

**CITY OF LUBBOCK  
REGULAR CITY COUNCIL MEETING  
APRIL 10, 2008  
8:45 A. M.**

The City Council of the City of Lubbock, Texas met in regular session on the 10th day of April, 2008, in the City Council Chambers, first floor, City Hall, 1625 13th Street, Lubbock, Texas at 8:45 A. M.

**8:46 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 Linda DeLeon, Council Member Phyllis Jones, Council Member Todd R. Klein, Council Member John Leonard,

**Absent:** No one. Council Member Floyd Price arrived at 8:50 a.m.

**1. CITIZEN COMMENTS**

- 1.1. Clif Burnett will appear to discuss City of Lubbock budget and pay scales.**

Clif Burnett appeared before Council and voiced his concerns regarding the City's budget, and he discussed salaries and pay scales.

- 1.2. John Eklund will appear before the City Council to speak about enforcement of vehicles parked on the wrong side of the road.**

John Eklund appeared before Council and voiced his concerns regarding vehicles parked on the wrong side of the road. Mayor Miller asked that he meet with Police Chief Dale Holton to try and resolve the issues.

- 2. EXECUTIVE SESSION was considered following Item 6.1.**

- 3. PRESENTATIONS AND PROCLAMATIONS were considered following Item 6.2**

**4. MINUTES**

- 4.1. Approval of Prior Meeting Minutes: Special City Council Meeting, March 10, 2008; Regular City Council Meeting, March 13, 2008**

Motion was made by Council Member Price, seconded by Council Member DeLeon to approve the minutes of the Special City Council Meeting of March 10, 2008, and the Regular City Council Meeting of March 13, 2008 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

- 5. CONSENT AGENDA (Items 5.1, 5.3-5.7, 5.9-5.18, 5.22-5.29, 5.31-5.33)**

Motion was made by Council Member Leonard, seconded by Council Member Price to approve Items 5.1, 5.3-5.7, 5.9-5.18, 5.22-5.29, 5.31-5.33 on consent agenda as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**5.1. Budget Amendment Ordinance 2nd Reading - Finance: Ordinance No. 2008-O0030 Consider budget ordinance Amendment No. 8 amending the Adopted FY 2007-08 budget respecting the Grant Fund.**

On March 27, 2008, City Council approved the first reading of the ordinance.

1. Amend CPS-Bioterrorism Preparedness grant contract with the Texas Department of State Health Services by appropriating an additional \$131,740 for equipment purchase.
2. Accept and appropriate \$25,035 from the Texas Commission on Environmental Quality through the South Plains Association of Governments for implementation of the adopted Regional Solid Waste Management Plan. The \$68,824 matching funds are budgeted in the Adopted FY 2007-08 Solid Waste operating budget. Funds are used to purchase:

2,000 14-gallon blue recycling bins;

3 outdoor message boards located at each permanent drop-off center; and

1 utility vehicle for transporting household hazardous waste items, used computers, and high technology items.

**FISCAL IMPACT**

Included in item summary.

Staff recommended approval of the second reading of this ordinance.

**5.2. This item was moved from consent agenda to regular agenda and considered following Item 5.33.**

**5.3. Investment Policy Resolution - Finance: Resolution No. 2008-R0113 approving the revised City of Lubbock Investment Policy and Investment Strategy as reviewed and modified by the Investment Review Committee.**

The Public Funds Investment Act, Texas Government Code 2256.005(e) requires City Council to perform an annual review of the City of Lubbock Investment Policy and Investment Strategy. The Investment Policy and Investment Strategy is updated to reflect changes as reviewed and recommended by the Audit and Investment Committee. A "red-lined" version of the Policy/Strategy is provided to highlight the recommended changes.

**FISCAL IMPACT**

No fiscal impact.

Audit Committee has reviewed the changes and recommended approval of this resolution.

**5.4. Master Lease Program Resolution - Finance: Resolution No. 2008-R0114 approving equipment to be purchased as part of the Master Lease Program for FY 2007-08.**

The Master Lease Program allows the City to purchase equipment and vehicles by amortizing the cost over the life of the purchase, at a favorable interest rate. The purchase of the equipment and vehicles was planned and budgeted in the Adopted FY 2007-08 Operating Budget. This resolution authorizes the list of equipment (Exhibit A) and the execution of all documents necessary to implement the lease.

The purchase of the vehicles and equipment will be done through the purchasing process.

**FISCAL IMPACT**

The lease payments are included in the Adopted FY 2007-08 Operating Budget.

Staff recommended approval of this resolution.

**5.5. Right-of-Way Ordinance 1st Reading – Right-of-Way: Ordinance No. 2008-O0037 abandoning and closing a portion of a 20-foot underground utility easement located in Block AK, Section 38, Lubbock County, Texas, 3802 Milwaukee Avenue.**

The ordinance abandons and closes a portion of a 20-foot underground utility easement located in Block AK, Section 38, which is located west of Milwaukee Avenue and south of 37th Street. The closure is due to new development in this area. 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.

**5.6. Resolution - Right-of-Way: Resolution No. 2008-R0115 authorizing the Right-of-Way Department to make an offer to North Loop Properties, LTD, a Texas limited partnership for the acquisition of a 1,503 square foot tract of land out of Tract G and a 8,288 square foot tract of land out of Tract H, Physicians Surgicenter of Lubbock Addition to the City of Lubbock for the widening of Erskine Street, 4641 and 4901 Erskine Street.**

The City is acquiring right-of-way to widen Erskine Street from Frankford Avenue to Salem Avenue. The resolution authorizes the Right-of-Way Department to make an offer to North Loop Properties for the acquisition of a 9,790 square-foot tract of land out of Tracts G and H, Physicians Surgicenter of Lubbock Addition. The right-of-way is a 10-foot wide strip on the south side of Erskine Street; it is needed due to a shift in the street alignment southward to avoid existing developed lots on the north side of Erskine Street.

\$46,000 is the value appraised by Tommy Cantrell, Member Appraisal Institute.

**FISCAL IMPACT**

Capital Improvement Project 91101, Erskine Street: Frankford to Salem is included in the budget amendment on this agenda for Gateway Fund projects. Budget amendment approval on Second Reading will appropriate \$17,097,200 in Capital Improvement Project 91101 with \$46,000 available for right-of-way acquisition.

Staff recommended approval of this resolution.

- 5.7. Contract Resolution - Right-of-Way: Resolution No. 2008-R0116 authorizing the Mayor to execute a lease agreement with Bourne Enterprises LLC, dba Tequila Jungle, for the use of a City parking lot, 1801 Crickets Avenue.**

The parking lot lease agreement with Bourne Enterprises LLC, dba Tequila Jungle, 1718 Avenue E, is to lease at Buddy Holly Center 68 parking spaces. The owner requests the lease to provide customers additional parking during the evening and nighttime hours to comply with zoning requirements. The lease term is two years. The City will receive \$224 per month calculated as follows: \$15 per space (the current market rental rate for downtown parking) x 68 spaces = \$1,020 per month. Parking occurs on these spaces 20 days of the month (66%) and 8 hours per day or (1/3 of a day). Therefore, \$1,020 x 66% x 1/3 day = \$224 due the City per month.

**FISCAL IMPACT**

\$224 monthly, \$2,688 annually, revenue to the General Fund.

Staff recommended approval of this resolution.

- 5.8. This item was moved from consent agenda to regular agenda and considered following Item 5.2.**

- 5.9. Deed of Trust Resolution - Airport: Resolution No. 2008-R0117 authorizing the Mayor to execute a consent to leasehold deed of trust with Hangars of Lubbock, Inc., and Abilene Aero, Inc., dba Lubbock Aero, for T-hangars on the west side of Lubbock Preston Smith International Airport.**

Abilene Aero, dba Lubbock Aero, is purchasing T-hangars on the west side of Lubbock Preston Smith International Airport from Mr. Earl Horton, the owner of Hangars of Lubbock. The resolution approves the consent to leasehold deed of trust for the T-hangars.

