

**CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
OCTOBER 23, 2008
7:30 A. M.**

The City Council of the City of Lubbock, Texas met in regular session on the 23rd day of October, 2008, in the City Council Chambers, first floor, City Hall, 1625 13th Street, Lubbock, Texas at 7:30 A. M.

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

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

Absent: Council Member John Leonard

1. CITIZEN COMMENTS

1.1. Sheryl Hickman will appear before the City Council to discuss establishing an Afro-American Museum and naming the museum after her mother, Katie M. Parks.

Sheryl Hickman appeared before Council to voice her idea of establishing an African-American museum in honor of her late mother, Mrs. Katie Parks.

Mayor Martin advised Ms. Hickman that the Centennial Committee might provide assistance, and asked her to contact Council Member Beane, a Centennial Committee member.

1.2. The following will appear before the City Council to discuss the Lubbock Youth Sports Complex.

Bobby Drum, President of Lubbock Youth Softball, appeared before Council to voice his concerns about the Lubbock Youth Sports Complex not having enough softball fields.

Mark Wolfe appeared before Council to voice his concerns about the Lubbock Youth Sports Complex not having enough softball fields.

Others appearing before Council to discuss the Lubbock Youth Sports Complex or other topics is as follows:

- Chris Snead appeared before Council to voice his support of the Lubbock Youth Sports Complex fields being vastly allocated to fast-pitch baseball.
- Mark Tijerina appeared before Council to voice his concerns of the allocation of the Lubbock Youth Sports Complex to just one sport.

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- Jeff Carnell appeared before Council to voice his suggestion on how to allocate the fields in the Lubbock Youth Sports Complex.
- Billie Russell appeared before Council to voice her concerns of the lack of using Gateway Funds in East Lubbock.
- Dela Esqueda, Executive Director of the Guadalupe/Parkway Neighborhood Centers appeared before Council to voice her appreciation of Council support of the Guadalupe/Parkway Neighborhood Centers.
- Felecisima Betts appeared before Council to voice her concerns of the lack of using Gateway Funds in East Lubbock.
- Sara McLarty appeared before Council to voice her support of allocating Gateway Funds to Districts 1 & 2.
- Blanchie Swisher appeared before Council to voice her support of those speaking in favor of allocating Gateway Funds to East Lubbock.
- Donnell Hooper appeared before Council to voice his support of allocating Gateway Funds to Districts 1 & 2.
- Nathan Cage appeared before Council to voice his support of allocating Gateway Funds to Districts 1 & 2.

8:05 A.M. City Council recessed into Executive Session.

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. (Business Development, Police, Utility Regulatory Matters, Water Utility)**
- 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. (Fire, Radio Shop, Water Utility)**
- 2.3. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.074 (a)(1), to discuss personnel matters (City Attorney, City Manager, City Secretary) and take appropriate action.**
- 2.4. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.086, on the following competitive matters (Electric Utilities):**
 - 2.4.1 to deliberate, vote and take final action on electric rates of Lubbock Power and Light**

- 2.4.2 to discuss, vote and take final action on a competitive matter regarding operation, financial and capital statements and budgets, revenue and expense projections, strategic and business plans and studies of Lubbock Power and Light
- 2.4.3 to discuss and deliberate a competitive matter regarding the strategies, goals, funding and strategic purpose of the City of Lubbock's relationship with and membership in the West Texas Municipal Power Agency.
- 2.5. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.074(a)(1), to discuss personnel matters regarding duties, responsibilities, and/or appointments to the Building Board of Appeals; Electric Utility Board; North Overton Tax Increment Financing Board of Directors; and Planning and Zoning Commission.

9:05 A.M. CITY COUNCIL REGULAR MEETING RECONVENED.

City Council Chambers

Present: Mayor Tom Martin, Mayor Pro Tem Jim Gilbreath, Council Member Paul R. Beane, Council Member Linda DeLeon, Council Member Floyd Price, Council Member Todd Klein, LeeAnn Dumbauld, City Manager; Rebecca Garza, City Secretary; and Don Vandiver, City Attorney

Absent: Council Member John Leonard

Mayor Martin reconvened the meeting at 9:05 A.M.

3. PROCLAMATIONS AND PRESENTATIONS

3.1. Invocation by Father Martin Pena, St. Joseph's Catholic Church

3.2. Pledges of Allegiance

Pledges of Allegiance were given in unison by those in the City Council Chambers to the United States flag and the Texas flag.

3.3. Presentation of a special recognition commemorating October 20-24, 2008, as Chamber of Commerce Week.

Mayor Martin presented a special recognition to the Lubbock Chamber of Commerce commemorating October 20-24, 2008 as Chamber of Commerce Week. Eddie McBride, Lubbock Chamber of Commerce President/CEO and Gary Gregory, Lubbock Chamber of Commerce Board Chairman accepted the special recognition. Gary Gregory and Eddie McBride expressed appreciation to the Council for the special recognition.

Board Recognitions:

3.4. Airport Board:

Greg Garrison
Mark Piercy
Bill Young

Board Recognitions:

3.5. Animal Shelter Advisory Committee:

Nancy Haney

High Plains Diversified Energy Corporation:

Scott Collier

Lubbock Water Advisory Commission:

Ted Willis

Model Codes & Construction Advisory Board:

Nathan Agnew (unable to attend)

Truett Craft

Permit and License Appeal Board:

Dereesa Reid

Structural Standards Commission:

James Valles

4. MINUTES

**4.1. Approval of Minutes from Prior Meetings :
Regular City Council Meeting, September 25, 2008**

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Klein to approve the minutes of Regular City Council Meeting, September 25, 2008. Motion carried: 6 Ayes, 0 Nays.

