0298 authorizing the Mayor to execute a contract with Ashbrook Simon-Hartley Operations, LP for refurbishing three gravity belts, BID 07-051-MA.**

Three gravity belts located at the Southeast Water Reclamation Plant are used twenty-four hours a day as part of the sludge handling process. Through daily use, the gravity belts have become worn and are in need of refurbishing. Refurbishing the gravity belts will extend the life of the equipment and reduce the amount of downtime due to mechanical failures.

Bids were received from the following companies:

Ashbrook Simon-Hartley Operations of Houston, Texas for \$99,900.

Addrite Separation of Arlington, Texas for \$159,020.

Environmental Machines and Services of New Caney, Texas \$176,235.

FISCAL IMPACT

\$850,000 is appropriated in Capital Improvement Program Project 91042, SEWRP Replacement System and Facilities with \$222,831 available for this purpose.

Staff recommended contract award to the low bidder, Ashbrook Simon-Hartley Operations of Houston, Texas, for \$99,900.

- 5.16. Contract Amendment Resolution - Health: Resolution No. 2007-R0299 authorizing the Mayor to execute Change No. 003B to the DSHS Legacy Contract No. 7560005906 2007-03 Contract No. 2007-021282 Immunization Branch-Locals with the Texas Department of State Health Services.**

This contract amends the current Texas Department of State Health Services (DSHS) contract No. 2007-021282 approved by Council on January 25, 2007 with Resolution #2007-R0032. The Contract Change Notice No. 003B to DSHS Legacy Contract No. 7560005906-2007-03 is a reallocation fund to purchase equipment and supplies needed to comply with contract activities. The new equipment includes one computer.

The total amount of the contract remains the same at \$198,485 as does the ending contract period of August 31, 2007.

FISCAL IMPACT

No fiscal impact.

- 5.17. Contract Amendment Resolution - Health: Resolution No. 2007-R0300 authorizing the Mayor to execute Change No. 005C to the DSHS Legacy Contract No. 7560005906-2006-05 CPS-Bioterrorism Preparedness-Lab with the Texas Department of State Health Services.**

The Community Preparedness, on September 21, 2005, Section (CPS)-Bioterrorism Preparedness-Lab contract was originally approved by City Council Resolution # 2005-RO445. The contract was amended, on September 13, 2006, by City Council Resolution #2006-RO435. The amendment extended the contract through August 31, 2007 and provided additional funding.

Contract Change Notice No. 005C to Department of State Health Services (DSHS) Document No. 7560005906-2006-05 reallocates existing funds to reflect actual expenditures and the purchase of equipment to meet program measures. The total amount of the contract, \$549,950, remains the same as does the contract period.

FISCAL IMPACT

No fiscal impact.

5.18. Contract Amendment Resolution - Health: Resolution No. 2007-R0301 authorizing the Mayor to execute Change No. 004D to the DSHS Legacy Contract No. 7560005906-2006-04 (Contract No. 2006-021387) CPS-Bioterrorism Preparedness with the Texas Department of State Health Services.

The Community Preparedness Section (CPS)-Bioterrorism Preparedness contract was last amended by Council on January 25, 2007, with Resolution No. 2007-R0033. The Contract Change Notice No. 004D to Department of State Health Services (DSHS) Document No. 7560005906-2006-04 reallocates existing funds to reflect actual expenditures and purchase equipment to meet program measures. The total amount of the contract, \$938,429, remains the same as does the contract period through August 31, 2007.

New equipment under the reallocation includes a badging system and related accessories for emergency response, cargo trailer, satellite phone, chemical fogger with GPS tracking, mobile lighted signs with pre-loaded graphics, and other emergency response equipment.

This program assists efforts in developing a bioterrorism preparedness plan that addresses selected focus areas and the required critical capabilities. The focus areas being addressed in FY 2007 include all hazards planning, information collection and threat recognition, laboratory testing, health intelligence integration and analysis, public health epidemiological investigations, emergency response communications, emergency public information, responder health safety, isolation and quarantine, mass prophylaxis and vaccination, medical surge, mass care, environmental health, economic and community recovery, and planning.

FISCAL IMPACT

No fiscal impact.

5.19. Contract Resolution - Health: Resolution No. 2007-R0302 authorizing the Mayor to execute Change No. 001A to the Department of State Health Services (DSHS) Contract No. 2007-020411 CHS-Population Based Services with the Texas Department of State Health Services.

The Community Health Services CHS-Population Based Services contract was originally approved by Council with Resolution # 2006-RO400 on August 24, 2006.

Contract Change Notice No. 001A to Department State Health Services (DSHS) Document No. 2007-020411 reduces approved funding from \$107,414 to total payments not exceeding \$3,500. This is due to delays in hiring a Health Education Coordinator to fully implement the program. The FY 2006-07 is now considered a planning year and full funding is expected to be executed and restored with the FY 2007-08 contract for the actual implementation of the program objectives.