**FISCAL IMPACT**

No fiscal impact.

Airport Board and staff recommended approval of this resolution.

- 5.10. Contract Assignment Resolution - Airport: Resolution No. 2008-R0118 authorizing the Mayor to execute a lease assignment from Hangars of Lubbock, Inc., to Abilene Aero, Inc., dba Lubbock Aero, for the hangar ground rental agreement dated June 10, 1974, for 143,439 square feet of land.**

Mr. Earl Horton, owner of Hangars of Lubbock, has two leases for ground rental and two leases for T-hangar units with Lubbock Preston Smith International Airport. This resolution is for the assignment of the June 10, 1974, lease consisting of 143,439 square feet of land on the west side of the airport. Mr. Horton owns the T-hangars located on the land and has completed negotiations with Lubbock Aero for the sale of the hangars. Abilene Aero, dba Lubbock Aero, assumes the obligations of the lease.

**FISCAL IMPACT**

No fiscal impact.

Airport Board and staff recommended approval of this resolution.

- 5.11. Contract Assignment Resolution - Airport: Resolution No. 2008-R0119 authorizing the Mayor to execute a lease assignment from Hangars of Lubbock, Inc., to Abilene Aero, Inc., dba Lubbock Aero, for the hangar ground rental agreement dated March 1, 1976, for 74,851 square feet of land.**

The resolution is for the assignment of the March 1, 1976, lease consisting of 74,851 square feet of land on the west side of the Lubbock Preston Smith International Airport. Mr. Earl Horton owns the T-hangars located on the leased land and has completed negotiations with Lubbock Aero for the sale of the hangars. Abilene Aero dba Lubbock Aero assumes the obligations of the lease.

**FISCAL IMPACT**

No fiscal impact.

Airport Board and staff recommended approval of this resolution.

- 5.12. Contract Assignment Resolution - Airport: Resolution No. 2008-R0120 authorizing the Mayor to execute a lease assignment from Hangars of Lubbock, Inc., to Abilene Aero, Inc., dba Lubbock Aero, for the Non-Aeronautical Lease Agreement dated October 20, 1994, for land with 25 T-hangars and an office.**

The resolution assigns the October 20, 1994, lease consisting of 25 T-hangars and office space on 28,070 square feet of the east side of Lubbock Preston Smith International Airport. Mr. Earl Horton, owner of Hangars of Lubbock, desires to assign the lease from Hangars of Lubbock to Lubbock Aero. Abilene Aero, dba Lubbock Aero, assumes the obligations of the lease.

**FISCAL IMPACT**

No fiscal impact.

Airport Board and staff recommended approval of this resolution.

- 5.13. Contract Assignment Resolution - Airport: Resolution No. 2008-R0121 authorizing the Mayor to execute a lease assignment from Hangars of Lubbock, Inc., to Abilene Aero, Inc., dba Lubbock Aero, for the Lease Agreement dated August 16, 2004, for land with 12 T-hangars.**

The resolution assigns the August 16, 2004, lease consisting of 12 T-hangars on 12,489 square feet of the east side of Lubbock Preston Smith International Airport. Mr. Earl Horton, owner of Hangars of Lubbock, desires to assign the lease to Abilene Aero. Abilene Aero, dba Lubbock Aero, assumes the obligations of the lease.

**FISCAL IMPACT**

No fiscal impact.

Airport Board and staff recommended approval of this resolution.

- 5.14. Contract Resolution - Airport: Resolution No. 2008-R0122 authorizing the Mayor to execute a lease agreement replacing two assigned agreements dated June 10, 1974, and March 1, 1976, to Abilene Aero, Inc., dba Lubbock Aero, for ground rental on the west side of Lubbock Preston Smith International Airport.**

The June 10, 1974, agreement for 143,439 square feet of land and the March 1, 1976, agreement for 74,851 square feet of land were assigned to Abilene Aero, dba Lubbock Aero and need to be updated with current requirements. The new lease agreement combines the leases for 218,290 square feet of land on the west side of Lubbock Preston Smith International Airport. The base term is amended to expire on October 31, 2017, at the same time as Abilene Aero's other leases at the airport. The lease has four five-year renewal options and an annual Consumer Price Index adjustment.

**FISCAL IMPACT**

No fiscal impact.

Airport Board and staff recommended approval of this resolution.

- 5.15. Contract Resolution - Airport: Resolution No. 2008-R0123 authorizing the Mayor to execute a new lease agreement to replace two assigned agreements dated October 20, 1994, and August 16, 2004, to Abilene Aero, Inc., dba Lubbock Aero, for land with T-hangar on the east side of Lubbock Preston Smith International Airport.**

The October 20, 1994, an agreement for 25 T-hangars and office space (28,070 square feet) and the August 16, 2004, agreement for 12 T-hangars (12,489 square feet) were assigned to Abilene Aero, dba Lubbock Aero. The new lease agreement combines the two leases. The annual rental fee remains the same. The base term is amended to expire on October 31, 2017, at the same time as Abilene Aero's other leases with the airport. The lease has four five-year renewal options and an annual Consumer Price Index adjustment.

**FISCAL IMPACT**

No fiscal impact.

Airport Board and staff recommended approval of this resolution.

**5.16. Contract Resolution - Solid Waste: Resolution No. 2008-R0124 authorizing the Mayor to execute a FY 2008 Solid Waste Implementation Project contract with South Plains Association of Governments for the 2008 Solid Waste Grant Programs.**

Texas House Bill 3072 mandates that the Texas Commission on Environmental Quality return to local governments a portion of the \$1.25 per ton State surcharge collected on landfill tipping fees. Funds are apportioned to the Council of Governments (COG) based on a formula that includes, but is not limited to, population, need, and number of counties in the COG area. The COG then conducts a competitive grant application process to address the needs of their specific region. This year, South Plains Association of Governments (SPAG) has \$165,000 available for pass-through implementation projects. The SPAG Solid Waste Advisory Committee has chosen to limit each single-jurisdiction award to a maximum of \$58,000.

The Solid Waste Department's 2008 \$25,035 grant will be used to purchase equipment and supplies for recycling drop-off centers and other recycling programs:

- 2,000 14-gallon recycling bins provided to residents, businesses, and university students for efficient recycling, at an estimated cost of \$12,600.
- Three outdoor message boards at each permanent Recycling Drop-off Center to communicate recycling program procedures, recycling tonnage, upcoming events, and local and current recycling efforts, at an estimated cost of \$3,636.
- One utility vehicle or similar four-wheel open cart vehicle used at the Southside Drop-off Center, 1631 84th Street, for safe and efficient transfer of recycle storage units, located within the recycling center, household hazardous waste items, used computers, high technology items, and other materials received at the facility entrance, at an estimated cost is \$8,799.

**FISCAL IMPACT**

The \$68,824 matching funds are Adopted in the FY 2007-08 Solid Waste Operating Budget.

Staff recommended approval of this resolution.

**5.17. Contract Amendment Resolution - Engineering: Resolution No. 2008-R0125 authorizing the Mayor to execute Amendment No. 4 to an engineering services agreement with HNTB Corporation related to the Northwest Passage Project.**

The amendment authorizes engineering services necessary to complete the plans, specifications, and estimates (PS&E) on the Erskine Street (from Frankford Avenue to Salem Avenue) and the Slide Road (from North Loop 289 to Erskine Street) paving and drainage improvements.

The original agreement with HNTB for Advance Planning for the Northwest Passage project includes public involvement, route studies, preparation of design schematics, environmental assessments, and preparation of preliminary estimates. Advance Planning projects include:

Erskine Street from Frankford Avenue to Salem Avenue  
Slide Road from North Loop 289 to Erskine Street  
Slide Road from 4th Street to North Loop 289  
Slide Road from Erskine Street to Clovis Road  
Loop 289 from southwest of 4th Street to northeast of Quaker Avenue  
Loop 289 interchange at 4th Street  
Loop 289 interchange at Quaker Avenue/Erskine Street  
New grade separation at Slide Road and Loop 289

Amendment No. 1 to the agreement provided additional services for the Advanced Planning, and authorized detailed engineering for PS&E on Erskine Street from Frankford Avenue to Salem Avenue and on Slide Road from North Loop 289 to Erskine Street.