Note: Consent Agenda and Regular Agenda items were addressed by Council in the following order:

- 5.2-5.5; 5.7; 5.9; 5.10; 5.13; 5.1; 5.1 (#1); 5.1 (#2); 5.1 (#3); 5.6; 5.8; 5.11; 5.12; 6.10; 6.1; 6.2; 6.3; 6.5; 6.6; 6.7; 6.8; 6.12; 6.9; 6.11; 6.4; and 6.13.

5. CONSENT AGENDA

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Klein to approve Items 5.2-5.5; 5.7; 5.9; 5.10 and 5.13 on consent agenda as recommended by staff. Motion carried 6 Ayes, 0 Nays.

5.2. Resolution - Finance : Resolution No. 2008-R0400 expressing intent to finance expenditures to be incurred for various projects and equipment approved by the City Council in the FY 2008-09 Operating Budget and Capital Program and to reimburse itself from the proceeds of tax-exempt obligations that will be issued in a subsequent period.

The City will issue bonds during FY 2008-09 to fund projects the City Council approved in the FY 2008-09 Capital Program.

To allow capital projects to be completed within prescribed timeframes design, engineering, and construction costs may be incurred prior to delivery of bond

proceeds. For the costs to be eligible for reimbursement with bond proceeds, the City must declare its intent to reimburse bond-funded cost that are incurred prior to the bond issuance.

The City will enter into a Master Lease Agreement to fund vehicles, machinery, electronics, computer hardware and software, and other necessary equipment that the City Council approved in the FY 2007-08 and FY 2008-09 Operating Budgets.

Vehicles and equipment in the Master Lease Program are purchased from the vendor. After the invoice is paid, the City submits the invoice and proof of payment to the master lease provider for reimbursement. For the costs to be eligible for reimbursement with master lease proceeds, the City must declare its intent to reimburse master-lease item costs that are incurred prior to the master lease financing.

FISCAL IMPACT

The total cost of projects funded by general obligation bonds is \$9,097,500, and the total cost of projects funded by certificates of obligation is \$119,595,424. The items purchased through the FY 2007-08 Master Lease Program have been ordered, but will not be received and financed until FY 2008-09. The total cost of vehicles and equipment from the FY 2007-08 master lease is \$11,331,189. The total cost of vehicles and equipment from the FY 2008-09 master lease is \$12,674,096. The majority of the items purchased through the FY 2008-09 Master Lease Program will be ordered during FY 2008-09 and will be received and financed in FY 2009-10. However, some of the items may be received and financed in FY 2008-09.

Staff recommends approval.

5.3. Contract Resolution - Business Development : Resolution 2008-R0401 giving Notice of Intent to terminate a tax abatement agreement approved on June 23, 2005, between the City of Lubbock and Hurley Companies.

On June 23, 2005, the City Council approved a tax abatement agreement with Hurley Companies for property located at 2902 Municipal Drive. The company is requesting to terminate the agreement because the building did not require the amount of modification necessary to use the facility, so the value of the building did not increase as required in the tax agreement. Since there was no increase in value through 2007, no tax abatement was given to the company.

To terminate the existing agreement, the municipality is required to first deliver a notice of intent to terminate the tax abatement agreement to the other taxing jurisdictions. This action fulfills that requirement.

FISCAL IMPACT

No fiscal impact.

Staff recommends approval.

5.4. Contract Resolution - Business Development : Resolution 2008-R00402 authorizing the Mayor to direct the Director of the Lubbock Foreign Trade Zone 260 to sign and submit, on behalf of the City of Lubbock, applications for Foreign Trade Zone operating authority with all the benefits related to Foreign Trade Zone operations.

The City has a management agreement with Market Lubbock Inc., dba Visit Lubbock to hire a director and to operate Foreign Trade Zone 260 (FTZ-260) on behalf of the City. The resolution authorizes the director to sign and submit on behalf of the City two applications for foreign trade zone operating authority allowing two Lubbock businesses, Holiday LiteSource and Venus Decorative Hardware, to receive the benefits related to FTZ-260 operations. Because the businesses are outside of the acreage noted in the City of Lubbock's original FTZ Grantee approval, the resolution allows the creation of a FTZ-260 subzone. The statute requires the City to approve the resolution as part of the process.

These two FTZ-260 SubZone applicants will benefit as FTZ-based businesses as follows:

1. A much shorter import logistics timetable because the businesses' incoming imported merchandise will move through the seaport of entry, in Customs bond, directly to their Lubbock FTZ-260B & FTZ-260C facilities, where the Lubbock based 4.5 Customs and Border Protection Customs Port Director will clear the shipments into their FTZ inventories – totally bypassing the 508 days delays currently being experienced at major east and west coast American seaports.
2. The imports will enter the subzone “duty deferred” which will favorably impact the cash flow of the business. If the “duty deferred” imports enter the American market then duties are paid on it. If the imports are re-exported, no duties will be paid on the items.
3. Each company has paid a \$4,000 (non-refundable) application fee to the U.S. Department of Commerce Foreign Trade-Zones Board in Washington, D.C.
4. Imported inventories identified by Customs and located physically in the FTZ SubZone are exempt from year-end local property taxes – this local tax exemption is more than offset by property taxes derived from increased facilities and revenues from increased jobs.