The \$3,500 will cover expenses for identifying and validating the curriculum for parent education to reduce teen pregnancy and sexually transmitted disease (STDs), formation and meetings for the teen pregnancy and STD coalition, and assuring that the project has adequate sample size.

FISCAL IMPACT

No fiscal impact.

5.20. Grant Funding Recommendation Resolution - Civic Lubbock, Inc.: Resolution No. 2007-R0303 approving recommendations from the Cultural Arts Grant Review Committee and the Civic Lubbock, Inc. Board of Directors for the first of two grant periods for the 2007-08 Cultural Arts Grant Program using Hotel Occupancy Tax funds collected at the end of FY 2005-06.

On February 6, 2007, City Council approved an agreement with Civic Lubbock, Inc. to administer the City's Cultural Arts Grant program. The agreement allocates \$194,909 Civic Lubbock, Inc. for the grant programs. The term of the agreement is through March 31, 2008. The agreement also stipulates that the funds are to be used in making grant awards to cultural arts organizations for the encouragement, promotion, improvement, and application of the arts and the promotion of tourism in the Lubbock community. The funds represent 5.7% of the hotel and motel tax collected during FY 2005-06. In addition, interest earned on prior year funding was \$4,536, making a total of \$199,445 available for the 2007 Cultural Arts Grant Program. Civic Lubbock, Inc. elected to absorb any administrative expense in administering this program. The entire allocation of \$199,445 will be available for the two granting periods in 2007.

In reviewing requests and developing funding recommendations for each application, the Cultural Arts Grants Review Committee followed the guidelines approved as part of the agreement. A Grant Workshop was held on May 2, 2007, for all organizations wanting to apply for a Cultural Arts Grant. Workshop presenters included representatives from the Lubbock Convention and Visitors Bureau, the Lubbock Hotel Motel Association and the City Attorney's office. Twelve applications were received by the June 1, 2007, deadline. After a thorough review and evaluation of the applications by the Cultural Arts Grant Review Committee, twelve applications were recommended for full or partial funding.

At the June 25, Civic Lubbock, Inc., the Cultural Arts Grant Review Committee, comprised of appointees of City Council and representatives of the Civic Lubbock, Inc. Board of Directors, submitted their recommendations to the full Civic Lubbock, Inc. The Cultural Arts Grant Review Committee and the Civic Lubbock, Inc. Board of Directors request City Council approval of \$100,650 of grant awards for the first granting period of the 2007 Cultural Arts Grant Program. The amount recommended is 50.5% of the Hotel Occupancy Tax and earned interest allocated for both granting cycles. A

listing of the recommendations and comments from the Cultural Arts Grants Review Committee is provided.

FISCAL IMPACT

The Cultural Arts Grant Program is fully funded through Hotel Occupancy.

The Cultural Arts Grant Review Committee and the Civic Lubbock, Inc. Board of Directors recommended approval of this resolution.

- 5.21. Right-of-Way Closure 2nd Reading - Right-of-Way: Ordinance No. 2007-O0022 Consider an ordinance abandoning and closing a portion of 26th Street located in Section 5, Block E-2, Lubbock County, Texas, street closure located at 5601 19th Street (LCU Main Campus address).**

This ordinance was read for the first time at the March 5, 2007, City Council meeting. The ordinance abandons and closes a portion of 26th Street in Section 5, Block E-2, located just east of Frankford Avenue and west of Eileen Street. The closure is due to new development on the Lubbock Christian University campus. Since the requestor of this closure is the original dedicator of the street area being closed, there will not be a charge for this closure. All utility companies are in agreement with this street closure.

FISCAL IMPACT

No fiscal impact.

Staff recommended approval of the second reading of this ordinance.

- 5.22. Right-of-Way Closure 1st Reading - Right-of-Way: Ordinance No. 2007-O0071 abandoning and closing a drainage easement located in Section 78, Block A, Lubbock County, Texas, drainage easement closure located at 1102 Wabash Street.**

This ordinance abandons and closes a drainage easement in Section 78, Block A, which is located south of Hornes Mesa Addition just east of north Avenue K and north of Wabash Street. This drainage easement is no longer needed due to the development of Cypress Grove Lots 1-40. The drainage will be addressed in a new plat. The Storm Water Engineering Department is in agreement with this closure.

FISCAL IMPACT

No fiscal impact.

Staff recommended approval of the first reading of this ordinance.

- 5.23. Right-of-Way Closure 1st Reading - Right-of-Way: Ordinance No. 2007-O0072 abandoning and closing a underground utility and transformer pad easement located in Lot 3B, All Saints Addition, easement located at 3222 103rd Street.**

This ordinance abandons and closes an underground utility and transformer pad easement just east of Indiana Avenue and north of 103rd Street. The

easement is no longer needed due to development purposes. All utility companies are in agreement with this easement closure.

FISCAL IMPACT

No fiscal impact.

Staff recommended approval of the first reading of this ordinance.