Amendment No. 2 provided for a time extension for the completion of the Northwest Passage Advance Planning due to the review time required by the Texas Department of Transportation and the Federal Highway Administration.

Amendment No. 3 provided for additional services needed for PS&E on Erskine Street and Slide Road (engineering services authorized by Amendment No. 1).

Amendment No. 4 provides for additional services needed for the re-design of the storm sewer on Erskine Street. Conflicts with gas, fiber optic line, and water utility lines discovered after the storm sewer design was completed. It is beneficial to the utility companies and to the City to re-design the vertical alignment of the storm sewer, rather than to adjust the utility conflicts. The amendment extends the time of the agreement through July 31, 2008, the scheduled time to complete the project bid and award phase. The additional engineering fee is \$9,667 and increases the contract amount to \$1,429,228.

#### **FISCAL IMPACT**

\$17,097,200 is appropriated in Capital Improvement Project 91101, Erskine Street: Frankford to Salem and \$5,205,000 is appropriated in Capital Improvement Project 91102, Slide Road: Loop 289 to Erskine Street with \$9,666.89 available for this purpose.

Staff recommended approval of this resolution.

**5.18. State Water Plan Amendment Resolution - Water Utilities: Resolution No. 2008-R0126 authorizing the Water Utility Director to request an amendment to the Llano Estacado Regional Water Planning Group (Region O) Water Plan State Water Plan for the City of Lubbock to include reuse options to supplement water supply alternatives.**

The resolution directs the Director of Water Utilities to request an amendment to the Llano Estacado Regional Water Planning Group (Region O) Water Plan and the State Water Plan incorporating reuse as a part of the City's planned projects. Amending the State Water Plan enables the City to receive the appropriate score for reuse efforts for financial assistance for the Lake Alan Henry project.

The Lubbock Water Advisory Commission and City Council approved reuse options to supplement water supply alternatives.

The Strategic Water Supply Plan calls for Lake Alan Henry to be supplemented with developed waters originating from both treated wastewater effluent and playa lake waters. The waters will initially be discharged into the North Fork of the Double Mountain Fork of the Brazos River. From there, a number of existing and developing projects will benefit from reuse waters. The following list identifies the projects. Some projects may be considered immediately for inclusion in the Regional Plan, while others may be developed into the 2011 Plan.

For Immediate Consideration

1. North Fork Scalping Project: Designate the North Fork Scalping Project as a reuse project. With the deletion of Lake No. 8 from the Plan, the North Fork Scalping Project enables the diversion of reuse and other developed and permitted waters from the North Fork to supplement water from Lake Alan Henry.
2. Lake Alan Henry Project: Designate the Lake Alan Henry Pipeline and Pump Stations project as reuse projects. The Lake Alan Henry water supply source may be supplemented with water from the North Fork Scalping Project. The sizing of the Lake Alan Henry Pipeline and Pump Stations is based upon the potential for reuse.
3. Water Treatment Plant Project: The Water Treatment Plant associated with Lake Alan Henry is part of the reuse plan and may treat raw water from both Lake Alan Henry and Lake No. 7.

For Future Consideration in the 2011 Plan

1. South Fork Reuse Project: In accordance with the City's Strategic Water Supply Plan, the City proposes the addition of a new project for the discharge of reuse water into the South Fork of the Double Mountain Fork of the Brazos River to directly supplement Lake Alan Henry with reuse water. The City has a nine million gallons per day line to the Hancock Land Application Site, which is located close to the City of Wilson. The line could be extended 25 miles for discharge into the South Fork.

2. Post Reservoir Project: The City is negotiating with the White River Municipal Water District to work together for water supply alternatives and the development of the Post Reservoir. Reuse water, as well as other developed and permitted water, is essential to make this project viable. The Lake Alan Henry Pipeline Project will be located west of the planned Post Reservoir site, and is proposed to bring water to Lubbock and surrounding communities. The request to the Region O Water Planning Group depends upon the success of negotiations with the White River Municipal Water District.

### **FISCAL IMPACT**

Amending the State Water Plan is not an expensive process and State grants are available for major amendments and updates. Minor costs for related engineering services are budgeted in the Adopted FY 2007-08 Water Utility operating budget.

Amending the plan enables the City to compete for State financial assistance through the Texas Water Development Board saving Lubbock residents through lower borrowing cost, reducing the debt service paid with the water rate.

Lubbock Water Advisory Commission and staff recommended approval of this resolution.

- 5.19. This item was moved from consent agenda to regular agenda and considered following Council reconvening at 11:30 a.m.**
- 5.20. This item was moved from consent agenda to regular agenda and considered following Item 5.19.**
- 5.21. This item was moved from consent agenda to regular agenda and considered following Item 5.8.**
- 5.22. Contract Resolution - Water Utilities: Resolution No. 2008-R0127 authorizing the Mayor to execute a unit price contract with Airgas Specialty Product for anhydrous ammonia for the Water Treatment Plant and Bailey County Pump Station, BID 08-034-FO.**

This contract is for the purchase of anhydrous ammonia on an as-needed basis for the Water Treatment Plant and Bailey County Pump Station. Anhydrous ammonia combined with chlorine produces a chlorine residual, which limits the formation of Environmental Protection Agency regulated disinfection byproducts. The City uses approximately 83 tons of anhydrous ammonia at the Water Treatment Plant and Bailey County Pump Station annually, Texas Commission on Environmental Quality Rules and Regulations require all water for public use maintain a chlorine residual.

The following companies submitted bids:

	Unit Cost	Total
Airgas Specialty Products of Duluth, GA	\$900/ton	74,700
DPC Industries of Sweetwater, TX	\$940/ton	78,020

The contract term is three-years.

#### **FISCAL IMPACT**

\$74,700 is appropriated in the Adopted FY 2007-08 Water Utilities Operating Budget. The contract is awarded by unit price. The total amount of the award is estimated based on estimated quantities and actual expenditures may be more or less depending on actual needs. The unit price will not change and expenditures will not exceed appropriated funds.

Staff recommended contract award to the lowest responsible bidder, Airgas Specialty Products, of Duluth, Georgia, for \$74,700.

**5.23. Contract Resolution - Water Utilities: Resolution No. 2008-R0128 authorizing the Mayor to execute a purchase order contract with Pinnacle Industries, LTD, for emergency repair to the multi-stage blower at the Southeast Water Reclamation Plant.**

The activated sludge process at the Southeast Water Reclamation Plant (SEWRP) involves air pumped into the activated sludge basins by multi-stage blowers to increase the amount of dissolved oxygen to treat the raw wastewater. Two large blowers maintain correct air mixture and ensure proper treatment 24 hours per day. Due to the age of the equipment, the SEWRP maintains one additional large blower as back-up. One of the blowers failed, and the manufacturer of the equipment is making repairs to ensure redundancy for the wastewater treatment process and to preserve and protect the public health and safety of Lubbock residents. The cost of repairs is \$42,297.

The SEWRP is currently under construction for the upgrade to Plant No 4, and the construction phase upgrading the blower building is scheduled for June 2010.

#### **FISCAL IMPACT**

\$1,375,000 is appropriated in Capital Improvement Project 91042, SEWRP Water Reclamation Plant Replacements, with \$42,297 available for this purpose.

Staff recommended approval of this resolution.

**5.24. Ordinance 2nd Reading - Planning: Ordinance 2008-O0032 Consider an ordinance amending the zoning code changing the "drive-in" Restaurant (Business permitted outside of building) use from the C-4 Commercial District to the C-3 General Retail District.**

On March 27, 2008, City Council approved the first reading of the ordinance. Mr. Rod Warren, the owner or operator of the majority of Sonic drive in restaurants in Lubbock submitted a letter to the Director of Planning requesting consideration by the Planning and Zoning Commission and City Council of a change of zoning district required for the style of restaurant he operates. Mr. Warren is of the opinion that Sonic is at a competitive disadvantage with other fast food operations since drive in restaurants must locate in Commercial-4 (C-4) while the fast food restaurants may operate in the most restrictive commercial districts, Commercial-3 (C-3), Commercial-2 (C-2), and Commercial-2A (C-2A), and all other commercial and industrial districts.