A map showing locations of FTZ-260 Zones and SubZones is provided.

FISCAL IMPACT

No fiscal impact.

Staff and Market Lubbock, Inc. Board of Directors recommend approval.

5.5. Ordinance Amendment 1st Reading - Building Inspection : Ordinance 2008-O0089 amending Chapter 6, Article V of the Lubbock Code of Ordinances, adopting the 2008 National Electrical Code and certain amendments to meet local conditions.

The ordinance amendment upgrades the City from the 2002 Edition of the National Electrical Code to the 2008 Edition in alignment with the State of Texas. Local amendments serve to address unique local conditions and desires. The Model Code and Construction Advisory Board, consisting of industry professionals and building users, recommends adoption as presented. The Board and the research subcommittee includes commercial interests and representatives of the local home building industry.

Until now, Chapter 6, Article V (Electrical Code), Division 6 had consisted of technical provisions accumulated over decades that were written in a manner inconsistent with the "Model" National Electrical Code, which had also been consistently adopted and upgraded through the years at Section 6-141. The proposed Ordinance does the following:

- 1) Adopts the 2008 National Electrical Code at Section 6-141, in lieu of the 2002 Edition;
- 2) Re-writes Division 6 such that the local technical amendments amend the 2008 National Electrical Code in a logical and consistent manner;
- 3) Preserves existing local amendments determined by the Model Code Board to be relevant and desirable;
- 4) Strikes and/or amends provisions within the 2008 National Electrical Code that were determined by the Model Code Board to be inappropriate for Lubbock (See stricken text in the included backup); and
- 5) Eliminates conflicting technical provisions.

FISCAL IMPACT

No fiscal impact.

Staff and Model Codes and Construction Advisory Board recommend approval.

5.7. Contract Resolution - Solid Waste : Resolution 2008-R0403 authorizing the Mayor to execute a contract with Jarvis Metals Recycling for the sale of scrap recyclable paper and plastics, BID 08-083-FO.

The five-year contract establishes annual pricing for the sale of recyclable paper and plastics accumulated at citizen recycling drop-off centers. Solid Waste personnel collects recyclable materials from the drop-off centers and transports the materials to the contractor. The contractor bales, stores, markets and sells the recyclable plastic, paper and cardboard collected through the City recycling programs.

Jarvis Metals Recycling of Lubbock, Texas, is the only company that responded to the Invitation to Bid.

A bid tabulation is provided.

Pricing for each category of scrap paper is based on the weekly publication of the Official Board Markets. The price for each delivery is calculated by multiplying the percentage shown on the bid tabulation by the Southwest Market High Base Price per ton on the day of the scrap delivery.

Pricing for each category of scrap plastics is based on the current mill price for scrap plastic. The price paid for each delivery is calculated by multiplying the percentage shown on the bid tabulation by the current mill price per ton on the day of the scrap delivery.

Staff recommends contract award to Jarvis Metals Recycling of Lubbock, Texas.

FISCAL IMPACT

\$28,000 in annual revenue in the Solid Waste Fund. Seventy percent of revenue is from the sale of newsprint.

Staff recommends approval.

5.9. Contract of Sale Resolution - Radio Shop : Resolution 2008-R0404 authorizing the Mayor to execute a contract of sale by and between the City of Lubbock and Royce B. Turnbow, Betty Turnbow, Hunter Blanchard and Karen Blanchard for the acquisition of 10.437 acres of land out of Section 42, Block AK, for a new radio tower site in West Lubbock, located at 2701 Alcove Avenue.

The contract of sale is for the acquisition of 10.437 acres of land for a new radio tower site in West Lubbock at 2701 Alcove Avenue. The purchase price is \$7,665 per acre, or \$80,000.

The City will construct a 600-foot radio communications tower, fencing around the tower and guy wire locations, and a graveled road to the tower site. LP&L will provide electricity to the tower equipment.

Lubbock is developing to the southwest and police and fire coverage is needed, which requires additional communications facilities for appropriate coverage. The City's 800 MHz backup radio system will be moved to the location to provide increased communication coverage for public safety and other City departments. The existing backup site is at 302 Municipal Drive with a 300-foot tower.

FISCAL IMPACT

\$600,000 is appropriated in Capital Improvement Project 91142, Milwaukee Communications Tower, with \$80,000 available for this purpose.

Staff recommends approval.

5.10. Contract Resolutions - Fleet Services : Resolution 2008-R0405, Resolution 2008-R0406, Resolution 2008-R0407, Resolution 2008-R0408, Resolution 2008-R0409, and Resolution 2008-R0410 authorizing the Mayor to execute contracts for passenger automobile and light and medium duty truck maintenance and repair, BID 08-068-MA.

The contracts provide maintenance and repair services on an as-needed basis for the City's light and medium duty trucks and automobiles. Automotive services include preventative maintenance, tune-ups, brake repair and tire repair/replacement.