- 5.24. Alley Use License - Right-of-Way: Resolution No. 2007-R0304 authorizing the Mayor to execute an alley use license with Magical Notions, Inc., Jazz to use a portion of a dedicated alley for an grease interceptor located at 3703 C 19th Street.**

Jazz Restaurant has requested an alley use license to install a grease interceptor in the alley just west of Louisville Avenue and south of 19th Street. The charge for this license will be \$50 per year and the license will be for 20 years, \$250 payable every five years in advance. All utility companies are in agreement with this license.

FISCAL IMPACT

The license agreement will generate \$50 annual General Fund Revenue.

Staff recommended approval of this resolution.

Mayor Pro Tem Gilbreath recused himself.

- 5.25. Right-of-Way Closure 1st Reading - Right-of-Way: Ordinance No. 2007-O0073 abandoning and closing five 5-foot underground utility easements for LP&L located on Lots 96, 125, 130,134,137, South Brook Addition, easements located in the 8900 Block of Temple Avenue.**

This ordinance abandons and closes five 5-foot underground utility easements for Lubbock Power and Light (LP&L) just west of Avenue T and north and south of 89th Street. These easements were dedicated by plat and due to the developer changing the lot sizes, these easements are no longer needed at these locations. New easements will be dedicated in the re-plat to replace these easement closures. LP&L is in agreement with these easement closures.

FISCAL IMPACT

No fiscal impact.

Staff recommended approval of the first reading of this ordinance.

- 5.26. Right-of-Way Closure 1st Reading - Right-of-Way: Ordinance No. 2007-O0074 abandoning and closing a portion of a drainage easement, located in Tract A-1, Monterey Church of Christ Addition to the City of Lubbock, Lubbock County, Texas, drainage easement closure located at 6201 82nd Street.**

This ordinance abandons and closes portion of a drainage easement in Tract A-1 Monterey Church of Christ Addition, which is located east of Milwaukee Avenue and south of 82nd Street. This portion of the drainage easement is no

longer needed. The Storm Water Engineering Department is in agreement with this closure.

FISCAL IMPACT

No fiscal impact.

Staff recommended approval of the first reading of this ordinance.

5.27. Contract Amendment Resolution - Transportation and Public Works: Resolution No. 2007-R0305 authorizing the Mayor to execute Change Order No. 3 for West Texas Paving contract 6574 for Project 91070 Mac Davis Lane and Avenue V Extension Paving and Drainage Improvements.

This change order includes a change from asphalt to concrete at the intersection of 7th Street and Avenue U to achieve better drainage of the intersection. It also includes payment for concrete slab removal along Mac Davis Lane, Avenue T, 7th Street, Avenue V and Avenue U. The change order also includes sidewalk replacement along Avenue T and Avenue U at Ramirez Elementary.

FISCAL IMPACT

The contract amount following all previous change orders was reduced from \$609,569 to \$524,068. The previous change orders removed Mac Davis Lane and Avenue V from the contract. Change order No. 3 increases the contract \$90,175 with a new contract amount of \$614,243. \$6,014,191 is appropriated in Capital Improvement Program Project 91070, Single Family with \$90,175 available for this purpose.

Staff recommended approval of this resolution.

5.28. Interlocal Agreement Resolution - Solid Waste: Resolution No. 2007-R0306 an interlocal agreement with the Lubbock Housing Authority waiving landfill fees related to the disposal of debris from the demolition of the Green-Fair Manor Apartments.

The Lubbock Housing Authority (LHA), in its mission to provide quality affordable housing in Lubbock, has participated in building two new apartment communities in East Lubbock. Stone Hollow Apartments located at 1510 East Cornell and Park Meadows Phase I Apartments located at 2502 Weber Drive. Both of these properties were funded through the Texas tax credit program.

These apartment communities are instrumental in the revitalization of North and East Lubbock and are enhancing the quality of life in the area. There was no affordable housing of similar quality in North and East Lubbock prior to the development of these properties.

Approximately two years ago, LHA applied for and subsequently was awarded tax credit funds to build another similar development. The current project will enable LHA to demolish its Green-Fair Manor development, a

blighted and antiquated public housing complex in East Lubbock, and to replace that complex with a new 120 unit apartment community similar to Park Meadows Phase I.

However, current costs to build this apartment community are significantly higher than the costs than estimated at the time that funding was applied for and awarded. In addition, the related financing value of the tax credits has declined. These two factors have impacted an already tight budget for this project.

As a result, LHA is requesting a waiver of the disposal fees at the City landfill for the disposal of debris resulting from the demolition of the current Green-Fair Manor Development. The waiver of these fees will be critical to the financial viability of this development. The planned development is consistent with the City of Lubbock's Consolidated Plan to eliminate blighted and dilapidated housing in Lubbock, especially in North and East Lubbock. Completion of the project will improve one of the older neighborhoods in Lubbock, and will provide safe and affordable housing.

During the construction of the previous two developments, LHA asked the City to contribute \$10,000 from CDBG funding, which the City granted. The LHA needs the City's assistance to complete this project with in its original scope.

