

**CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
JUNE 13, 2008
7:30 A. M.**

The City Council of the City of Lubbock, Texas met in regular session on the 13th day of June, 2008, in the City Council Chambers, first floor, City Hall, 1625 13th Street, Lubbock, Texas at 7:30 A. M.

7:31 A.M. CITY COUNCIL CONVENED
City Council Chambers, 1625 13th Street, Lubbock, Texas

Present: Mayor Tom Martin, Mayor Pro Tem Jim Gilbreath, Council Member Todd R. Klein, Council Member John Leonard, Council Member Linda DeLeon, Council Member Floyd Price, Council Member Paul R. Beane

Absent: None

1. CITIZEN COMMENTS

1.1. Richard Gnahoua will appear before City Council to discuss disconnection of his electric service.

Citizen did not appear.

2. EXECUTIVE SESSION was considered following Item 6.1.

3. PROCLAMATIONS AND PRESENTATIONS were considered following Council reconvening at 10:02 a.m.

4. MINUTES were considered following Item 3.6.

5. CONSENT AGENDA was considered following Item 4.1.

6. REGULAR AGENDA

Item 6.1 was taken out of order and addressed during the Citizen Comment period of the meeting.

6.1. Election Resolution - City Secretary : Resolution No. 2008-R0203 to canvass the vote and declare the results of the Special Runoff Election held June 7, 2008, for the election of City Council Members for District 2 and District 4.

The governing body is required to canvass election results not earlier than the third day or later than the eleventh day after Election Day. Each Council member is provided with tabulation sheets showing the total number of votes cast for each candidate by precinct. The resolution canvasses the returns and declares the results of the Special Runoff Election for City Council Members for Districts 2 and 4.

FISCAL IMPACT

No fiscal impact.

The City Secretary recommends that City Council accept the returns and act favorably on the resolution.

Rebecca Garza, City Secretary, read the votes received for the runoff election for Districts 2 and 4. Floyd Price received the majority of the votes for District 2. Paul R. Beane received the majority of the votes for District 4.

Motion was made by Council Member Leonard, seconded by Council Member Klein to approve the results of the June 7, 2008 City of Lubbock runoff election. Motion carried: 7 Ayes, 0 Nays.

7:34 A.M. CITY COUNCIL RECESSED TO EXECUTIVE SESSION

City Council Conference Room

2. EXECUTIVE SESSION

Mayor Martin 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.”

- 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, 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. (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.

9:00 A.M. CITY COUNCIL REGULAR MEETING RECONVENED
City Council Chambers

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

Absent: No one

Mayor Martin reconvened the meeting at 9:00 A. M.

REGULAR AGENDA (continued)

- 6.2. Swearing-In Ceremony 9:00 a.m. - City Council : Administer Oath of Office to newly elected Council Members (reception immediately following).

Mayor Martin gave comments.

Council Member, District 2 – Floyd Price was sworn in by Judge Sam Medina.

Council Member, District 4 – Paul R. Beane was sworn in by Judge Jim Dulin.

9:14 A.M. CITY COUNCIL RECESSED

10:02 A.M. CITY COUNCIL REGULAR MEETING RECONVENED

3. PROCLAMATIONS AND PRESENTATIONS

- 3.1. Invocation by Pastor Barry Moore, Trinity Christian.

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 commemorating June 14, 2008, as United States Army Day.

Mayor Martin presented special recognition commemorating June 14, 2008 as United States Army Day. Sergeant Post and Staff Sergeant Shackelford were present to accept the special recognition.

3.4. Presentation of a special recognition commemorating June 9 through 13, 2008, as National Nursing Assistants' Week.

Mayor Martin presented special recognition commemorating June 9 through 13, 2008, as National Nursing Assistants' Week. Ann Laurence, Director of Geriatric Educational Training for Texas Tech University Health Sciences Center, Garrison Institute on Aging, was present to accept the special recognition.

3.5. Presentation of a special recognition to the Lubbock Christian University Softball Team for winning the NAIA Championship in the team's inaugural season.

Mayor Martin presented special recognition to the Lubbock Christian University Softball Team. Coach Shannon Hayes, Coach Tina Hayes and the softball team, were present to accept the special recognition.

3.6. Board Recognitions - City Secretary:

Urban Renewal/Neighborhood Redevelopment Commission

Mr. Steve Hester

Water Board of Appeals

Mr. Chad Davis

4. MINUTES

4.1. Approval of Prior Meeting Minutes :

Regular City Council Meeting, May 8, 2008

Special City Council Meeting, May 16, 2008

Motion was made by Mayor Pro Tem Jim Gilbreath, seconded by Council Member Leonard to approve the minutes of May 8, 2008 and May 16, 2008 Council meeting as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5. CONSENT AGENDA (ITEMS 5.1, 5.3-5.11, 5.13, 5.15-5.17)

Motion was made by Council Member Leonard, seconded by Council Member Klein to approve Items 5.1, 5.3 - 5.11, 5.13, 5.15 – 5.17 on consent agenda as recommended by staff. Motion carried 7 Ayes, 0 Nays.

5.1. Budget Amendment Ordinance 2nd Reading - Finance : Ordinance No. 2008-O0049 Consider budget ordinance Amendment No. 10 amending the Adopted FY 2007-08 Budget respecting the Grant Funds and Capital Improvement Program.

On May 22, 2008, the City Council approved the first reading of the ordinance amending the Adopted FY 2007-08 Budget respecting the Grant Funds and Capital Improvement Program.

1. Accept and appropriate \$94,514 from the Texas Department of Housing and Community Affairs for the Low-Income Home Energy Assistance Program.