Staff recommends contract award to the bidders with the lowest overall average repair prices by vehicle category. To be able to handle the number of City vehicles in a timely manner, staff recommends contract award to the three lowest bidders in the Passenger Vehicles category; the two lowest bidders in the Light Duty Trucks category, and the two lowest bidders in the Medium Duty Trucks category.

Passenger Vehicles:

Glen's Automotive Repair

McWhorters

Scott's Complete Car Care

Light Duty Trucks:

McWhorters

Scott's Complete Car Care

Medium Duty Trucks:

Pinkerton's Garage and Body Shop

Scott's Complete Car Care

Tire repair is for both non-emergency and emergency vehicles. Staff recommends contract award for outside tire repair services for the Non-emergency Vehicles Tire Repair category to two bidders and recommends contract award for the Emergency Vehicles Tire Repair category to one bidder.

Non-emergency Vehicles Tire Repair:

Flores Tire Service

Woody's Tire Company

Emergency Vehicles Tire Repair:

Flores Tire Service

The bid tabulation is provided.

The contracts provide maintenance and repair services on an as-needed basis. The contract term is for five years. The contracts are awarded by the unit price. The total amount of the award is estimated based on estimated quantities. 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.

FISCAL IMPACT

Maintenance repairs are funded in individual department's operating budgets.

Staff recommends approval.

5.13. Resolution – Water Utility : Resolution 2008-R0411 authorizing the City Manager, Deputy City Manager, or Director of Water Utilities, or any of such parties’ designee, to execute and deliver for and on behalf of the City of Lubbock certain License Agreements, related to access to lands for surveying and testing activities, with landowners affected by the City of Lubbock’s proposed water transmission pipeline in Lubbock, Lynn and Garza Counties of the State of Texas.

The City is under contract for the final design of a pipeline to deliver raw water from Lake Alan Henry to Lubbock for a new water supply by 2012. The City is working with Parkhill, Smith & Cooper to perform the necessary engineering, surveying, environmental and archeological services to finalize the pipeline route to acquire right-of-way for the pipeline.

The right-of-way acquisition process requires the City to have access agreements with landowners for engineers and other authorized agents to access the land to perform required services. The proposed access agreement accomplishes this purpose.

A standard agreement for signature by the City Manager was approved previously, along with some flexibility for changes to the agreement provided there were no substantial changes. The second standard agreement for consideration today includes substantive changes.

The most significant change is to the indemnity clause. The language provides greater protection for the Owner than the previous access easement. The language requires that the City indemnify and hold harmless the owner to the extent permitted by law for any and all claims for injury or property damage that may occur during the activities of the agreement.

FISCAL IMPACT

To date the access agreements do not require any payment on behalf of the City for the right to enter the property for the desired services. The agreement presented here also does not require any payment by the City.

Staff and the Lubbock Water Advisory Commission recommend approval.

6. REGULAR AGENDA

Note: Regular Agenda Items and Consent Agenda Items moved to Regular Agenda, are listed in the order they were addressed (5.1; 5.6; 5.8; 5.11-5.12;

6.10; 6.1- 6.3; 6.5-6.8; 6.12, 6.9, 6.11; and 6.4); (Note: 6.13 was addressed following Work Session item 7.1)

5.1. Budget Amendment Ordinance 1st Reading - Finance : Ordinance No. 2008-00090 Amendment No. 1 amending the FY 2008-09 budget respecting the Grant Fund and the Central Business District Tax Increment Finance Special Revenue Fund.

1. Accept and appropriate a \$29,672 grant from the Texas Department of Transportation for the Traffic Safety Program. The Teaching Kids to be Street Smart Program helps Safety City personnel educate children about bicycle, car, and pedestrian safety, thereby reducing the number of accidents involving children ages four to fourteen.

The grant period extends through September 30, 2009. The grant funds part-time employee salaries, supplies, and equipment related to bicycle, pedestrian, and car safety.

The \$26,612 in-kind match is budgeted in the Adopted FY 2008-09 Parks and Recreation Operating Budget.

Motion was made Council Member Klein, seconded by Council Member Bean to accept and appropriate a \$29,672 grant from the Texas Department of Transportation for the Traffic Safety Program. Motion carried: 5 Ayes, 0 Nays. Council Member DeLeon recused.

2. Accept and appropriate \$79,611 from the United States Department of Justice 2008 Edward Byrne Memorial Justice Assistance Grant Program. The JAG program funds local government activities to prevent crime and improve the Criminal Justice System. Fifty percent of the funds are received on behalf of Lubbock County and are paid directly to the County from the grant. The remaining fifty percent is to be used by the City to fund a computer bar code system allowing the staff to track evidence and property seized and maintained by the police department during its daily course of business. This system electronically ensures the chain of custody of each item brought into the police property room through the use of bar codes scanned by portable and fixed work stations. The system is an enhancement to the dispatch and records systems already used by the police department.

Motion was made Mayor Pro Tem Gilbreath, seconded by Council Member Klein to accept and appropriate \$79,611 from the United States Department of Justice 2008 Edward Byrne Memorial Justice Assistance Grant Program. Motion carried: 6 Ayes, 0 Nays.

3. Appropriate \$45,000 of the Central Business District Tax Increment Finance Special Revenue Fund (CBD TIF) fund balance for the relocation of a fiber optic line. The line is currently located in the alley between Avenue Q and Avenue R, from 10th Street to Main Street. The new location of the line will be along the south side of Main Street to the corner of Avenue Q and Main Street, then north to Avenue Q and 10th Street. The relocation is required to close the alley for the development of Tract 27.