The move to C-3 is conservative, but increases Mr. Warren's potential number of locations significantly – as a great deal of land is now zoned C-3. Planning staff refers to C-3 as “shopping center” zoning versus the “heavy” zoning district of C-4. A significant amount of C-2 and C-2A zoned property backs up to residentially zoned property. Thus, the conservative yet significant recommendation by the staff and the Planning and Zoning Commission allows an increased number of locations for drive in restaurants, and most should not impact adjacent residential. The motivating reasoning for the recommendation is the modern drive in is not the drive in of the 1950s, 1960s, and 1970s since the activities of young people have changed with the price of gas, electronic games, and numerous other social factors that placed the drive-in restaurants in C-4 during the 1975 Zoning Code update. The restaurant today is family oriented with little or none of the negative connotations of the past.

The Planning and Zoning Commission recommended approval of the ordinance changing the use from C-4 to C-3.

#### **FISCAL IMPACT**

No fiscal impact.

Staff supports the recommendation of the Planning and Zoning Commission.

**5.25. Ordinance 2nd Reading - Planning: Ordinance No. 2008-00033 Consider request by Burl Masters (for George McMahan Development) for zoning change from R-1 Specific Use to C-3 on 11.25 acres of unplatted land out of Block AK, Section 30.**

On March 27, 2008, City Council approved the first reading of the ordinance. The applicant is requesting an area currently zoned for residential adjacent to Milwaukee Avenue be rezoned to Commercial-3 (C-3). The applicant presented the case requesting that a number of permitted uses in the C-3 District be eliminated as permitted uses.

Regular City Council Meeting  
April 10, 2008

Adjacent land uses:

- N – commercial, vacant
- S – residentially zoned, vacant – a portion of the land will be an easement for the overflow of water from the playa to the south in the path of flow to McAlister Park.
- E – commercial east of Milwaukee Avenue
- W – zoned residential, the tract has been sold to Frenship Independent School District for a school site. Schools are a permitted use in the single family district.

Only a row of homes to the south will be adjacent to the requested commercial zone change. Other land use will exist in the future in the three other directions.

The request does not meet the current Comprehensive Land Use Plan for this portion of Milwaukee Avenue, and a previous zone case and amendment have been processed across the street (Milwaukee Avenue). In a “first of its kind” paving program to enhance circulation in West Lubbock and take traffic pressure off Slide Road, Milwaukee Avenue thoroughfare was paved from Fourth Street to 95th Street prior to development. Subsequent to this paving, a considerable number of zone cases have been requested and approved that exceed the policy of 10 acres per corner, for a total of 40 acres per intersection, at the intersection of major thoroughfares.

The applicant is requesting commercial zoning south of an existing commercial area. As noted, the request exceeds the 660-foot 10 acre distance, but so does the commercial across the street. Should this area not be successful as a commercial zone, the current Bacon Crest preliminary plat is designed for the land area to revert to residential as initially proposed. The case was approved by the Planning and Zoning Commission and the City Council during first reading as a minor change to Comprehensive Land Use Plan.

The request has no impact on zoning policy, except the amount of acreage already discussed. Being adjacent to Milwaukee Avenue, staff requests a limitation on curb cuts as approved in a future review by the Planning and Zoning Commission.

The Planning and Zoning Commission recommended approval of the request with Council's motion including the fact that the request is a minor amendment to the Comprehensive Land Use Plan with the following conditions:

1. Prior to platting and/or development of any of the property, a traffic management plan (curb cuts on Milwaukee Avenue) shall be reviewed and approved by the Planning and Zoning Commission.
2. The following uses shall not be permitted (numbers reflect their entry in the Zoning Code):

- (3) bowling alley
- (6) gasoline service station
- (8) miniature golf course
- (8a) quick tune or quick oil change
- (11) skating rinks

#### **FISCAL IMPACT**

No fiscal impact.

Staff recommended approval of the second reading of this ordinance.

**5.26. Ordinance 2nd Reading - Planning: Ordinance No. 2008-O0035 Consider request by Hugo Reed and Associates for zoning change from T to AM on 10.2 acres of unplatted land out of Block E-2, Section 23.**

On March 27, 2008, City Council approved the first reading of the ordinance. The proposed zone case represents the desire of the two owners of the current message therapy business to create a “compound” for massage therapy, a school of message therapy, cottages for on-site programs of meditation, therapy, and personal or regeneration/healing stay for short visits, and potentially a stable with the style of therapy that uses horses as a part of the overall healing/regeneration experience. A home occupation has been approved at this residence by the Zoning Board of Adjustment (ZBA) and one or several commercial business locations operated by the ladies within the City in commercial areas. The applicants submitted an extensive description of their program and a complete list of current and potential staff with their credentials. Staff and applicants had several conversations on how to achieve their purpose within the bounds of the parcel involved and within the limits created for such a multi-use by the Zoning Code. The applicants have been informed of development standards in Apartment Medical (AM) and the fact that at least a portion of the property will have to be platted if the school and/or a message therapy facility is developed on the property. As nonconforming, the applicants may choose to retain use of the home for residential purposes for an undetermined amount of time. The AM District solves all but the horse related portion, and developing this portion is well into the future, so it is not included in this discussion. The parcel has a number of nonconforming horses as the result of having been annexed with horses in place. The existing nonconforming use will not be impacted by this zone change if approved, unless major changes are made to the home as a conversion to a true business location.

Adjacent land uses:

- N – extra territorial jurisdiction subdivision, randomly developed mostly as single family, zoned Transitional (T)
- S – vacant, zoned T
- E – across Quaker, zoned Garden Office
- W – vacant, zoned T

As AM, the request is not out of line with policies of the Comprehensive Land Use Plan of having buffer uses adjacent to thoroughfares and not at the corner of two major thoroughfares as traditional commercial would require. Recent church campus locations represent the closest example of what is proposed in this case. As noted in the introduction, the novel approach of the applicants to a campus devoted to physical and mental well being is not one discussed within a zone case in the recent past. How to fit this land use request into the fabric of zoning code and the eventual development surrounding the ten acre parcel is the primary land use issue. If the use is found to be acceptable by the Commission, the request does not rise to the level of a Comprehensive Land Use minor change.

Regarding development standards, any new construction would meet AM guidelines. As noted, the home on the parcel is approved by the ZBA for a home occupation for massage therapy limited to the practice of one of the applicants living in the home and with a limitation on the number of clients who can be at the home as well as restrictions on advertising and signage. If the home is converted to a level beyond the current approval of the ZBA, both the Building Code and State of Texas requirements for a message therapy establishment will become relevant. The applicants will have to make that decision regarding home conversion when the time comes.

Fully developed as envisioned by the applicants, the amount of traffic should have no unanticipated impact on the thoroughfare system. The actual traffic would probably be less than the ten acres developed as traditional single family residential (roughly 40 homes would be developed on ten acres loaded at a four unit per acre level). Quaker Avenue is designated as a T-2 thoroughfare and will be paved to seven lanes at some point in the future. The staff requested a limitation of curb cuts to Quaker Avenue if the case is approved, and circulation among the various uses on the property can be developed on site versus multiple curb cuts. Several other conditions were requested. At the point of development, platting will be required for any new construction.

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

1. Initially, the parcel is limited to two curb returns to Quaker Avenue. Should future development indicate the need for a greater number, a site plan may be proposed to the Planning Commission.
2. The medical uses on the site may include all permitted AM uses including message therapy as well as other established non-traditional health and wellness activities. These uses may include training and active provision of these services to the public. Sales of products related to the professions or allowed in the AM District shall be allowed.