The grant funds home weatherization programs for low income persons and families. The period of performance is April 1, 2008, through March 31, 2009.

2. Accept and appropriate \$72,383 from the Texas Department of Housing and Community Affairs for the Department of Energy Weatherization Assistance Program.

The grant funds programs for low income persons and families. The period of performance is April 1, 2008, through March 31, 2009.

3. Accept and appropriate \$27,939 from the Texas Department of Housing and Community Affairs for the Southwestern Public Service Low-Income Program.

The grant funds home weatherization programs for low income persons and families. The period of performance is January 1, 2008, through December 31, 2008.

4. Accept and appropriate \$19,878 from the Texas Department of Transportation for the Click It or Ticket Selective Traffic Enforcement Program. The program increases occupant restraint use in passenger vehicles and trucks by conducting an intense occupant protection enforcement and public information and education effort during the Memorial Day holiday period.

5. Amend the North Overton Tax Increment Financing Capital Improvement Project Fund, as presented in Exhibit "A".

FISCAL IMPACT

Included in item summary.

Staff recommends approval.

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

5.3. Ordinance 2nd Reading - Right-of-Way : Ordinance No. 2008-O0050 Consider an ordinance abandoning and closing three portions of an underground utility easement in Lot 1 Canyon West Addition, easement located at 6072 Marsha Sharp Freeway.

On May 22, 2008, the City Council approved the first reading of the ordinance abandoning and closing three portions of an underground utility easement located east of Milwaukee Avenue and north of Marsha Sharp Freeway in the Canyon West Addition Lot 1. The portions of the easement are no longer needed due to the development of the area. New easements will be dedicated in the re-plat.

The utility companies are in agreement with the easement closures.

FISCAL IMPACT

No fiscal impact.

Staff recommends approval.

5.4. Ordinance 2nd Reading - Right-of-Way : Ordinance No. 2008-O0051 Consider an ordinance abandoning and closing a portion of an underground utility easement located in Block AK, Section 30, Lubbock County, Texas, easement located at 6540 82nd Street.

On May 22, 2008, the City Council approved the first reading of the ordinance abandoning and closing a portion of an underground utility easement in Block AK, Section 30, located west of Milwaukee Avenue and north of 82nd Street. The closure is due to new development in the area. The utility companies are in agreement with the easement closure.

FISCAL IMPACT

No fiscal impact.

Staff recommends approval.

5.5. Ordinance 2nd Reading - Planning : Ordinance No. 2008-O0053 Zone Case No. 1712-A (3901 and 3903 East 2nd Place) Consider a request by Brian Aycock (for Thomas and Dorothy Hudson) for zoning change from C-4 to R-1 on Lots 14 and 15, Block 1, Porter Addition.

On May 22, 2008, the City Council approved the first reading of the ordinance. The applicant is requesting that two of three lots zoned Commercial-4 (C-4) adjacent to each other at East 2nd Place and outside of East Loop 289 be rezoned Residential-1 (R-1).

Adjacent land uses:

N - residential zoned

S - the third C-4 vacant parcel from a 1971 zone case

E - residential zoned

W - Loop 289

The request for R-1 corresponds with what is illustrated on the Comprehensive Land Use Plan. The three lots of C-4 were zoned in 1971, before the formulation of the current Comprehensive Land Use Plan. In the Zone Case 1721 case file, there was neither opposition nor explanation of the proposed use of the parcels.

Land around the parcels is zoned R-1 and many are vacant.

The case is in concert with the Comprehensive Land Use Plan and zoning policies and the neighborhood includes new homes. The single letter of opposition is from an owner of property inside Loop 289.

FISCAL IMPACT

No fiscal impact.

Staff supports the recommendation of the Planning and Zoning Commission.

5.6. Ordinance 2nd Reading - Planning : Ordinance No. 2008-00054 Zone Case No. 1875-V (Southwest corner of 19th Street and Milwaukee Avenue) Consider a request by United Sky Capital, LLC for zoning change from C-4 Specific Use to C-3 on 4.054 acres of unplatted land out of Block AK, Section 43.

On May 22, 2008, the City Council approved the first reading of the ordinance. The applicants demolished a set of mini-warehouse units on the parcel at 19th Street and Milwaukee Avenue and reconfigured the playa within a cut and fill approved by the Planning and Zoning Commission. Since there is no reversionary clause in the original zone case, and the original ordinance provided no “fall back” district. The applicants were notified that they needed to file a zone case to fill that void.

Adjacent land uses:

N – vacant, commercial zoned

S – partially Garden office (vacant) zoned and partially built as Residential-2 (R-2), duplex units

E – commercial across Milwaukee Avenue

W – commercial, developed as a large structure now occupied by Carpet Tech

The request is in accordance with Comprehensive Land Use Plan policies and zoning policies. The less than 10 usable acre site is commercial by policy. The big issue outlined in comment forms and letters from neighbors is not zone related, but related to the cut and fill and replatting.

The reconfiguration of the playa is in the process of completion. The revised cut and fill plan relocated the bulk of the hole to the south and west corner of the lot (initially it was adjacent to 19th Street, overgrown with volunteer trees and full of illegally dumped material). The playa is required to remain in private ownership because a variance for less than standard 1/7 cut slope was approved – a 1/4 slope on part of the hole and using a retaining wall on the

retail parcel portion was approved. In addition to the new configuration, the adjacent owners are unhappy that the cut slope started very close to their property line and they are concerned about erosion onto their property. The new edge of the playa is close to the property line because the entire parcel was once a single parcel of property. A small portion of the lake was located on the east edge of the parcel now occupied by Carpet Tech, but there was no property line to contend with at that time. The owners of Carpet Tech attempted to have Mr. Mark Shipton share in a more expensive “cure” to shore up the low area east of their building. After the creation of the two new parcels, Mr. Shipman had no obligation to participate. Initially the two adjacent owners had begun discussion of a common new fence, but disagreement by Mr. Shipton of the details and discussion of legal issues ended the conversation.