The line is located on the east side of the alley on Tract 27 in Overton Park. Originally the cost of relocating the line was to be funded out of a project in the North Overton TIF. However, after researching the location of the line, it was determined that the line was located in the CBD TIF, not the North Overton TIF. The North Overton TIF ends and the CBD TIF begins at the west side of the alley between Avenue R and Avenue Q.

Motion was made Council Member DeLeon, seconded by Council Member Klein to appropriate \$45,000 of the Central Business District Tax Increment Finance Special Revenue Fund (CBD TIF) fund balance for the relocation of a fiber optic line. Motion carried: 6 Ayes, 0 Nays.

FISCAL IMPACT

Included in item summary.

Staff recommends approval.

- 5.6. Ordinance Amendment 2nd Reading - Health : Ordinance No. 2008-00088 amending Chapter 4 of the Code of Ordinances of the City of Lubbock, Texas, with regard to the disposition of chickens or ducks in amusement games, the disposition of animals, the animal assistance program, and fees for registrations, permits, impoundment, and adoption; providing for criminal penalties; providing a savings clause; and providing for publication.**

No action was taken.

On October 9, 2008, the City Council approved the first reading of the ordinance. In February 2008, the Mayor and City Council asked the Board of Health and the Animal Shelter Advisory Board to review the existing City ordinance regarding animals and animal control. The review focused on dangerous dogs and preventing dog attacks. The Mayor and the City Council asked the Boards to submit their recommendations to the City Council. The Boards performed an extensive review of the current ordinance while working together and independently during the review process.

On February 26, 2008, the Boards held a joint public hearing seeking citizen input. The Boards spent time reviewing the current ordinance and received information on ordinances in other cities. During subsequent meetings, the Boards continued to receive input from concerned citizens. After much discussion, the Boards agreed that the current ordinance contains strong language regarding dangerous animals, and the ordinance reflects state law. The Boards identified several places in the current ordinance where amendments to the ordinance are recommended. On September 9, 2008, the Animal Shelter Advisory Board voted to forward the proposed amendments to the City Council. On September 23, 2008, the Board of Health voted to recommend the proposed amendments.

At the October 9th first reading of the proposed ordinance a question was asked regarding Section 4-4(c)(4) with regard to clarifying why a citizen could not

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give a chicken or a duck to a friend as a gift. The proposed ordinance amends Section 4-4(c)(4) to state that a person commits an offense if:

- (4) A person sells, gives away, delivers, trades or barter chickens or ducks for the purposes of prizes or other satisfaction for participating in carnival, circus, amusement or any other type of game;

The proposed amendments address the following issues:

- 1) Section 4-13(1)(iii) Currently, the ordinance requires that an animal be sterilized before the ownership of the animal is transferred to an adopting party. The proposed change requires all animals adopted from the shelter be sterilized within 30 days of the adoption and documentation of the sterilization be provided to the animal shelter. The change allows the person to take the animal home immediately and to have a veterinarian of their choice perform the sterilization procedure.
- 2) Section 4-24(a): Currently, the ordinance states that fees collected from the sale of identification tags are used for the Animal Assistance Program "and other related cost at the animal shelter." The proposed change eliminates the phrase "and other related cost at the animal shelter" to ensure that all fees are only used for the Animal Assistance Program. The Animal Assistance Program provides a source of financial assistance to low-income pet owners who desire to have their dog or cat sterilized.
- 3) Section 4-40: This section sets the fees for registrations, permits, impoundments, and adoption. Changes are recommended to the following subsections:

4-40(a):

- Add a phrase allowing for the review of fees during the annual budget process;
- Add "Social Security eligible disability" to the groups eligible for a waiver of dog and cat registration fees;
- Increase from \$50 to \$100 Dangerous Wild Animal Permit annual fee to be commensurable with the Dangerous Animal Permit fee;
- Retain the current euthanasia fee of \$10 for Lubbock residents, and add a \$20 euthanasia fee for persons who are not a Lubbock resident.
- For Lubbock residents, add to the euthanasia fee a waiver commensurate with the waiver for dog and cat registration fees; and
- Increase the permit fee for animal establishments, pet shops, and animal dealer permit from \$90 to \$100 to help cover the actual cost of the permit.

4-40(d):

- Decrease the non-resident release fee from \$50 to \$20 to be commensurable with the non-resident euthanasia fee.

FISCAL IMPACT

As all fees are deposited into a single General Ledger account, the financial impact is unknown. In FY 2007-08 all animal related fee revenue totaled \$241,183.

Staff, Animal Shelter Advisory Committee and Board of Health recommends approval.

Mayor Martin and Council Member Price instructed Nancy Haney, Director of the Health Department and Scott Snider, Assistant City Manager to take the ordinance back to the Animal Shelter Advisory Committee and the Board of Health for further review of Section 4.4, items #8,9, and 18; and Section 4.6. No action was taken at this time.

5.8. Contract Amendment Resolution - Public Works Engineering : Resolution 2008-R0412 authorizing the Mayor to execute Change Order No. 1 to the construction contract with Allen Butler Construction, Inc., for the Paving Improvements on Slide Road and Erskine Street Project for Northwest Passage Project, BID 08-721-BM.