3. The existing home may remain with the current legal nonconforming status (an approved home occupation by the Zoning Board of Adjustment) subject to the condition of that approval. Ultimately, the home may be used as a support facility including, but not limited to, on site living quarters for a caretaker of the property.
4. If cottages for short term stay clients are introduced, the AM Districts allows apartments. The cottage complex will be treated as an apartment development for short stays, not developed as a hotel.
5. The requirement for a screening fence for the adjacent residential or T zoned property shall be reviewed by the Planning Commission prior to any new construction. The Commission has the authority by Code to waive screening when beneficial to the business and adjacent residents.
6. Parking on new structures shall meet the "office" ratio of 1/200, or if shared parking is an asset, the applicant shall request that consideration by the Zoning Board of Adjustment.

#### **FISCAL IMPACT**

No fiscal impact.

The staff supports the recommendation of the Planning and Zoning Commission.

**5.27. Notice of Intent Resolution - Business Development: Resolution No. 2008-R0129 giving Notice of Intent to enter into a tax abatement agreement with JKK Properties, L.P. for improvements to real property and tangible property of 3405 East Slaton Highway, Tract A, Yellowhouse Addition to the City of Lubbock.**

JKK Properties dba Yellowhouse Machinery Company plans to construct a facility at 3405 East Slaton Highway located within the Lubbock 2000 South Enterprise Zone and submitted an application for commercial tax abatement.

The project meets the Commercial Tax Abatement Policy and Guidelines minimum investment requirement of \$100,000 in real property improvements. Total investment in the project will be \$6,191,317 for real property improvements and \$420,623 for personal property. Yellowhouse Machinery Company plans to create 10 to 15 new jobs during the next five years.

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 is recommending a five-year declining scale tax abatement.

#### **FISCAL IMPACT**

The estimated tax abatement is \$90,263 during the 5-year term.

Staff recommended approval of this resolution.

**5.28. Contract Resolution - Health: Resolution No. 2008-R0130 authorizing the Mayor to execute a purchase order contract with Base X, Inc., for emergency response shelters.**

The purchase order contract is for the purchase of two 18-foot by 26-foot air inflatable rapid deploying emergency response shelters with carry bag, repair kit, stake kit, group tarp, and inflator fans. The shelters are prewired for lighting and electrical components. Accessories include flooring, light kits, and HVAC unit. The purchase of the equipment involves plans to respond to an act of terrorism.

The purchase must be made by July 31, 2008. The public health jurisdictions in DSHS Public Health Region 1 (DSHS Region 1, Lubbock, Amarillo, and South Plains Health District) identified and agreed to purchase two emergency response shelters. The shelters will be forward-placed in designated locations within Public Health Service Region 1 and will be available upon request by jurisdictions within the region providing mobile resources for multi-jurisdiction response when health emergency overwhelms routine capacity. By May 31, 2008, a Memorandum of Agreement or Memorandum of Understanding for shelter deployment within the regional jurisdictions will be established. The emergency response shelters will be positioned to meet target capabilities including isolation and quarantine, medical surge, mass prophylaxis, and citizen evacuation and shelter-in-place. The Lubbock Health Department will maintain inventory of emergency response shelter equipment and the holding jurisdictions are responsible for security, monitoring, and maintenance.

The Air Base-X 2030 Series equipment is available for purchase through the Texas Multiple Awards Schedule (TXMAS) contract #TXMAS-7-780130. The cost for each shelter is \$60,065. The TXMAS program adapts existing competitively awarded federal government contracts to the procurement needs of the State of Texas and local governments. As the responsible federal entity, the General Services Administration's (GSA) Federal Supply Service awards Federal Supply Schedule contracts by competitive procurement procedures for more than 50 schedules covering multiple commodities and services. The prices reflected on GSA schedule contracts are the most favored customer prices and the maximum price allowable. To be considered for the TXMAS Program, an existing contract must be awarded by the federal government or other governmental entity using a competitive process and adaptable to the laws of the State of Texas (Texas Government Code Title 10, Subtitle D, Sections 2155.062, 2155.502, 2155.504).

**FISCAL IMPACT**

The CPS-Bioterrorism Preparedness grant appropriation is amended on this City Council agenda with Budget Amendment No. 8. Discretionary funds for equipment were awarded by the Centers for Disease Control and Prevention. Department of State Health Services Region 1, Potter-Randall Health Department, South Plains Public Health District, and the City were approved

for a discretionary funds project providing for one-time funds to address needs at the local/regional level, limited to equipment purchases, exercises and non-recurring costs.

Staff recommended approval of this resolution.

**5.29. Interlocal Agreement Resolution - Information Technology: Resolution No. 2008-R0131 authorizing the Mayor to execute an interlocal agreement with Lubbock County, Lubbock Emergency Communication District, and Lubbock Central Appraisal District for sharing geographic information systems.**

The City of Lubbock, Lubbock County, Lubbock Emergency Communication District, and Lubbock Central Appraisal District collect information and data covering the geographic area of Lubbock County and its political subdivisions. Technological advances have made it possible for the agencies to share a wide variety of geographic information systems data and other computerized and hard copy information.

The agreement creates the mechanism for sharing a large variety of digital orthophotography, data, and maps. By sharing data, parties to the agreement benefit from the work and expertise of the other agencies, saving time and money.

The term of the agreement is five years and maybe extended for five successive terms of five years each. The agreement replaces a similar agreement authorized by City Council in July 2000 (Resolution No. 2000-R-0257). On March 26, 2008, the Lubbock Central Appraisal District Board approved the agreement. Consideration of the agreement is scheduled for the April 9, 2008, Lubbock Emergency Communication District Board agenda and the April 14, 2008, Lubbock County Commissioners agenda.

**FISCAL IMPACT**

No fiscal impact.

Staff recommended approval of this resolution.

**5.30. This item was moved from consent agenda to regular agenda and considered following Item 5.21.**

**5.31. Ordinance 2nd Reading - Police: Ordinance No. 2008-O0031 Consider an ordinance adding Article IV to Chapter 18 of the City of Lubbock code of ordinances entitled "Sex Offenders" declaring it an offense for some such persons to establish their residence in close proximity to where children commonly gather, providing affirmative defenses to prosecution for such offense, providing a penalty, providing a savings clause, and providing for publication.**

The ordinance prohibits registered sex offenders from establishing a residence within 1,000 feet of public parks or recreation facilities, schools, day care centers, or boy's and girl's organizations.

The Police Department recommended the ordinance to safeguard and protect minors from individuals convicted or adjudicated of such crimes who might have a propensity to become a repeat offender.

**FISCAL IMPACT**

No fiscal impact.

Staff recommended approval of the second reading of this ordinance.

**5.32. Electric Rate Amendment Resolution - LP&L: Resolution No. 2008-R0132 amending Lubbock Power & Light's current rate structure by amending the Large School Service Rate (15), the Secondary General Service Rate (16) and the Large Municipal Service Rate (17).**

On February 27, 2008, Xcel Energy's Southwestern Public Service (SPS) filed with the Texas Public Utility Commission (PUC) in each of the home rule cities in its Texas territory to take action on a rate decrease for customers in certain rate classes with a demand charge. The action affects the rates by placing a cap on the demand charge for customers being billed under the Large School Service Rate (15), the Secondary General Service Rate (16) and the Large Municipal Service Rate (17). SPS realized that the demand charge in their new rate structure approved in 2007 can dramatically impact the cost to customers in these rate classes. Customers in these rate classes will see their demand capped at a value determined by dividing the amount of energy (kWh) used by 80. In practice, the billed demand will be the lesser of the actual demand rate or the calculated cap.

SPS asked the home rule cities and the PUC to allow the rate change to take effect "by operation of law", which meant if no action was taken on the proposal; the rate change would automatically take effect on April 2, 2008. No action was taken and the rate change was implemented as described.

In 2007, LP&L mitigated some of the impact of the demand charges to these customers. Other customers were not included in the mitigation and these customers will benefit from this proposed change. Failure to take this action could put LP&L at a competitive disadvantage when comparing these rate classes among electric providers in Lubbock. LP&L's electric rate change mirrors Xcel Energy's action that took effect on April 2, 2008. The financial impact to LP&L is anticipated to be less than \$250,000 annually. SPS intends to recapture the lost revenue during their next major rate case, which should be filed some time during the summer of 2008 for implementation in 2009.