A letter from the owner of the adjacent mobile home park is provided and notes agreement with the zone case, but lists a number of concerns about the method of approval (no notice) and the potential issues that the configuration of the playa may present. In “on the ground” terms, the location of the hole is changed fairly dramatically, but the cut slopes adjacent to the Carpet Tech building is changed very little, if any. In one location immediately adjacent to the building, the original cut is steeper than the current reconstruction. Staff’s opinion is that the removal of all the overgrowth and junk in the playa simply made the size and slope of the hole easier to see, and the ditch on the 19th Street right-of-way was deepened with approval of the Texas Department of Transportation. When finished, a bridge and culvert will connect the new corner lot to 19th Street. Carpet Tech has trenched a three-foot deep stem wall with curbing on top, and repaved the formerly low area between the building and the property line at their expense, ensuring that no erosion damages their building. The new construction is an asset to the area.

Both Carpet Tech and Mr. Van Ness, owner of Commanders Palace mobile home parks, requested some clarification from the City Engineering Department and the private engineer of the playa regarding several erosion control issues and the flow line of water from the mobile home park and along 19th Street into the playa. Neither party appeared at the meeting. In the 30 years of experience of staff, never have the details of a cut and fill come into discussion of a zone case. The Planning and Zoning Commission expressed doubt about using zoning to amend a previously approved cut and fill that is progressing as required by the engineered plan. A memo from Mike Keenum in Storm Water Engineering is provided and outlines the status of progress on the cut and fill.

Staff supports the proposed zone case. After considerable discussion by the Planning and Zoning Commission, staff, the applicant, and the applicant's civil engineer, the Planning and Zoning Commission determined that attaching cut and fill conditions in a zone case to an approved cut and fill is not prudent. The Storm Drainage Department is aware of the complaints and will oversee completion of the cut and fill plan as approved prior to the plat

being recorded, which is necessary for a construction permit. The Autrey, McDaniel & Dulin, LP engineer noted that the inflow location from the 19th Street ditch into the lake will be fenced as required, and that a considerable amount of erosion control materials have been ordered, but not installed to date. That timing process is at the discretion of the developer. No construction permits are issued until a certified “as built” cut and fill is submitted to the Storm Water Department and deemed correct per the approved cut and fill.

FISCAL IMPACT

No fiscal impact.

Staff supports the recommendation of the Planning and Zoning Commission.

5.7. Ordinance 2nd Reading - Planning : Ordinance No. 2008-O0055 Zone Case No. 2995-G (North of 73rd Street and East of Milwaukee Avenue) Consider a request by Burl Masters (for George McMahan) for zoning change from R-1 Specific Use to A-2 on 14.04 acres of unplatted land out of Block AK, Section 29.

On May 22, 2008, the City Council approved the first reading of the ordinance. The applicant is requesting an Apartment-2 (A-2) site for apartments. The applicant has a client interested in construction of a complex similar to the Dakota Arms that is constructed on 82nd Street west of Milwaukee Avenue.

Adjacent land uses:

N – future residential and a proposed park area, along with the path of a drainage outlet from west to east – eventually to get to McAlister Park

S – proposed residential

E – proposed residential and a Lubbock-Cooper Independent School District site

W – Milwaukee Avenue west of a small remaining parcel to the west of the apartment tract.

The proposed site is in a buffering location. While the site is not a buffer adjacent to ten acres of commercial on the corner of two thoroughfares, it is adjacent to a Milwaukee Avenue thoroughfare, which creates a policy location. The plan advocates buffer districts (apartments, churches and garden office development) being adjacent to thoroughfares to avoid traffic through residential. The request is in concert with the policies expressed in the Comprehensive Land Use Plan. The applicant requested approval of a decorative perimeter fence on the property lines. The Planning and Zoning Commission recommends that a property line seven-foot fence be allowed and respect the vision triangle at the two adjacent intersections.

The project should have little impact on the overall thoroughfare system being located immediately adjacent to Milwaukee Avenue and two streets to feed from the tract.

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

1. A perimeter seven-foot fence of wrought iron materials shall be allowed on the property line.
2. The perimeter fence shall observe all vision triangles at intersection corners.

FISCAL IMPACT

No fiscal impact.

Staff supports the recommendation of the Planning and Zoning Commission.

5.8. Ordinance 2nd Reading - Planning : Ordinance No. 2008-O0056 Zone Case No. 3061-A (South of 89th Street and north of 90th Street between Avenue T and Avenue U) Consider a request by AMD Engineering (for Carl Mortensen) for zoning change from R-1 Specific Use and R-2 Specific Use to R-1 Specific Use for garden homes including a reduced side setback on Lots 106 through 117 and Lots 118-A through 138-A South Brook Addition to four feet (versus five feet).

On May 22, 2008, the City Council approved the first reading of the ordinance. In 2006, the property was zoned Residential-1 (R-1) Specific Use and Residential-2 (R-2) Specific Use to allow a reduced front setback. The property did not develop and the proponent has decided to try a different product of garden homes with a reduced side setback.

The adjacent land uses include:

N – Vacant residential

S – Residential Estates “horse lots”

E – Residential (currently under construction)

W – Legal non-conforming cattle operation.