FISCAL IMPACT

The estimated cost of disposal fees is approximately \$250,000. The disposal of the debris will have a minimal impact on the landfill capacity and operations. The additional debris will not generate additional cost to the city.

5.29. Contract Resolution - Fleet Services: Resolution No. 2007-R0307 authorizing the Mayor to execute a purchase order contract for a Chevrolet CT8500 cab and chassis with a truck mounted paint striper, BID 07-048-RW.

The contract is to purchase a truck mounted paint striper for the Traffic Operations Department.

Henna Chevrolet, of Austin, Texas submitted one bid and Shamrock Chevrolet of Lubbock, Texas submitted three bids: Chevrolet CT8500 Cab and Chassis with M-B Companies of Salem, Oregon Paint Striper Unit; Chevrolet CT8500 Cab and Chassis with E-Z Liner of Orange City, Iowa Paint Striper Unit; and Chevrolet CT8500 Cab and Chassis with M-B Companies of Montgomery, Philadelphia Paint Striper Unit. A bid tabulation is provided. A bid tabulation is provided. Henna Chevrolet withdrew their bid.

FISCAL IMPACT

The mounted paint striper is approved as part of the FY 2006-07 Adopted Master Lease Program. The annual payments will be funded through the General Fund Operating Budget.

Staff recommended bid award to Shamrock Chevrolet for \$278,951.

5.30. Contract Resolution - Fleet Services: Resolution No. 2007-R0308; Resolution No. 2007-R0308A; Resolution No. 2007-R0308B authorizing the Mayor to execute a purchase order contract for heavy duty trucks, cab and chassis, and specialized equipment, BID 07-035-MA.

This purchase order contract includes the following vehicles:

- Item 1: One 22,000 Pound Low Profile Cab and Chassis. (Water Utilities-Pipeline Maint)Per Spec No. 601 WU
- Item 2: One 46,000-Pound Standard Cab and Chassis. (Solid Waste Collections) Per Spec No. 603 SW HC
- Item 3: One 46,000 Pounds Single Rear Axle. (Solid Waste Collections) Per Spec No. 603 Cart Collector
- Item 4: Three Truck Chassis and Crew Cab. (Water Utilities-Meter and Custom Service and Pipeline Maint) Per Spec No. 606 WU
- Item 5: One 56,000 Pounds Cab and Chassis. (Water Utilities - Pipeline Maint) Per Spec No. 608 WU
- Item 6: Eight 56,000-Pound Three Axle Cab and Chassis. (Solid Waste Collections) Per Spec No. 608 LH Drive
- Item 7: One Three Axle Truck Cab and Chassis. (Solid Waste Collections) Per Spec No. 608 RL
- Item 8: One Truck Tractor 80,000 Pounds CGVWR with Adjustable 5th Wheel. (Sewer - Water Reclamation) Per Spec No. 641 SW
- Item 9: One 12 CU YD Dump Body with Hydraulic Hoist. (Water Utilities - Pipeline Maint) Per Spec No. NV-722-WP
- Item 10: One Bottom Dump Trailer. (Water Utilities-Pipeline Maint) Per Spec No. T-58 WU
- Item 11: Four Bottom Dump Trailer. (Sewer-Water Reclamation) Per Spec No. T-58-SEWR

The vehicles are authorized as part of the adopted FY 2006-07 Master Lease Program. Bid submittals are from American Equipment and Trailer of Lubbock, Texas; J and B Trailers and Equipment of Lubbock, Texas; Fort Worth Freightliner of Fort Worth, Texas; Lubbock Truck Sales of Lubbock, Texas; and Roberts Truck Center of Lubbock, Texas. The bid tabulation is provided.

FISCAL IMPACT

This equipment is authorized a part of the approved FY 2006-07 Master Lease Program. The annual payment for this equipment will be included in the annual operating budget of the appropriate fund.

Staff recommended bid award to American Equipment and Trailers for \$206,185; Lubbock Truck Sales for \$913,760; and Roberts Truck Center for \$225,838.

5.31. Contract Resolution - Fleet Services: Resolution No. 2007-R0309 ratifying and authorizing the Mayor to execute a purchase order contract for the emergency repair of a Bomag landfill compactor.

An emergency repair of a Bomag compactor was required for the City to stay in State compliance under Landfill Permit No. 2252 as approved by the Texas Commission Environmental Quality (TCEQ). The permit requires that three compactors must be on location for daily operations. At the time of this breakdown, this was the second compactor to suffer malfunction. The work was performed on a sole source basis by Associated Supply Company of Lubbock, Texas.

FISCAL IMPACT

The \$57,395 cost is funded through the adopted FY 2006-07 Sold Waste Operating Budget.

Staff recommended approval of this purchase order contract to Associated Supply Company of Lubbock, Texas for \$57,395.

5.32. Contract Resolution - Fleet Services: Resolution No. 2007-R0310; Resolution No. 2007-R0310A; Resolution No. 2007-R0310B; Resolution No. 2007-R0310C; Resolution No. 2007-R0310D authorizing the Mayor to execute a purchase order contract for landfill equipment, tractors, backhoes, graders, and farm equipment, BID 07-036-MA.