The Electric Utility Board approved this action on March 25, 2008, and recommended that the City Council approve the action with implementation on April 11, 2008.

**FISCAL IMPACT**

The financial impact to LP&L will be less than \$250,000 annually.

Staff recommended that the Electric Utility Board and City Council approve the rate decrease.

**5.33. Interlocal Agreement Resolution – City Manager: Resolution No. 2008-R0133 authorizing the Mayor to execute an amendment to the interlocal agreement with the Lubbock Housing Authority for administrative services amending definitions, responsibilities, term, and effective date.**

The Department of Housing and Urban Development (HUD) and the Board of Commissioners of the Lubbock Housing Authority (LHA) request an amendment of the interlocal agreement with LHA for administrative services and dated April 13, 2006, amending the term of the agreement for an additional one-year term. During the past two years, LHA successfully eliminated the HUD designation as “financially troubled” and resolved all issues associated with a review of the LHA by the Inspector General’s Office. The LHA received two HUD reviews during the fiscal year ended September 30, 2007, with the following results:

- Public Housing Assessment System – Score 87 - designated a Standard Performer, 3 points short of the High Performer designation.
- Section 8 Management Assessment System – Score 93 - designated a High Performer.

Under the amended agreement, a new Executive Director will be trained to assume the executive role during the term of the agreement.

In addition, the North and East Lubbock Community Development Corporation (NELCDC) requests administrative services to assist them in developing and implementing strategies.

**FISCAL IMPACT**

Assistant City Manager Quincy White is temporarily assigned to the LHA and the NELCDC.

Staff recommended approval of this resolution.

**6. REGULAR AGENDA**

**Note: Regular Agenda items, Consent Agenda items moved to Regular Agenda, Proclamations and Presentations, Minutes, and Work Session items are listed in the order they were addressed (5.2, 5.8, 5.21, 5.30, 6.2, 3.1-3.5, 7.1, 6.1, 5.19-5.20). Items 6.3 and 7.2 were deleted.**

**5.2. Budget Amendment Ordinance 1st Reading - Finance: Ordinance No. 2008-O0036 Amendment No. 9 amending the Adopted FY 2007-08 Budget respecting the Solid Waste Fund, Police Department Forfeited Funds, and Capital Improvement Program.**

1. Authorize one full-time Construction and Maintenance Leader and four full-time Heavy Equipment Operators in the Unpaved Alley Maintenance Cost Center in the Solid Waste Fund. The additional personnel are part of the Street Maintenance Program presented to City Council in June, 2007.

Funding is appropriated in the Adopted FY 2007-08 Solid Waste Operating Budget.

2. Appropriate \$451,500 of Police Forfeited Funds for law enforcement purposes. Prior to the expenditure of forfeited funds, the Texas Code of Criminal Procedure requires the law enforcement agency to submit a budget for the funds to the City Council.

Funds will be used to purchase computer equipment, software, lab equipment, SWAT equipment, renovations and construction, information and evidence, and for training and related expenses.

The funds are the result of special police investigations involving seized assets. The appropriate Court awards these assets to the Lubbock Police Department for law enforcement activities pursuant to Texas Code of Criminal Procedure Article 59.06(d).

The funds are appropriated as follows:

Special Investigative Fund	\$155,000
Confidential Informant Fund	53,000
Department of Treasury Asset Sharing	500
Department of Justice Asset Sharing	243,000
Total Forfeited Funds Budget	\$451,500

The detailed budget is described in Exhibit A.

3. Amend the Gateway Streets Project Fund as presented in Exhibit B. The revised Gateway Streets Project Fund does not exceed the existing appropriation amount. The fund is amended due to a local transportation advanced funding agreement with the Texas Department of Transportation for the design and construction of a new interchange at Slide Road and North Loop 289. The advanced funding agreement caps the City's contribution to \$25 million funded through the Gateway Streets Fund.

### **FISCAL IMPACT**

Included in item summary.

Police Chief Dale Holton gave comments and answered questions from Council.

Council Member Leonard told Chief Holton that he wants to be sure there is sufficient ammunition for police officers to practice.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to pass on first reading Ordinance No. 2008-00037 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

- 5.8. Alley Use License Resolution - Right-of-Way: Resolution No. 2008-R0134 authorizing the Mayor to execute an alley use license with Best Bunz, Inc., dba Schlotzsky's, to use a portion of a dedicated alley for a private sanitary sewer line and grease interceptor, 3719 19th Street.**

Schlotsky's requests an Alley Use License to install a private sanitary sewer line and grease interceptor in the alley west of Louisville Avenue and south of 19th Street. The charge for the license is \$269 payable in advance for the first 5-year term and each successive 5-year term not to exceed 20 years. Utility companies are in agreement with this license.

**FISCAL IMPACT**

Revenue to the General Fund of \$54 per year.

Staff recommended approval of this resolution.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass Resolution No. 2008-R0134 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

Mayor Pro Tem Gilbreath recused himself.

**5.21. Contract Resolution – Water Utilities: Resolution No. 2008-R0135 authorizing the Mayor to execute a unit price contract with S.J. Louis Construction of Texas, LTD, for the construction of the Downtown Water Line Replacement Project, BID 08-706-BM.**

The Downtown Water Line Replacement Project replaces existing water lines in the downtown area for the improvement of water supply, water pressure, and fire protection. The project includes the area bordered by 4th Street on the north, 19th Street on the south, Avenue Q on the west, and Interstate 27 on the east. The Urban Design and Historic Preservation Commission approved removing the brick surface along 16th Street and replacing the brick with asphalt.

Bids were received from the following companies:

S.J. Louis Construction of Texas of Mansfield, TX	\$5,435,663
North Texas Contracting Company of Keller, TX	\$5,916,424
Wright Construction Company of Grapevine, TX	\$7,574,330
Utility Contractors of America of Wolfforth, TX	\$7,874,662

The proposed time for completion is 365 consecutive calendar days and liquidated damages are \$1,500 per day.

**FISCAL IMPACT**

\$10,783,630 is appropriated in Capital Improvement Project 90274, Downtown Water System Improvements, with \$5,435,664 available for this purpose. The contract is awarded by unit price. The total amount of the award is estimated based on estimated quantities and actual expenditures may be more or less depending on actual needs. The price per unit will not change and expenditures will not exceed appropriated funds.

Staff, HDR Engineering, and the Lubbock Water Advisory Committee recommended contract award to the lowest responsible bidder, S.J. Louis Construction of Texas for \$5,435,664.

Tom Adams, Deputy City Manager/Water Utilities Director, gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass Resolution No. 2008-R0135 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**5.30. Contract Resolution - Fire: Resolution No. 2008-R0136 authorizing the Mayor to execute a contract City of Phoenix, Arizona, for the utilization of the Lubbock Fire Department Airport Rescue Fire Fighter Training Facility by the Phoenix Arizona Fire Department.**

Code of Federal Regulations 139 requires all fire fighters assigned to airport fire protection duties have an annual "hot drill". The hot drill consists of extinguishing aircraft fires by handline and apparatus application of an extinguishing agent. The Phoenix Fire Department desires to contract with the City to utilize the City's Airport Rescue Fire Fighter (ARFF) Training facility.

**FISCAL IMPACT**

Revenue of \$385 per student. The Phoenix Fire Department is expected to train approximately 98 fire fighters during a 17-day period, generating gross revenues of \$37,730. The net revenues after expenses will fund training of Lubbock ARFF personnel and ARFF training facility maintenance. Funds for the program are managed through a donations account and expenditures are limited to revenues.

Staff recommended approval of this resolution.

Rhea Cooper, Fire Chief, gave comments and answered questions from Council.

Council Member Klein stated, for the record, that he was unaware that the City of Lubbock had been working with the Phoenix Fire Department in past years. He also stated that it is a great idea and thanked Fire Chief Cooper and the Lubbock Fire Department for doing such a great job.