The proposed zoning meets the Comprehensive Land Use Plan.

The basics of the request meet the requirements for garden homes, with a few exceptions. The proponents request to reduce the side setback adjacent to a street and the reduced setback for the cul-de-sac lots in garden home areas has become common. However, even with the reduced front setback on the cul-de-sacs, 4 lots cannot meet the minimum 20 foot rear setback for a residential garage. The proponent is requesting to reduce the setback adjacent to a side alley from 5 feet to 4 ½ feet, and reduce the separation between structures from 10 feet to 9 feet. The requests are unique to Zone Case 3061-A. The code requirement of 10 feet of separation is grounded in the building code and fire code. However, by limiting the projection into any required yard to 1 ½ feet the building code and fire code issues are resolved. The only remaining issue discussed by the Planning and Zoning Commission is the visual impact on the surrounding neighborhoods created by the access easement adjacent to

Avenue U. To reduce the visual impact of the access easement, the Planning and Zoning Commission proposed a screening fence at the curb cuts with step downs.

There should be no impact on traffic in the area.

The Planning and Zoning Commission recommends approval subject to the following conditions:

1. Lots which front on cul-de-sac streets and which are contiguous to lots which do not front onto cul-de-sac streets shall have their front yard measured from where the front yard would normally be measured if the street did not terminate in a cul-de-sac, but continued on its course. In no event, however, shall any residence have less than a 5 foot front yard setback, and in no event shall a residential garage have less than a 20 foot front setback.
2. There shall be at least 9 feet of separation between structures.
3. The minimum side yard adjacent to a side street shall be 5 feet. This setback shall include any fence and/or accessory structure, except that in no event shall a residential garage be less than 20 feet from any property line adjacent to a street.
4. For any one-story structure the minimum rear yard adjacent to a side alley, shall be 4 ½ feet, except that in no event shall a residential garage be less than 20 feet from any property line adjacent to a side alley.
5. For proposed Lots 145, 142, 133-A1, and 130-A1 the rear setback for the residential garage shall not be less than 15 feet.
6. Cornices, eaves, sills, canopies, and chimneys may extend 1 ½ feet into any required yard. Bay windows are not permitted under this section.
7. A solid screening fence at least 6 feet tall shall be constructed and permanently maintained adjacent to Avenue U. All fencing shall conform to Section 29-30(b)(6)i of the City of Lubbock Code of Ordinances. One curb cut onto Avenue U shall be allowed from the access easement. The screening fence shall slope from 2.5 feet to 4.5 feet for 25 feet in both directions along Avenue U at the curb cut and to the south at the adjacent alley.

FISCAL IMPACT

No fiscal impact.

Staff supports the recommendation of the Planning and Zoning Commission.

5.9. Ordinance 2nd Reading - Planning : Ordinance No. 2008-O0057 Zone Case No. 3097-A (109th Street and Quaker Avenue) Consider a request by Orchard Park Eyecare for zoning change from GO to AM limited to clinics or medical offices, medical, dental and optical laboratories providing service and prescription medical devices, offices general and professional, and pharmacies, not exceeding 2,000 square feet, as listed in the AM Zoning district on unplatted tracts of land out of Section 17, Block E2.

On May 22, 2008, the City Council approved the first reading of the ordinance. The zone request is for a third-tier optometrist office. A third-tier optometrist is an optometrist that can prescribe medications as well as optical devices. The obstacle created by the current Garden Office (GO) zoning allows no retail sales. The shop will have a small group of clients and a limited sales area and showroom for optical devices, goggles, and frames to accompany the prescription lenses.

Adjacent land uses:

N – zoned GO, vacant

S – zoned GO, vacant

E – single family

W – Quaker Avenue and single family

As the staff debated various districts that would benefit Dr. Whitman and uphold the basic principles of GO, it was suggested that the Apartment Medical (AM) district be used to allow sales, the lab, and the ophthalmologist with a specific reference for allowing the limited sales area. The applicant is requesting to remove a number of the permitted AM uses to make the zoning seamless with the surrounding GO zoning. The template of a building chosen as an example of the applicants style of construction illustrates a structure that creates a positive influence on the development. AM is also a buffering district as is GO, so the case is being treated basically as a “wash” while making the new office legal.

As a buffer, the AM request is consistent with the Comprehensive Land Use Plan. In addition, the request is consistent with zoning policies with the conditions noted below.

The proposed use should have no additional impact on the thoroughfare plan. Curb cuts review has already been required in the original zone case.

The Planning and Zoning Commission recommends approval with the following conditions as requested by the applicant:

1. No uses in the generic AM District shall be allowed except the following:
 - Exclusive to medical or dental offices, no veterinary use.
 - Limited to medical, dental and optical laboratories providing service for individuals of the medical profession and their clientele.

- Offices for medical and dental shall be allowed, no retail sales are allowed with the exception of articles specifically associated with the practice that occupies the building.
 - A permitted use shall be a pharmacy not to exceed 2,000 square feet that is limited to the sale of medical, drugs, and/or medical supplies only.
2. The parcel shall be subject to an overall curb cut allowance that is a condition of Zone Case 3097.

FISCAL IMPACT

No fiscal impact.

Staff supports the recommendation of the Planning and Zoning Commission.

5.10. Contract Amendment Resolution - Water : Resolution No. 2008-R0204 authorizing the Mayor to execute a second amendment to the contract with Lockwood, Andrews, and Newnam for professional engineering services to allow additional time for the calibration and modification of the City'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 identifies locations in the distribution system with high disinfectant byproduct concentrations. The locations are used as sampling sites for the Stage 2 D/DBPR compliance monitoring.