This bid is for the purchase of the following equipment:

- Item 1: One Skid Steer Loader 75-90 Horsepower. (Stormwater) Per Spec No. 906 SSM
- Item 2: One Loader Tracked. (Solid Waste Disposal) Per Spec No. 913 SW
- Item 3: One Loader Wheeled Articulated Steer. (Water Utilities- Pipeline Maintenance Per Spec No. 917 WU
- Item 4: One Landfill Compactor Diesel Engine Driven 80,000 lbs. (Solid Waste Disposal) Per Spec No. 951 SW
- Item 5: One 35,000 Pound Tractor, Crawler with Dozer Blade. (Water Reservoir Lake Alan Henry) Per Spec No. 952 LAH
- Item 6: One WU, Tracked Excavator Minimum Weight 73,000 pounds with a Certified Digging depth of 26 Feet (Water Utilities- Pipeline Maintenance) Per Spec No. 961
- Item 7: Four Tractor Backhoe w/Front-End Loader (Water Utilities - Pipeline Maintained Meter & Cust Svc) Per Spec No. 982
- Item 8: One Agriculture, Two Wheel Drive. (Solid Waste Disposal) Per Spec No. F-59 Tractor
- Item 9: Four Automatic Round Hay Baler. (Water Utilities Land Application Site) Per Spec No. NV-F-979

Item 10: Two 20' Three-Section Flex Wing Rotary Mower (Aviation Field Maintenance) Per Spec No. 101

FISCAL IMPACT

This equipment is authorized as part of the approved FY 2006-07 Master Lease Program. The annual payment for this equipment will be included in the annual operating budget of the appropriate fund.

Staff recommended bid award to Cisco Equipment of Lubbock, Texas for \$415,153; Yellowhouse Machinery of Lubbock, Texas for \$342,655; Associated Supply Company of Lubbock, Texas for \$442,986; Scott Tractor of Lubbock, Texas for \$369,665; and Warren Cat of Lubbock, Texas for \$169,216.

5.33. Contract Resolution - Fleet Services: Resolution No. 2007-R0311; Resolution No. 2007-R0311A authorizing the Mayor to execute a purchase order contract for miscellaneous Fire Department vehicles and equipment, BID 07-041-MA.

This bid involves the purchase of vehicles for use by the Fire Department:

Item 1: 3/4 ton pickup, full size, long bed, 4x2, Spec 358-FD

Item 2: Utility five passenger, four-door, Spec 407-FD-UP

Item 3: Transport truck chassis with standard cab, Spec 606-FD

The 3/4 ton pickup will be used by the Fire Department shop as a service vehicle. The truck carries tools, a generator, and an air compressor for use to repair Fire Department equipment.

The five passenger utility vehicle (suburban) will be used by the District Chief to carry equipment used at a fire scene such as oxygen bottles, medical gloves, and bunker gear. The District Chief responds to all structure fires, hazmat incidents, and industrial accidents.

The transport truck will provide transportation for the Fire Safety House. This truck also will transport the de-con trailer and hazmat trailer for incidents as needed.

A bid tabulation is provided.

FISCAL IMPACT

These vehicles were approved as part of the FY 2006-07 Master Lease Program. The annual payment will be made through the annual General Fund Operating Budget.

Staff recommended bid award to Scoggin-Dickey for \$67,638 and to Lubbock Truck Sales for \$57,900.

6. REGULAR AGENDA

Note: Regular Agenda items, and Consent Agenda items moved to Regular Agenda, are listed in the order they were addressed (5.11-5.13, 6.1-6.6).

5.11. Notice of Intent Resolution - Finance: Resolution No. 2007-R0312 authorizing publication of notices of intention to issue General Obligation Bonds and Tax and Waterworks System Surplus Revenue Certificates of Obligation.

The purpose of this resolution is to authorize the publication of a notice of intent to issue the certificates of obligation, and a notice of sale for general obligation bonds. Exhibit A provides a listing of projects that are anticipated to be financed using the certificates and bonds.

Certificates of Obligation: The proceeds from the sale of the Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2007 will be used for improvements in the following areas: Airport, Solid Waste, Storm Water, Wastewater, Water, City Facilities (Administration, Animal Shelter, Police, Fire, Library and Visitor's Center), Parks, Streets, North Overton Tax Increment Finance District, Lubbock Power & Light and the City Cemetery. The total amount of the projects financed with the certificates is not to exceed \$65 million.

General Obligation Bonds: The issuance of the General Obligation Bonds represents the fourth issuance of debt as approved in an election held on May 15, 2004. The amount of bonds approved in the election was \$30 million. The issuance of this debt is not expected to increase the debt tax rate. The total of projects financed with these bonds is not to exceed \$3 million.

FISCAL IMPACT

Annual debt service payments are budgeted through the annual operating budget process and are included in long-term financial planning and rate models. The annual payments in special revenue and enterprise funds. Such as utilities are made from the annual revenues of the respective funds and not the interest and sinking fund tax rate.