Motion was made by Council Member Price, seconded by Mayor Pro Tem Gilbreath to pass Resolution No. 2008-R0136 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.2. Ordinance 2nd Reading - Planning: Ordinance No. 2008-O0034 Consider request of Andy R. Hernandez for a zoning change from R-1 to C-4 on 1 acre of unplatted land out of Section 41, Block AK.**

During a January 2008 City Council meeting, at the request of the Planning and Zoning Commission, the zoning change request was continued. The continuation allowed staff sufficient time to present a Work Session/Public Hearing on billboards to City Council and the Planning and Zoning Commission. The Planning and Zoning Commissions conducted a public hearing. On March 27, 2008, the City Council conducted the second public hearing and approved the first reading of the ordinance.

Regular City Council Meeting  
April 10, 2008

Adjacent land uses:

N – 19th Street and vacant

S – The horse arena of the homeowner to the south

E – Commercial

W – Commercial

The applicant, Mr. Hernandez, was the caretaker of Mr. Wigley at the time the original zone case was filed and is now deceased. The parcel on 19th Street was the most recent location of Wigley's Rentals after the business moved from the downtown area. Since gaining control of the property, Mr. Hernandez has removed the large number of items collected by Mr. Wigley. The applicant is requesting Commercial-4 (C-4) and has indicated a desire to place a billboard on the lot.

The City Zoning Code allows billboards in the C-4 zoning district subject to setbacks and the following conditions:

1. Maximum area of 300 square feet
2. Maximum height of 35 feet
3. Minimum 80 feet from any residentially zoned property line.
4. Minimum separation of 200 feet between all billboards on the same side of the street.

Since 19th Street is a State Highway and many heavy commercial uses and even industrial uses were inherited as the area was annexed (as well as the fact that the Comprehensive Land Use Plan recommended that C-4 be limited to major highways and expressways) the request meets the basics of the Comprehensive Land Use Plan.

The proposed zoning is within a geographic area that has developed over the last 25 years as being subject to an informal West 19th Street Corridor zoning policy. The conditions of this informal policy have been attached to a majority of the C-4 zone cases along 19th Street west of Loop 289 that have been approved by the Planning and Zoning Commission and City Council since 1983. These conditions include a strike list of uses that have been identified, during the evolution of numerous zone cases, as not being compatible with the major entry portal to Lubbock represented by 19th Street. Most of the ordinances zoning commercial property along West 19th Street have 10 to 12 C-4 uses that are prohibited. This strike list includes billboards as one of the non-permitted uses.

The request to remove billboards from the strike list constitutes a modification to the informal West 19th Street Corridor zoning policy. During the March 2008 meeting, The Planning and Zoning Commission considered four zone cases to allow billboards either in new C-4 zone cases or in requests to modify existing C-4 zone cases on properties along West 19th Street. During the discussion of the zone cases, the Planning and Zoning Commission considered the appropriateness of a modification to the informal West 19th Street

Regular City Council Meeting  
April 10, 2008

Corridor zoning policy to allow billboards. Each of those requests was denied by unanimous vote of the Planning and Zoning Commission members voting, affirming the Planning and Zoning Commission's commitment to the informal West 19th Street Corridor zoning policy.

Approval of this request will have no additional impact on the thoroughfare system beyond what exists today. The Texas Department of Transportation governs 19th Street with regard to maintenance, curb cuts, and billboards.

During the public hearing for this zone case, a member of the Planning and Zoning Commission asked the proponent what he was planning to do with the property. Mr. Hernandez stated he might install a billboard. With full understanding that the proponent might want to install a billboard, the Planning and Zoning Commission chose not to modify the informal West 19th Street Corridor zoning policy, keeping billboards on the strike list of prohibited uses.

Upon a 7-0 vote, the Planning and Zoning Commission voted to forward to City Council a recommendation that the request for zoning from Residential-1 (R-1) to C-4 be approved subject to the following conditions:

1. That the following uses be prohibited.
  - a) Automobile body shops
  - b) Billboards
  - c) Commercial private clubs and teenage clubs
  - d) Dancehalls
  - e) Used furniture store
  - f) Game room except as an incidental use, pool, billiard and/or domino parlor
  - g) Motorcycle shop
  - h) Second hand goods store or pawn shop
  - i) Used car lot
  - j) Nightclubs

Should City Council approve the case as recommended by the Planning and Zoning Commission, staff will interpret this as an affirmation by City Council of the informal West 19th Street Corridor zoning policy.

However, if City Council determines that a modification to the informal West 19th Street Corridor zoning policy is in order and begin to allow new or reconstructed billboards along West 19th Street, the following conditions are recommended. These conditions were developed with the help of Lamar Outdoor Advertising as a way to reduce the visual impact of multiple billboards within close proximity of each other.

1. The C-4 uses shall be limited to those uses unconditionally permitted in the C-4 zoning district except:
  - a) Automobile body shops
  - b) Commercial private clubs and teenage clubs
  - c) Dancehall

Regular City Council Meeting  
April 10, 2008

- d) Used furniture store
  - e) Game room (except as an incidental use in a restaurant), pool, billiard and/or domino parlor
  - f) Motorcycle shop
  - g) Second hand goods store or pawn shop
  - h) Used car lot
  - i) Nightclub, bars or lounge
2. Billboards placed on this property shall have a minimum separation of 2,640 feet from any other billboard regardless of the side of the street they are on.
  3. Billboards shall be modern steel monopole structures.
  4. A site plan, including building elevations showing materials, color and texture, shall be submitted and approved by the Planning and Zoning Commission prior to the issuance of a Building Permit.

Should City Council approve this case with a change to the conditions to allow billboards, staff will interpret this as a desire by City Council to modify the informal West 19th Street Corridor zoning policy, and consider billboards on future cases.

**FISCAL IMPACT**

No fiscal impact.

Staff supports the recommendation of the Planning and Zoning Commission.

Motion was made by Council Member Leonard, seconded by Council Member Price to pass on second and final reading Ordinance No. 2008-O0034 with modification to the informal West 19th Street Corridor zoning policy to allow new or reconstructed billboards (with proper spacing) along West 19th Street.

Discussions were had on the billboards, with each Council member sharing their concerns. Randy Henson, Director of Planning, gave comments and answered questions from Council.

After further discussions, Council Member Leonard called for the question, seconded by Council Member Price. Vote was taken, which carried: 7 Ayes, 0 Nays.

Vote was then taken on the original motion made by Council Member Leonard, seconded by Council Member Price to pass on second and final reading Ordinance No. 2008-O0034 with modification to the informal West 19th Street Corridor zoning policy to allow new or reconstructed billboards (with proper spacing) along West 19th Street. Motion failed: 3 Ayes, 4 Nays. Mayor Miller, Mayor Pro Tem Gilbreath, and Council Members DeLeon and Jones voted Nay.

Motion was then made by Mayor Pro Tem Gilbreath, seconded by Council Member Jones to pass on second and final reading Ordinance No. 2008-O0034 as recommended by staff. Motion carried: 4 Ayes, 3 Nays. Council Members Price, Leonard, and Klein voted Nay.

### **3. PROCLAMATIONS AND PRESENTATIONS**

#### **3.1. Invocation by Pastor Jackie White, Church on the Rock**

#### **3.2. Pledge of Allegiance.**

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 the Susan Polgar Institute for Chess Excellence (SPICE) at Texas Tech University honoring its work educating youth about the sport of chess.**

Mayor Miller presented special recognition to Susan Polgar for her accomplishments and for bringing the Susan Polgar Institute for Chess Excellence (SPICE) to Texas Tech University. Her husband, Paul Truong, joined her in receiving that special recognition. She gave comments.

#### **3.4. Presentation of a special recognition commemorating National Public Safety Telecommunications Week, April 13-19, 2008.**

Mayor Miller presented special recognition commemorating April 13-19, 2008 as National Public Safety Telecommunications Week. Christy Hensley, Communications Manager, and members of the telecommunications team were present to accept the special recognition.