As part of the evaluation of the City's Pump Stations and Related Storage Tanks 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.

On July 12, 2007, the City Council approved the first contract amendment to provide for calibration and modification of the existing water model necessary for the preparation of the IDSE report. The lump sum fee for the additional scope and services is \$32,000. Due to the complexity of the City's water distribution system, additional time is needed to complete the final calibration of the model. The second amendment allows the additional time. The IDSE report will be completed September 20, 2008, complying with the requirements of the Stage 2 D/DBPR. The fee for the services is unchanged.

FISCAL IMPACT

No fiscal impact.

Staff recommends approval.

5.11. Contract Resolution - Citibus : Resolution No. 2008-R0205 authorizing the Mayor to execute a Cooperative Endeavor Agreement with McDonald Transit Associates, Inc., for the lease of five 1996 Nova RTS Buses.

Due to rising gas prices and budget concerns, Texas Tech University is decreasing the number of buses used on campus for the 2008 – 2009 academic year. In addition, changes in charter regulations decrease the number of charters Citibus may provide. Therefore, to maintain the Federal Transit Administration mandated 20 percent spare ratio, Citibus needs to reduce the number of buses in its fleet.

The resolution authorizes the City to lease five 1996 Nova RTS Detroit Diesel Series 50 buses to McDonald Transit Associates for use at Mount Ranier National Park. The lease amount is \$8,000 per bus for the term of the lease from June 15, 2008, through October 30, 2008. At the end of the lease, the City is scheduled to sell the buses at auction.

Once the lease agreement is approved by the City Council, the buses will be removed from Citibus' insurance allowing additional savings to the City.

FISCAL IMPACT

\$40,000 additional revenue to the transit fund.

Staff recommends approval.

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

5.13. Contract Resolution - Fleet : Resolution No. 2008-R0206, 2008-R0207, 2008-R0208, 2008-R0209 authorizing the Mayor to execute contracts for services for heavy duty equipment maintenance and repairs, BID 08-031-MA.

The contracts provide maintenance and repair services on an as-needed basis for the City's heavy duty vehicles and equipment. Specialized services include maintenance and repair to hydraulics, engines, exhaust systems, and drive shafts. Heavy duty vehicles include trucks with gross vehicle weight rating of 19,500 pounds or greater, trailers, and forklifts.

Bids were received for various types of repairs for each category of vehicles and equipment. Staff recommends contract award to the bidders with the lowest hourly labor rate for each type of repair within each category. To minimize downtime for fleet vehicles and equipment, staff recommends contract award to the second lowest bidder as secondary service providers. The bid analysis is included.

FISCAL IMPACT

Maintenance repairs are funded through individual department operating budgets. The contracts for this agenda item are awarded by unit price. Actual expenditures will vary depending on actual usage. The price per unit does not change.

Staff recommends contract award to McWhorters of Lubbock, Texas; Lubbock Truck Sales of Lubbock, Texas; Stewart & Stevenson of Lubbock, Texas; and R&B Bearings & Hydraulics of Lubbock, Texas.

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

5.15. Ordinance Amendment 1st Reading - Community Development : Consider amending Ordinance No. 2003-00136, allowing the City to change the use of Section 108 Loan funds from housing rehabilitation to park improvements.

On July 2, 2002, the City was approved for a \$2 million Section 108 Loan from the United States Department of Housing and Urban Development (HUD). On January 8, 2004, City Council voted to allow for the issuance of bonds for \$1 million. On June 30, 2004, trust certificates were sold by HUD. The funding received through the public offering was in the form of a loan and must be repaid to HUD. The payback is amortized during an eight-year period. To date, the payments have been made with the City's annual Community Development Block Grant (CDBG) allocation, payments from homeowners that received assistance through the 108 Program, and interest earned on the HUD 108 funds. Future payments will come from the annual CDBG allocation.

Funds are used for the HUD 108-Housing Rehab Loan Program. Guidelines for the City-wide program are as follows:

- Rehabs range from basic home repair to major rehabs of homes.
- Program follows CDBG regulations.
- Participating homeowners' loan payback is 100%.
- Rehab loan interest rate is 6%.

The program funds have not been spent as originally allocated for the following reasons:

- Lead-based paint requirements set forth by HUD have increased the total cost for the renovations. This is not a cost required of a homeowner would have if they obtained financing from a private source.
- Rates in the open market are comparable to the program's rates, ranging from 6.75% to 9%. When the program was first discussed, interest rates in the open market were much higher. Under similar loans, clients would have been expected to pay rates up to 12%.
- Staff has initiated the application process with 881 homeowners. This initiative has resulted in a total of 15 approved cases (1.7% approval rate).

Change in use for the remaining funds:

\$865,000 is available in the 108 Loan fund for projects. Staff recommends the funds be used for park projects in the CDBG-eligible areas of Lubbock.

City Council held a public hearing on June 26, 2007, allowing citizen comments regarding the change. No comments were received during the 30-day public comment period.

Amendment was received on March 26, 2008, pending final approval from the City Council. Upon City Council approval, HUD will sign making final approval of the change.

The City Attorney's office and the City's bond attorney recommend amending the original ordinance. The amendment to the contract with HUD will be presented at the June 26, 2008, City Council meeting following the second reading of the ordinance amendment.

FISCAL IMPACT

Federal funds are from the Section 108 Loan Program. The maximum monetary allocation is \$865,000. The terms of the note and amortization schedule do not change.

Staff recommends approval.