Change Order No. 1 involves work associated with constructing a storm sewer box necessary to clear a 24-inch sanitary sewer line. The 7-foot by 7-foot reinforced concrete box for the storm sewer is being moved horizontally to provide additional clearance between the new box and the existing sanitary sewer line. It is necessary to lower the concrete box five feet in elevation to go under the sanitary sewer line. Additional compensation of \$73,231 increases the contract amount from \$18,578,778 to \$18,652,009, or 0.39%.

The existing sanitary sewer line was discovered during excavation for the storm sewer box. The sanitary sewer line location cannot be adjusted, which requires a re-design of the storm sewer. Although the existing sanitary sewer line was not discovered during design of the construction project, the resulting design to move the storm sewer box horizontally and vertically would have been required anyway. The primary costs associated with the change order are due to the increased depth of the storm sewer box. Because of the additional depth of the storm sewer box, the box needs to be of higher quality than the original box with increased wall thickness and additional reinforcing steel. There is additional length to clear the sanitary sewer, deeper excavation, more length of the manhole for the storm sewer box, and more headwall height at the discharge point of the storm sewer.

The storm sewer is part of the street paving, drainage improvements, and various other work associated with the Erskine Street and Slide Road paving project. The project includes Erskine Street from Frankford Avenue to Salem Avenue, and Slide Road from Loop 289 to Erskine Street.

FISCAL IMPACT

\$22,302,200 is appropriated in Capital Improvement Projects 91101, Erskine Street: Frankford to Salem, and Capital Improvement Project 91102, Slide Road: Loop 289 to Erskine, with \$73,231 available for this purpose.

Staff recommends approval.

Marsha Reed, Director of Public Works gave comments and answered questions from Council.

Mayor Martin requested staff to explore whether this change order will be considered an error or omission of the original contract.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Klein to pass Resolution No. 2008-R0412 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

5.11. Contract Amendment Resolution - Water Utility : Resolution 2008-R0413 authorizing the Mayor to execute Change Order No. 1 to the construction contract with SJ Louis Construction of Texas, LTD., for the Downtown Waterline Replacement Project.

On April 10, 2008, the City entered into a \$5,435,664 contract with S.J. Louis Construction of Texas for improvements to the water infrastructure of Downtown Lubbock. Change Order No. 1 increases compensation \$145,500 for additional work and adds an additional 30 days to the contract time. The amendment increases the total contract amount to \$5,581,164.

Brick pavers along 16th Street from Avenue O to Buddy Holly Avenue were removed by the contractor for use as replacement pavers in historically sensitive areas in the downtown area. The contractor is replacing the brick street on this portion of 16th Street with an asphalt street. The condition of the curb and gutter installed in the late 1930s has deteriorated and cracked in numerous places. Staff recommends replacing 2,250 linear feet of the curb and gutter while the contractor is mobilized and funding is available for this purpose.

FISCAL IMPACT

\$10,783,630 is appropriated in Capital Improvement Project 90274, Downtown Water Line Replacement, with \$145,500 available for this purpose. This amendment increases the total contract amount to \$5,581,164.

Staff recommends approval.

Tom Adams, Deputy City Manager and Marsha Reed, Director of Public Works gave comments and answered questions from Council.

Motion was made by Council Member Beane, seconded by Mayor Pro Tem Gilbreath to pass Resolution No. 2008-R0413 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

5.12. Resolution - Water Utility : Resolution 2008-R0414 adopting an Identity Theft Prevention Program pursuant to the Fair and Accurate Credit Transactions Act of 2003 and applicable Federal Trade Commission rules.

The Federal Trade Commission (FTC) recently adopted rules relating to identity theft “red flags” (warning signs), pursuant to the Fair and Accurate Credit Transactions (FACT) Act of 2003. By November 1, 2008, municipalities must adopt and implement a written program that accomplishes the following:

1. Identifies relevant identity theft “red flags” to the utility or other covered entity;
2. Provides for detection of those red flags;
3. Provides for appropriate responses to any red flags that are detected; and
4. Ensures that the program is updated periodically to address changing risks.

Lubbock Power & Light (LP&L) provides the utility customer account data entry services, account billing services, and account record keeping and overall account management services for water, sewer, refuse collection and storm water services. On Thursday, October 16, 2008, the LP&L Board considered and approved the policy. Because the City provides computer support services where the information is maintained, staff recommends that the City Council approve the policy to ensure compliance with federal regulation.

The FTC defines identity theft as “a fraud committed or attempted using the identifying information of another person without authority.” Identifying information could include such identifying information as a name, social security number, date of birth, driver’s license or number, alien registration number, passport number, employer or taxpayer identification number, account number associated with a utility service, credit card number or bank number, etc.

The FTC defines a red flag as “a pattern, practice or specific activity that indicates the possible risk of identity theft.” Regulated entities and agencies must identify patterns, practices, and specific forms of activity that indicate the possible existence of identity theft. It also includes possible risks to the account holders or customers or to the safety and soundness of the institution or customer from identity theft.

One common example that is seen more and more often is called “phishing.” In this example, a customer may receive an e-mail or other electronic communication falsely claiming to be from the institution to which the customer subscribes and directing the customer to a fraudulent website to supposedly address account related issues, when the real intent is to obtain personal and account related information.

Details from the regulations are provided and identifies a variety of red flags or categories of red flags that might need to be considered.