#### **3.5. Board Recognition:**

##### **Board of Health**

**Josie Alvarado**

##### **Health/Educational Facilities Development Corporation**

**Yvonne Gutierrez** (unable to attend)

**Lori Rice-Spearman**

##### **Keep Lubbock Beautiful**

**Kay Brown** (not present – declined appointment)

**James Milford**

**Margarita Olivarez** (unable to attend)

### **7. WORK SESSION**

#### **7.1. Presentation of the plans and progress for the implementation of backflow prevention regulations as mandated by the federal and state governments, and as implemented by City ordinance. Thomas L. Adams, Water Utilities Deputy City Manager; Aubrey Spear, Assistant Water Utility Director (20 minutes)**

Aubrey Spear, Assistant Water Utility Director, gave a presentation of the plans and progress for the implementation of backflow prevention regulations as mandated by the federal and state governments, and as implemented by City ordinance. The presentation included an explanation of backflow and why it is hazardous. Spear gave an actual case study of hazard and how backflow can be prevented. He also spoke on the federal and state backflow regulations and the cost to customers for being in compliance. He then answered questions from Council.

- 7.2. Presentation of the Water Conservation and Drought Contingency Plan as adopted by City Ordinance, and water availability for 2008 and the related current and planned status of the Drought Contingency plan. Thomas L. Adams, Water Utilities Deputy City Manager; Aubrey Spear, Assistant Water Utility Director (20 minutes)**

**This item was deleted.**

**6. REGULAR AGENDA (continued)**

- 6.1. Public Hearing 10:00 a.m. - Planning: Hold a public hearing to consider the request of Texland Petroleum for Oil Drilling permit on a tract of land located approximately 2,552 feet east and 1,299 feet south of the northwest corner of Section 5, Block A, Lubbock County, Texas, and to consider a permit. Designation of well is Lubheirs No. 26.**

Mayor Miller opened the public hearing at 10:01 a. m. Dub Bratcher appeared on behalf of Texland Petroleum. No one appeared in opposition. Mayor Miller closed the hearing at 10:02 a. m.

Lubheirs No. 26 well replaces Lubheirs No. 6 well, which the City is a partial royalty owner. Texland proposes earth sludge pits and no landscaping at the well site. The blow-out protector has a minimum rating of 3,000 psi. Disposal of waste materials is proposed to occur at a Railroad Commission approved dump within Lubbock County. Access to the drill site is proposed from Guava Avenue to private property along routes to other producing wells on the property. The storage site is an existing facility on Guava Avenue north of Loop 289.

A minimal impact is expected for the short term because the area is uninhabited and current land use is agriculture and oil production. The well and storage site are remote from any existing residential development. More than 1,000 feet to the west is the closest residential property.

Although the land area surrounding and including this lease is designated as industrial on the Comprehensive Land Use Plan, no development activity in the area is proposed. At least ten existing wells in the immediate area have been drilled. West at Martin Luther King Boulevard and Loop 289 is located the Food Bank. With no known prospects for development in this square mile, few long-term negative impacts are anticipated.

Staff recommended approval subject to the following conditions:

1. No hydrocarbon lubricant (waste oil) shall be used to free-up the hole during drilling until after the first series of surface casing has been set to 400 feet, or greater.
2. The permittee shall require that a first series of casing be set when drilling reaches a depth of 400 feet. The permittee shall notify the Lubbock office of the Texas Railroad Commission for the intended dates for casing the well.
3. The first and, if used, the second series of casing of the well shall be in compliance with applicable portions of Rule 13 of the Texas Railroad Commission.
4. The permittee shall meet all other conditions of Section 14, Article VI of the Lubbock Code and those specifications indicated within the application of Texland Petroleum for Lubheirs No. 26.

#### **FISCAL IMPACT**

No fiscal impact.

Motion was made by Council Member Leonard, seconded by Mayor Pro Tem Gilbreath to grant an oil-drilling permit to TexLand Petroleum as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

- 6.3. Ordinance 1st Reading – Electric Utilities: Consider an ordinance amending Sections 2-478 through 2-485 of Chapter 2, Article XVIII of the Code of Ordinances of the City of Lubbock.**

**This item was deleted.**

## **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; competitive matters of the public power utility, and purchase of equipment pertaining to bioterrorism preparedness, as provided by Subchapter D of Chapter 551 of the Government Code, the Open Meetings Law.”**

### **10:03 A. M. CITY COUNCIL RECESSED TO EXECUTIVE SESSION City Council 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. (Finance, Police, Right-of-Way, Stormwater)**
- 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. (Right-of-Way, 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) 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 418.183(f) to discuss purchase of equipment pertaining to bioterrorism preparedness. (Health Department)**

**11:38 A.M. CITY COUNCIL REGULAR MEETING RECONVENED  
City Council Chambers**

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

**Absent:** Council Member John Leonard

**Mayor Miller reconvened the meeting at 11:38 A. M.**

- 5.19. **Ordinance 1st Reading - Water Utilities: Ordinance No. 2008-O0038 amending Chapter 2 of the Code of Ordinances of the City of Lubbock, Texas, by adding Sections 2-570 through 2-585, inclusive, establishing the Lake Alan Henry Board of Appeals ("Board"); providing for the appointment, qualifications, terms, vacancies, and removal of the members of the Board; providing for the procedures for, and appeals from, the Board; providing and adopting regulations for Lake Alan Henry and easements in favor of the City of Lubbock, Texas, adjoining Lake Alan Henry ("Easements") regarding structures and facilities and erosion control; providing for legal nonconforming status of certain structures and facilities within the Easements upon the conditions prescribed; providing a savings clause; providing a penalty clause; and providing for publication.**

The ordinance amends Chapter 2 of the Code of Ordinances by adding Sections 2-570 through 2-585 establishing the Lake Alan Henry Board of Appeals.

A copy of the ordinance will be provided at the dais.

**FISCAL IMPACT**

No fiscal impact.

Staff recommended approval of the first reading of this ordinance.

Dr. Gary Pollock, President of the Northridge Homeowners Association and representing Lake Alan Henry Mediation Committee, gave comments. Attorney Nevill Manning also gave comments. City Attorney Anita Burgess recommended incorporating the changes into the ordinance.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Jones to pass on first reading Ordinance No. 2008-O0038 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

Council Member Leonard was absent.

- 5.20. Settlement Agreement Resolution - Water Utilities: Resolution No. 2008-R0137 authorizing the Mayor to execute for and in behalf of the City of Lubbock, conditioned and contingent upon the City of Lubbock's adoption on second and final reading of that certain Ordinance, Item 5.19 on the Agenda of the April 10, 2008, meeting of the City Council of the City of Lubbock, that certain Compromise Settlement Agreement, Cause No. 07-05-06194, North Ridge Homeowners Association, et al. v. City of Lubbock, compromising and settling the captioned cause related to the construction and maintenance of structures and facilities within Lake Alan Henry and easements in favor of the City adjoining Lake Alan Henry.**

The Compromise Settlement Agreement is related to the construction and maintenance of structures and facilities within Lake Alan Henry and easements adjoining Lake Alan Henry.

A copy of the settlement agreement will be provided at the dais.

**FISCAL IMPACT**

Creation of one staff position, with an annual salary of approximately \$40,000, to monitor compliance with regulations, to review and process permits, to work closely with the Board, to monitor construction for compliance with permits, to assist home owners with erosion control plans and ideas, and to help with the development of erosion control regulations to protect the slopes and easements around Lake Alan Henry. At a future City Council meeting, staff will bring forward a budget amendment ordinance authorizing the new position, funded through the Lake Alan Henry fund.

Staff recommended approval of this resolution.

Regular City Council Meeting  
April 10, 2008

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to pass Resolution No. 2008-R0137 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

Council Member Leonard was absent.

**11:52 A. M. CITY COUNCIL RECESSED TO EXECUTIVE SESSION**

**12:40 P. M. COUNCIL ADJOURNED**

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