5.16. Appointment Resolution - Municipal Court : Resolution No. 2008-R0210 authorizing the appointment of Barbara Dickerson, Michele Hart, Jorge Hernandez, Jan Blacklock Matthews, Enrique Martinez, Dwight McDonald, and Jesse Mendez as temporary substitute judges of the Lubbock Municipal Court of Record.

Municipal Court Associate Judges (officially titled "Temporary Substitute Judges") are part-time positions appointed for two-year terms. Associate Judges serve as needed and at the pleasure of the Presiding Judge. The current seven Associate Judges were re-appointed in July 2006. Six Associate Judges serve as night magistrates at the City Holding Facility, and the seventh Associate Judge serves primarily to conduct juvenile hearings and acts as a substitute for the Presiding Judge for trials, docket calls, and other hearings in his absence.

FISCAL IMPACT

Associate Judges are paid as contract labor on a \$50 per hour basis. The compensation is included in the Adopted FY 2007-08 Municipal Court Operating Budget. \$153,500 is appropriated for FY 2007-08.

Presiding Judge recommends approval.

5.17. Interlocal Agreement Resolution - City Manager : Resolution No. 2008-R0211 authorizing the Mayor to execute an interlocal agreement with the Texas Tech University System, creating a mechanism for cooperation in coping with emergency situations.

The agreement creates a mechanism for cooperation in coping with emergencies when Texas Tech University System, or either of its Lubbock component institutions (Texas Tech University and Texas Tech University Health Sciences Center), is unable to provide the necessary resources or when

the City is unable to provide the necessary resources. The term of the agreement is for a period of five years with the option to extend the contract for five successive five-year terms. The responsibilities of each party are outlined in the agreement.

The elements of this agreement have been in place on an informal basis. This agreement provides documentation that facilitates the application process for Federal and State emergency preparation grants.

FISCAL IMPACT

No fiscal impact.

6. REGULAR AGENDA (continued)

Note: Regular Agenda items and Consent Agenda Items moved to Regular Agenda, are listed in the order they were addressed (5.2, 5.12, 5.14, 6.3-6.7).

5.2. Ordinance 2nd Reading - Public Works Engineering : Ordinance No. 2008-O0052 Consider an ordinance amending Section 24-38 of the Code of Ordinances repealing the method of changing official street names and establishing a procedure and criteria for honorary designations for City streets.

On May 22, 2008, City Council approved the first reading of the ordinance. On October 25, 2007, the City Council established the Street Naming Task Force to review and make recommendations to City Council for naming and/or renaming of City assets. The Task Force held six regular meetings and two public input meetings, and developed a revised ordinance regarding the honorary designation of City streets.

On April 24, 2008, City Council approved honorary designation of fire stations criteria recommended by the Task Force. The Task Force developed a procedure and criteria for honorary designations for City streets.

Ms. Martha York, Chair of the Task Force, presents the Task Force's recommendations establishing a procedure and criteria for honorary designations for City streets at the May 22, 2008, meeting.

FISCAL IMPACT

The revised ordinance requires a non-refundable \$200 application fee and that the proponent pays all costs associated with the required signage.

Street Naming Task Force and staff recommend approval.

Randy Henson, Director of Planning, gave comments and answered questions.

After discussion Motion was made by Council Member Klein, seconded by Mayor Pro Tem Gilbreath to accept Ordinance No. 2008-O0052 with an amendment to change items 1(b) and 3 to read:

1b) An historic deceased person, site, event or occurrence with a direct and unique connection to Lubbock, Texas.

3) The proposed name must reflect or represent Lubbock, Texas in a significant and positive manner in a field of government, education, science, technology, agriculture, medicine, athletics or the arts.

Motion carried: 6 Ayes, 1 Nay. Council Member DeLeon voted Nay.

5.12. Contract Resolution - Fleet : Resolution No. 2008-R0212, 2008-R0213 authorizing the Mayor to execute purchase order contracts for police and fire sedans.

The purchase of 3 sedans for the Fire Department, 15 unmarked police sedans for the Police Department, and 35 marked package sedans for the Police Department are authorized in the Adopted FY 2007-08 Master Lease Program.

The sedans for the Fire Department are available from Dallas Dodge of Dallas, Texas, for \$79,173, through the Houston-Galveston Area Council (H-GAC,) Contract No. VEO3-06. 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.

The sedans for the Police Department are available from Sam Pack's Five Star Ford of Carrollton, Texas, for \$1,211,201, through the Procurement and Support Services (TPASS) division of the Texas Comptroller of Public Accounts, Contract No. 071-A2. TPASS is the unit of state government charged with the responsibility for establishing contracts, leases, purchase orders or other agreements for the procurement of commodities (supplies, materials and equipment) and services for other agencies of the state, and for overseeing statewide contracts. Texas Local Government Code Sections 271.082 and 271.083 allow local governments to participate in the TPASS purchasing program. TPASS purchases conform to the requirements of Texas competitive bid statutes.

Purchasing the vehicles through the purchasing cooperatives allows the City to receive the vehicles without delay. The traditional bid process could delay the delivery by nearly six months.

FISCAL IMPACT

The purchase of the vehicles is included in the approved FY 2007-08 Master Lease Program. Annual debt payments will be budgeted in the FY 2008-09 General Fund Operating Budget.

Staff recommends contract award to Sam Pack's Five Star Ford of Carrollton, Texas, for \$1,211,201, and Dallas Dodge of Dallas, Texas, for \$77,973.

Mark Yearwood, Assistant City Manager gave comments and answered questions from Council.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to pass Resolutions 2008-R0212, 2008-R0213 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.14. Contract Resolution - Facilities : Resolution No. 2008-R0214 authorizing the Mayor to execute a construction contract with Minnix Commercial Construction for a munitions training facility, BID 08-717-DD.