To proceed with the debt issuance process, city management recommended the approval of this resolution.

Andy Burcham, Director of Fiscal Policy & Strategic Planning, and City Manager Lee Ann Dumbauld, gave comments and answered questions from Council.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member DeLeon to pass Resolution No. 2007-R0312 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

5.12. Contract Resolution - Fleet Services: Resolution No. 2007-R0313 authorizing the Mayor to execute a purchase order contract for two E-One Typhoon 1250 GPM pumper fire trucks with Cyclone II chassis.

This acquisition is to replace two fire trucks scheduled for normal replacement that are at the end of their service life and do not meet the National Fire Protection Association (NFPA) Standard 1901 for Automotive Fire Apparatus.

The purchase will be made through Houston-Galveston Area Council (H-GAC) contract number FS12-05 GC06. H-GAC is a regional planning commission created under Acts of the 59th Legislature, Regular Session, 1965, recodified as Texas Local Government Code, Chapter 391. The H-GAC program was established pursuant to the Texas Interlocal Cooperation Act that allows governmental and qualifying non-profit entities to use the Act to obtain commonly needed products and services. H-GAC purchases conform to the requirements of Texas competitive bid statutes.

FISCAL IMPACT

The purchase of the two pumpers is authorized in the FY 2006-07 Master Lease Program. The annual lease payments are budgeted annually through the General Fund.

Staff recommended approval of purchase order contract with Dooley Tackaberry of Houston, Texas for \$836,000.

City Manager Lee Ann Dumbauld explained the process of the Master Lease Program.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass Resolution No. 2007-R0313 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

5.13. Contract Resolution - Fleet Services: Resolution No. 2007-R0314 authorizing the Mayor to execute a purchase order for one E-One Cyclone II mid-mount aerial ladder platform fire truck.

This acquisition is replacing one aerial ladder platform truck scheduled for normal replacement that is at the end of its service life and no longer meets the National Fire Protection Association (NFPA) Standard 1901 for Automotive Fire Apparatus.

This purchase will be made through Houston-Galveston Area Council (H-GAC) contract number FS12-05 GC06. H-GAC is a regional planning commission created under Acts of the 59th Legislature, Regular Session, 1965, recodified as Texas Local Government Code, Chapter 391. The H-GAC program was established pursuant to the Texas Interlocal Cooperation Act that allows governmental and qualifying non-profit entities to use the Act to obtain commonly needed products and services. H-GAC purchases conform to the requirements of Texas competitive bid statutes.

FISCAL IMPACT

The purchase of the aerial ladder platform fire truck is approved as part of the FY 2006-07 Master Lease Program. The annual payment is funded through the General Fund operating budget.

Staff recommended approval of purchase order contract with Dooley Tackaberry of Houston, Texas for \$817,300.

City Manager Lee Ann Dumbauld discussed the process of the Master Lease Program.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass Resolution No. 2007-R0314 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

6.1. Tax Abatement Termination Resolution - Business Development: Resolution No. 2007-R0315 giving Notice of Intent to terminate a tax abatement agreement approved on February 24, 2000, and amended on April 27, 2000, between the City of Lubbock and X-Fab Texas, Inc.

The City has received a request from X-Fab Texas, Inc. to terminate an existing tax abatement agreement that was approved by City Council on February 24, 2000, and amended on April 27, 2000. Due to a downturn in the industry in 2002, X-Fab's equipment value fell below the base year value so they did not receive abatement for equipment from 2002 through 2006. In 2006, the building value fell below the base year value, so no abatement on the building was given. X-Fab is requesting that the tax abatement agreement be terminated.

At the same time, the industry has recovered and X-Fab is planning an expansion of their production capacity. They would like to expand their monthly production capacity by 8,700 six-inch wafers. They have submitted an application for tax abatement for the new equipment to expand their capacity. The tax abatement Notice of Intent is also on the agenda for this City Council Meeting.

In order to terminate the existing agreement, the municipality must first deliver a notice of intent to terminate a tax abatement agreement to the other taxing jurisdictions. This action fulfills this requirement.

Staff is recommending the tax abatement contract be terminated

FISCAL IMPACT

No fiscal impact.

Staff recommended approval of this resolution.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to pass Resolution No. 2007-R0315 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

6.2. Tax Abatement Agreement Resolution - Business Development: Resolution No. 2007-R0316 giving Notice of Intent to enter into a tax abatement agreement with X-Fab Texas, Inc.

The City of Lubbock has received an application for industrial tax abatement from X-Fab Texas Inc. X-Fab is planning on increasing their monthly production capacity by 8,700 six-inch wafers. This is a new project and X-Fab would like to have tax abatement for the new equipment only.

The project meets the Industrial Tax Abatement Policy and Guidelines minimum investment for an existing company of \$1 million in new personal property. Total investment in the project will be approximately \$7.7 million (\$7.5 million in new personal property and \$200,000 in real property improvements). X-Fab plans to create 75 new jobs with the project.