FISCAL IMPACT

The costs of this program are not known at this time. The regulations are extensive and there will be some cost impact over time as the program develops in order to fully implement the identity theft policy and program. It is anticipated that these cost issues will be addressed during the normal budget process as they arise.

Staff, LP&L and the Lubbock Water Advisory Commission recommends approval.

Tom Adams, Deputy City Manager gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Klein to pass Resolution No. 2008-R0414 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

6.10. Contract Amendment Resolution - Parks and Recreation : Resolution 2008-R0415 amending the Athletic Facility License Agreement.

In March 2007, the City Council approved the existing Athletic Facility License Agreement (AFLA). The term of the AFLA is for three years with two additional three year terms. This resolution is necessary to amend the AFLA to include new sports facilities.

The AFLA defines the responsibilities for athletic association and leagues (user groups) that use park property for sports programs. The user groups provide roster lists; the payment of league fees; the scheduling of all games and tournaments; the assignment, training and payment of referees, officials and score keepers; and other services necessary for the administration and operation of the user groups. AFLA Exhibits A, B, and C outline the maintenance responsibilities, the field signage policy, and the facility locations for each user group. A spreadsheet listing the user groups is provided.

Section 11.02 of the AFLA specifies the Licensee must contract with Lubbock Power & Light for electricity. The Youth Sports Complex is served by the South Plains Electric Cooperative (SPEC) and the AFLA is amended to reflect the use of SPEC.

Some of the user groups will be moving to the new sports facilities. Exhibit C of the AFLA indicates the facility locations for each user group. User groups relocating to new facilities are as follows:

- Challenger Little League, Cavazos Complex at the McAlister Park
- Lubbock Junior League Baseball, Youth Sports Complex (one field)
- Lubbock Youth Softball, Youth Sports Complex
- Martin Luther King Little League, Martin Luther King Little League Baseball Complex
- Midwest Little League, Youth Sports Complex (three fields)
- Northwest Little League, Sports Northwest Little League Baseball Complex
- South Plains Girls Fastpitch Softball Association, Youth Sports Complex

FISCAL IMPACT

The user groups pay a user fee of two dollars per participant. There were 8,333 youth participants in 2008 for total revenue of \$16,666 deposited in the General Fund.

The recommendation comes from the Parks and Recreation Advisory Board.

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Motion was made by Council Member Beane to pass Resolution No. 2008-R0415 with the following changes:

- “Amendment #1 does not delete Lou Stubbs Park for the Lubbock Youth Softball locations;
- Amendment #1 adds two quads (eight fields) to South Plains Girls Softball at the Youth Sports Complex;
- Amendment #1 adds one quad (four fields) to Lubbock Youth Softball at the Youth Sports Complex;
- Exhibit “B” adds Youth Sports Complex to the list of facilities for Advertising Signage;
- Exhibit “C” does not delete Lou Stubbs Park for the Lubbock Youth Softball on Signature Block Number 11;
- Exhibit “C” adds one quad (four fields) to Lubbock Youth Softball at the Youth Sports Complex on Signature Block Number 11;
- Exhibit “C” adds two quads (eight fields) to South Plains Girls Fast Pitch at the Youth Sports Complex on Signature Block Number 12;”

seconded by Council Member Klein. Motion carried: 4 Ayes, 2 Nays. Council Member DeLeon and Council Member Price voted nay.

9:50 A.M. CITY COUNCIL RECESSED

10:02 A.M. CITY COUNCIL RECONVENED

At this time, Mayor Martin recognized Curtis Griffith for his service and reappointment to Market Lubbock, Inc.

6. REGULAR AGENDA (CONTINUED)

6.1. Public Hearing 10:00 a.m. - Planning : Ordinance 2008-00091 Zone Case No. 2011-E (6301 43rd Street) Hold a public hearing to consider request by Wilkerson Investment Co. for zoning change from High Density Apartment (A-2) to Light Manufacturing (M-1) on 10.35 acres of unplatted land out of Block AK, Section 37, and to consider an ordinance.

Mayor Martin opened the public hearing at 10:03 a.m. No one appeared in favor or opposition. Mayor Martin closed the hearing at 10:03 a.m.

The request is to reverse a 2003 zone case and return a 10.35 acre tract of land near 43rd Street and Ironton to its original Light Manufacturing (M-1) zoning from its current High Density Apartment (A-2) zoning. The original applicant involved a tax credit apartment unit project that did not receive a state allotment for the project. Consequently, apartments were not constructed on the land.

Adjacent land uses:

N – vacant, recently rezoned to A-2 for apartments by the church that owns the entire parcel

S – vacant, zoned M-1

E – vacant, zoned M-1

W – Frenship school, zoned M-1

The re-zoning will resume the targeted use as illustrated on the current Comprehensive Land Use Plan, which is industrial use.

Any future construction will comply with the requirements of M-1. Deed restrictions in the area, although not enforced by the City, have created a very complimentary industrial district on the west side of Lubbock. The area has developed slower than anticipated by the original owner, but continues to develop as a quality industrial area.

The zone change will have less of an impact on the internal street system of the area than apartment zoning.

The Planning and Zoning Commission recommends approval of the request.

FISCAL IMPACT

None.