The contract is for the construction of a facility for the tactical training of Lubbock Police Officers. The building is designed for "shoot/don't shoot" training scenarios using simulated ammunition, similar to gelatin paintballs. Simunitions is a brand of simulated ammunition that allows police officers and recruits to use their own weapon with a safety barrel to make the training realistic.

The building is equipped with different types of doors used to train Special Weapons and Tactics (SWAT) team members how to breach these doors using different tools. The doors are designed to repeatedly handle the stress of being breached by explosive, shotgun, pry, and ram entries.

Munitions training facilities are currently limited. Training has been conducted in houses or buildings that are scheduled to be demolished, or unoccupied public buildings where officers train for active shooter situations. The new facility provides a number of options to train SWAT team members, veteran police officers, and new police recruits to prepare them for typical police work situations.

Bids for this project were obtained using the competitive sealed proposal procedure prescribed by Texas Local Government Code, Section 271.116. Using the competitive sealed proposal procedure helps local governments attract contractors who otherwise may not have an interest in participating on the basis of low bid and gives the City the ability to bring the project in within the budget with the contractor who offers the best value. This is compared to a competitive sealed bid that limits the City to basing contract award on the lowest bid, which may be over budget requiring the City to budget additional funds or re-bid the project after modifying the plans and specifications.

Selection criteria published in the Request for Proposal included price, 60%; contractor qualifications, 25%; safety record, 5%; and construction time, 10%. The following general contractors submitted proposals and were evaluated and ranked as follows:

1. Minnix Commercial Partners of Lubbock, TX	492 points	\$374,000
2. Brown-McKee of Lubbock, TX	444 points	\$375,000
3. Denton-Renfroe of Lubbock, TX	416 points	\$460,852
4. Pharr & Company of Lubbock, TX	411 points	\$423,000
5. Hunter Construction Co. of Lubbock, TX	379 points	\$438,787
6. McDougal Construction of Lubbock, TX	369 points	\$441,600

Texas Local Government Code Section 271.116(f) requires the City to select the offeror with the best value based on the published selection criteria and its ranking evaluation. In determining best value, the City is not restricted to considering price alone, but may consider any other factor stated in the selection criteria. The City and its engineer or architect may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification.

Minnix Commercial Partners is the highest ranked offeror, and scope modifications include reducing testing allowance and changing galvanized stairs/rails to painted stairs/rails. The scope modifications reduced the proposed cost from \$374,000 to \$368,000, or \$6,000.

Time for completion is 150 consecutive calendar days and liquidated damages are \$250 per day.

FISCAL IMPACT

Funding is available in the Adopted FY 2007-08 Abandoned Motor Vehicle Fund Operating Budget.

Staff recommends contract award to the lowest bidder, Minnix Commercial Partners of Lubbock, Texas, for \$368,000.

Leeann Dumbaud, City Manager gave comments and answered questions from Council.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to pass Resolutions 2008-R0214 as recommended by staff. Motion carried: 6 Ayes, 0 Nays, Council Member DeLeon recused.

- 6.1 This item was moved from regular agenda and considered following Citizen Comments.**
- 6.2 This item was moved from regular agenda and considered following Executive Session.**
- 6.3. Public Hearing 10:00 a.m. - Community Development : Hold a public hearing for consideration of the Community Development and Services Board recommendations for the program funding of the FY 2008-09 Community Development Block Grant, Home Investment Partnership Program, Emergency Shelter Grant Program, and previously generated program income.**

Mayor Martin opened the public hearing at 10:38 a.m. No one appeared in favor and no one appeared in opposition. Mayor Martin closed the hearing at 10:48 a.m.

The U.S. Department of Housing and Urban Development notified the City that it is eligible to receive a FY 2008-09 consolidated formula allocation. These funds, plus previously generated program income, bring the total available allocation amount to \$3,868,261. This year, the City received 42 applications for Community Development Block Grant (CDBG), Home

Investment Partnership Program (HOME), Emergency Shelter Grant Program (ESG) funds with requested amounts totaling over \$6.6 million dollars.

Lubbock citizens participated in this year's funding process through the activities of the Community Development and Services Board (CDSB). In making recommendations, the CDSB was mindful of the goals of the City Council and the Consolidated Plan priorities.

The recommendation of the CDSB for spending federal dollars has been published since May 26, 2007. The Public Hearing allows citizens to participate by addressing the City Council with comments. Staff strives to maximize the number of citizens that speak at the Public Hearing by holding the hearing at different times during the day. Last year's hearing was held after business hours. No citizens attended the hearing.

The agenda item does not require a vote on the recommendations. An action item is scheduled for the June 26, 2008, City Council meeting.

FISCAL IMPACT

Funds used are Federal funds from the Community Development Block Grant, Home Investment Partnership Program, and Emergency Shelter Grant. The maximum allocation to these projects/activities is \$3,868,261.

Staff recommends approval.

Bill Howerton, Director of Community Development and Peter Laverty, Community Development Services Board gave comments and answered questions from Council.

- 6.4. Resolution - City Manager : Consider an order and resolution of the City of Lubbock, sitting as the regulatory authority pursuant to Section 33.001 of the Texas Utilities Code, regarding the Statement of Intent and Application by SPS to (1) revise its Interruptible Credit Option Tariff; and (2) adopt a Commercial and Industrial Controlled Air Conditioning and a Residential Controlled Air Conditioning and Water Heating Tariff as filed with the City of Lubbock on May 14, 2008.**

No action was taken on this item.