X-Fab Texas is an existing company and has a total of 370 employees at the plant located at 2301 North University.

In order to qualify for tax abatement, X-Fab must make some improvements to the real property. They satisfy that requirement with the \$200,000 investment in real property improvements. The tax abatement would only be on the new equipment, not the building.

X-Fab does not meet the criteria that the company must use Lubbock Power and Light (LP&L) for their electric service. X-Fab has requested that staff vary the guidelines because the operations of the business may require alternate energy sources and LP&L cannot provide service at this time. Both X-Fab and LP&L will work toward developing a solution that would benefit both parties.

With the tax abatement application, the City of Lubbock has received a request from X-Fab Texas, Inc. to cancel an existing tax abatement agreement that was approved by the City Council on February 24, 2000, and amended on April 27, 2000. Due to a downturn in the industry in 2002 X-Fab's equipment value fell below the base year value so they did not receive abatement for equipment from 2002 through 2006.

In 2006, the building value fell below the base year value, so no abatement on the building was given. They are requesting that the tax abatement agreement be canceled. The Notice of Intent to cancel the existing agreement is also on the agenda for this council meeting.

In order to contract with a company for tax abatement, the municipality must first deliver a notice of intent to enter into a tax abatement agreement to the other taxing jurisdictions. This action fulfills that requirement.

Staff has reviewed the application and plan on recommending a five-year declining scale tax abatement.

FISCAL IMPACT

The total amount of the City tax abatement will be \$103,948 over five years.

Staff recommended approval of this resolution.

Cheryl Brock, Business Research Specialist, gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass Resolution No. 2007-R0316 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

6.3. Lubbock Emergency Communication District Budget Resolution - Emergency Management: Resolution No. 2007-R0317 authorizing approval of the Lubbock Emergency Communication District Budget for Fiscal Year 2007-2008.

The Lubbock Emergency Communication District (LECD) is required to submit its annual budget for approval by the governing bodies within the boundaries of the District. For that reason, the LECD Board of Managers is submitting its FY 2007-08 Budget. It was the opinion of the LECD Board of Managers that the proposed budget represents a fair and prudent financial plan to accomplish the LECD mission of providing Enhanced 911 service to the citizens of Lubbock County. It was further ordered, by the Board of Managers, that the service fee, as authorized by Texas Health and Safety Code Section 772.301 through 772.329, be continued at 5% of the base telephone rate on all service users in the District.

FISCAL IMPACT

No fiscal impact.

Staff recommended approval of this resolution.

Michael Grossi, Executive Director of the Lubbock Emergency Communication District, was available to respond to Council's comments and questions. There were none.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass Resolution No. 2007-R0317 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

6.4. Budget Amendment Ordinance 1st Reading - Finance: Ordinance No. 2007-O0075 Amendment No. 16 amending the FY 2006-07 budget respecting the General Fund, Grants Fund, Wastewater Fund, and the Master Lease Program.

1. Accept and appropriate grant from Texas Department of Housing and Community Affairs for the Comprehensive Energy Assistance Program an energy assistance program. \$520,994 of funding will be received. The grant funds programs to assist low-income persons and families with energy assistance, and energy efficiency. This is accomplished by funding both sub-recipient programs, and city programs. The grant pays for both programmatic and administration of the funds. The contract expires on December 31, 2007.

2. Appropriate \$170,000 of Wastewater Fund Master Lease Program proceeds for the acquisition of one Closed Circuit Television. This technology allows the Wastewater Department determine and locate sewer line problems before digging begins so that time is not wasted in digging lines in the wrong locations.

FISCAL IMPACT

Included in item summary.

Staff recommended approval of the first reading of this ordinance.

City Manager Lee Ann Dumbauld explained the process of budget amendments. She also answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass on first reading Ordinance No. 2007-O0075 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

- 6.5. Ordinance Amendment 1st Reading - City Secretary: Ordinance No. 2007-O0076 amending Chapter 8 of the Code of Ordinances by amending the language of Section 8-4 with regard to voting precincts and voting places as a result of annexations.**

Consider an ordinance amending Chapter 8 of the Code of Ordinances by amending the language of Section 8-4 with regard to voting precincts and voting places as a result of annexations. Assign new voting precincts to City Council districts to reflect the changes made. Provide new voting places due to annexations and loss of prior locations. Provide a map of the voting precincts and districts of the City of Lubbock. Provide a savings clause. All portions of Chapter 8 not amended shall remain the same. Provide for publication. Provide an effective date.

FISCAL IMPACT

No fiscal impact.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass on first reading Ordinance No. 2007-O0076 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

- 6.6. Board Appointments - City Secretary: Consider five appointments to Building Board of Appeals, one appointment to Junked Vehicle Compliance Board, one appointment to Permit & License Appeal Board, two appointments to Animal Shelter Advisory Committee, one appointment to Canadian River Municipal Water Authority, four appointments to Citizens Traffic Commission, four appointments to Civic Lubbock, Inc Board of Directors, one appointment to Community Development & Services Board, and five appointments to Lubbock Water Advisory Board.**

Motion was made by Council Member DeLeon, seconded by Council Member Price to reappoint Sandra Reasoner and John Sweeney, and appoint John

White and Mark Copeland and Alex Cardenas to the Building Board of Appeals. Motion carried: 6 Ayes, 0 Nays.

Motion was made by Council Member DeLeon, seconded by Council Member Price to appoint Carl Beyer to the Junked Vehicle Compliance Board. Motion carried: 6 Ayes, 0 Nays.

Motion was made by Council Member DeLeon, seconded by Council Member Price to appoint Rosa Salazar to the Permit & License Appeal Board. Motion carried: 6 Ayes, 0 Nays.

Motion was made by Council Member DeLeon, seconded by Council Member Price to appoint Kevin Overstreet and Joyce Dahlbeck to the Animal Shelter Advisory Committee. Motion carried: 6 Ayes, 0 Nays.

Motion was made by Council Member DeLeon, seconded by Council Member Price to reappoint James Collins to the Canadian River Municipal Water Authority. Motion carried: 6 Ayes, 0 Nays.

Motion was made by Council Member DeLeon, seconded by Council Member Price to reappoint Isaac Garnett, and appoint Misti Jones, Sarah Barfield, and Jimmy Thompson to the Citizens Traffic Commission. Motion carried: 6 Ayes, 0 Nays.

Motion was made by Council Member DeLeon, seconded by Council Member Price to reappoint Dan Burns and Kay Sanford, and appoint Eddie Moreno, and Mary Beth Mitemeyer to the Civic Lubbock, Inc Board of Directors. Motion carried: 6 Ayes, 0 Nays.

Motion was made by Council Member DeLeon, seconded by Council Member Price to appoint Grace Garza to the Community Development & Services Board. Motion carried: 6 Ayes, 0 Nays.

Motion was made by Council Member DeLeon, seconded by Council Member Price to reappoint L.E. Anderson, Suzanne Baker, James Collins, Mike Liner, and Ronald Phillips to the Lubbock Water Advisory Board. Motion carried: 6 Ayes, 0 Nays.

7. WORK SESSION

7.1. Presentation 11:00 a.m. – Citizens Advisory Committee: Presentation by the Citizens Advisory Committee with recommendations for a November 2007 Bond Election.

Presentation by the Citizens Advisory Committee with recommendations for a November 2007 Bond Election was given by Bill Miller and Vicki Nixon, Co-Chairs of the Citizens Advisory Committee.

Mr. Miller gave an introduction and presented topics including positive environment–tipping point, city tax rate comparison, city/county tax rate comparison, average tax liability per citizen, management oversight recommendation, the 2007 City of Lubbock–Texas Tech University planning

and infrastructure needs-immediate and long range, and the Lubbock Chamber of Commerce Strategy Statement.

Co-Chair Vicki Nixon presented the bond project recommendations. George Love, Chair of the Public Safety sub-committee, was unable to attend, and Ms. Nixon read a letter from him that stated the proposed issuance of \$10,850,000 in general obligation bonds would be needed for public safety, which includes the Police Department and Municipal Court renovations, and Fire Department Training Academy upgrades.

Tracy Bacon, Chair of the Parks/Libraries sub-committee, presented the bond project recommendations. The propositions included the issuance of \$28,265,000 general obligation bonds for park and recreation facilities, and the issuance of \$5,150,000 general obligation bonds for a branch library in southwest Lubbock.

Mr. Miller presented the bond project recommendations for the Mercado project, which included the proposed issuance of \$1,500,000 general obligation bonds for public recreational amenities in connection with a new retail center (Mercado) in north Lubbock. He stated the proposed issuance of \$2,245,000 general obligation bonds would be needed for street improvements in northeast Lubbock.

Les Hatch, Chair of the Civic Center and Public Venue sub-committee, presented the bond project recommendations for the Performing Arts Center, which included the proposed issuance of \$55,000,000 general obligation bonds. The sub-committee proposed to abandon the existing coliseum and construct a multi-purpose arena, which would accommodate hockey, soccer, arena football, all ice events, circuses, concerts, and other types of events. This would be located in the downtown area and be a part of the downtown revitalization project. The projected cost for this arena is \$60 million, and financing would be supported by venue taxes and bond issuance. The Civic Center renovations included a proposed issuance of \$85,000,000 general obligation bonds for renovations and improvement.

David Wilkerson, Chair of the Streets sub-committee, presented the bond project recommendations. The propositions included the issuance of \$52,565,000 general obligation bonds for street improvements.

Paul Stell, Co-Chair of the Finance sub-committee, presented the project cost estimates, sports and venue project financing, and the financing sources.

Committee Co-Chairs Nixon and Miller then gave closing remarks and encouraged Council to send the Citizens Advisory Committee to the public for input, so that a November bond election could be called. Questions from Council were then answered.

3:13 P. M. COUNCIL ADJOURNED

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