Pursuant to Section 33.001 of the Texas Utilities Code, the City has exclusive original jurisdiction over the rates, operations, and services of an electric utility operating within the corporate city limits. On May 14, 2008, Southwestern Public Service Company (SPS) filed a Statement of Intent and Application for authority to revise its Interruptible Credit Option (ICO) Tariff and to adopt a Commercial and Industrial Controlled Air Conditioning and a Residential Controlled Air Conditioning and Water Heating Tariff. In its application, SPS states that the revised and new tariffs are completely optional and are designed to reduce SPS's firm peak demand and help SPS avoid the need for new capacity resources at a cost below SPS's system avoided cost. The resolution entitles SPS to place the revised tariffs into effect on and after June 17, 2008.

The new "Saver's Switch Tariff" allows commercial, residential and industrial customers to have their air conditioners cycle on and off in the summer at the control of SPS, and residential customers can opt to have their water heaters cycle at any time. The programs are optional for customers and designed to conserve electricity at peak usage times. The annual credit for residential customers who have their air conditioning cycled on and off is \$40 and for residential customers who have their water heaters cycled at any time is \$15. The annual air conditioning credit for commercial and industrial customers is based on the size of the air conditioning unit and is set at \$20 per ton.

The increase in the credit on the ICO Tariff is based on a formula that takes into account the length of time of the interruption, the time of year, the avoided energy cost, etc.

The Statement of Intent and Application is available for public inspection in the City Secretary's Office.

FISCAL IMPACT

No fiscal impact.

Matt Wade gave comments and answered questions from Council.

Failed-no action was taken on this item.

6.5. Resolution - City Council : Resolution No. 2008-R0216 supporting the Food, Conservation, and Energy Act of 2008, also known as the 2007 Farm Bill, or H.R. 2419.

The Food, Conservation, and Energy Act of 2008, also known as the 2007 Farm Bill, or H.R. 2419, was passed by the United States House of Representatives on May 14, 2008, with a vote of 318-106, and passed by the United States Senate on May 15, 2008, with a vote of 81-15, vetoed by the President on May 21, 2008, passed the House of Representatives on May 21, 2008, overriding the veto with a vote of 316-108, passed the Senate on May 22, 2008, overriding the veto with a vote with a vote of 82-13, and became law on May 22, 2008. United States Representative Randy Neugebauer and Senators John Cornyn and Kay Bailey Hutchison voted in favor of the Food, Conservation, and Energy Act of 2008 and voted to override the President's veto.

The City supports the Food, Conservation, and Energy Act of 2008 and local farmers, who regional agriculture industry, and members of the United States Congress who voted in favor of the bill.

FISCAL IMPACT

No fiscal impact.

Council Member DeLeon read the resolution.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass Resolutions 2008-R0216 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.6. Resolution - City Council : Resolution No. 2008-R0217 supporting the increased development of renewable energy and other domestic sources of energy.

Texas State Representative David Swinford wrote a letter to elected officials requesting that they pass a resolution for the mutual benefits that wind turbines and electric transmission lines will bring to counties and communities. Representative David Swinford will present all passed resolutions to the Texas House of Representatives Regulated Industries Committee and to the Public Utilities Commissioners.

The resolution shows a unified resolve to decrease reliance on foreign sources of energy, increase economic development projects, and increase development of domestic and renewable sources of energy. West Texas wind is a resource ideally suited for wind energy production. The designation and development of Competitive Renewable Energy Zones in West Texas supports the construction of new transmission lines to transmit wind power to consumers of electricity throughout the Electric Reliability Council of Texas.

FISCAL IMPACT

No fiscal impact.

Motion was made by Council Member Leonard, seconded by Council Member Price to pass Resolutions 2008-R0217 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.7. Board Appointment - City Secretary : Consider one appointment to the Community Development and Services Board.

Consider one appointment to the Community Development and Services Board.

Motion was made by Council Member Leonard, seconded by Council Member Price to appoint Julio Gonzales to the Community Development and Services Board as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

10:58 A.M. CITY COUNCIL RECESSED

11:15 A.M. CITY COUNCIL RECONVENED

Committee Room

7. WORK SESSION

7.1. FY 2008-09 Budget Work Session

Mayor Martin started the discussion by stating that the purpose of this session is to discuss the budget preparation for the 2008-09 City of Lubbock operating budget. He asked newly elected Council Member Paul R. Beane to express his budget philosophies and priorities.

Council Member Paul R. Beane stated his philosophy is to have low taxes and small government.

LeeAnn Dumbauld, City Manager, presented additional issues she encountered while preparing the 2008-09 City of Lubbock budget. She stated the budget is not balanced. The general fund has \$124,000,000 in revenues and \$125,000,000 in expenditures. The City is upside down by \$1 million. These are not the final numbers; she is still looking for areas to find additional funds. She was able to reduce the budget by 3 million as of today. The items that reduced the budget are environmental compliance, closing 28 vacant positions, special events and no raise for employees. She stated there are items with increasing costs, such as, fuel, Texas Municipal Retirement System (TMRS), fire pay plan, Citibus, City utilities, master lease program, and the aggressive fleet replacement program. She also stated there are other items that need to be considered at a later date, such as, bunker gear replacement and special maintenance needs.

Mayor Martin, Council Member Linda DeLeon and Council Member Leonard agreed they would like to find funds to give a pay increase to City employees.

Chief Cooper gave comments and answered questions from Council.

11:58 A. M. CITY COUNCIL RECESSED TO EXECUTIVE SESSION

12:55 P. M. COUNCIL ADJOURNED

There being no further business to come before Council, Council Member Jim Gilbreath adjourned the meeting.