Staff recommends approval.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Beane to pass Ordinance No. 2008-00091 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

6.2. Public Hearing 10:00 a.m. - Planning : Ordinance 2008-00092 Zone Case No. 3110 (1604 38th Street) Hold a public hearing to consider request by Arun Dihenia for zoning change from Multi-Family (R-3) to Apartment-Medical (AM) Specific Use (for a hotel) on Lots 1, 2, 3, and 8, Paris Addition, and to consider an ordinance.

Mayor Martin opened the public hearing at 10:04 a.m. No one appeared in favor or opposition. Mayor Martin closed the hearing at 10:04 a.m.

The applicant owns a renovated motel at 4401 Avenue Q, and finds the need to provide an adjacent facility that provides kitchens for extended stay. The applicant has a contract on an apartment house at 38th Street and Avenue P for the closest proximity to his existing motel on Avenue Q. Initially, staff indicated to the applicant that the City does not dictate the terms of rents and the applicant may use the apartment house “as is” to rent by the week or month. The business side of the proposal (primarily the process of eviction) and signage suggested the need for an actual zone change. Apartment Medical provides the same size signage allowed in High Density Apartment (A-2), but AM allows for the identification of the long stay motel.

Adjacent land uses:

N – vacant, zoned C-4 (motel could be constructed at this location with no zone case)

S – zoned R-2 and developed as duplex units

E – single family

W – zoned C-4 commercial, is developed as a remote control vehicle race course.

The request, as AM Specific, is similar to the existing Multi-Family District (R-3) zoning (now converted to A-2 by the 1975 zoning ordinance) on the parcel and the Two-Family District (R-2) to the south. The lot developed to the west as a dirt course for remote control miniature vehicles would not suffer from the change. One of the entries in Specific Use under AM is “motel”. Whether the use of motel in AM Specific Use is compatible with adjacent land uses at this specific location was the main issue for consideration by the Commission and should remain so for the City Council.

The origin of why motels were inserted as a permitted use in the AM Specific Use is unknown to the current staff and the language was inserted before 1979. Several other motel locations have used AM, versus the commercial district that first allows development, which is West Broadway District (C-4). Experience has shown the permitted use of “motel” is typically a very light use in terms of traffic generation and time of traffic generation, as well as a fairly innocuous land use, except for the concept of “non-residents” coming and going.

Again, the reaction of the adjacent land owners to the east is most important since this location is an off-thoroughfare parcel, and close to single family residential on the east. The proposed use would be allowed on the parcels to the north and west. There was no opposition presented at the Planning Commission. The commercial owner of the abutting property to the west is in opposition and one other adjacent residential owner is in favor. The building is being used as multi-family at this time. We have no record of complaints about the current tenant group, a weekly stay motel attracts business and construction personnel that are in Lubbock for an extended stay but not long enough to enter a contract on an apartment. As noted, the signage of the structure would be limited by AM guidelines versus full commercial guidelines.

The proposal should not impact the thoroughfare system overall, and the amount of traffic at the parcel should not change significantly as an apartment complex typically generates more traffic and parking than a motel. No traffic will be routed through the neighborhood if the customers enter from Avenue Q.

The Planning and Zoning Commission recommends approval of the request subject to the following condition:

1. As Specific Use the project will be tied to what is now constructed other than the face lift remodel.

FISCAL IMPACT

No fiscal impact. As a motel, the facility will increase hotel/motel tax revenues and should appraise higher with regard to ad valorem taxation.

Staff and the Planning and Zoning Commission recommend approval.

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

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Klein to pass Ordinance No. 2008-00092 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

6.3. Public Hearing 10:00 a.m. - Planning : Ordinance 2008-00093 Zone Case No. 3111 (South of 19th Street between Aspen Avenue and Guava Avenue) Hold a public hearing to consider request by City of Lubbock for zoning change from Single-Family (R-1) to Apartment-Medical (AM) on 79.341 acres of unplatted land out of Block B, Section 3 and Tract A, Mental Health and Mental Retardation Addition, and to consider an ordinance.

Mayor Martin opened the public hearing at 10:09 a.m. Randy Henson, Director of Planning, appeared on behalf of the Planning and Zoning Commission, to speak in favor of Ordinance 2008-00093 Zone Case No. 3111. No one appeared in opposition. Mayor Martin closed the hearing at 10:14 a.m.

The City has had discussions with the regional Mental Health and Mental Retardation (MHMR) facility to donate an unused portion of land near Lake 6 south of East 19th Street inside the East Loop. The Planning Department filed the case for the Water Utilities Department to satisfy the proposed owner that there would be no zoning related issues for future plans. The land was originally acquired for the irrigation of effluent, but has not been used in that capacity for many years. An existing state MHMR facility exists in the southwest corner of the parcel overlooking Lake 6.

Adjacent land uses:

N – vacant residential and commercial, scattered residential north of 19th

S – vacant, parkland

E – vacant, zoned for industrial

W – vacant, parkland

The proposed zoning is a district that will allow MHMR and any partners to use the property in conjunction with the current main facility that overlooks Lake 6 (on the far south end of Aspen from East 19th Street). A letter provided in back up outlines the plans of the organization. The east side of the property has a huge playa lake and that land area will remain undeveloped. At this point, the objective is to use the west edge of the parcel and leave the balance alone. Because Apartment-Medical District (AM) is considered a buffer district, the zoning change is a minor amendment of the Comprehensive Land Use Plan.

Any new facilities will comply with AM development standards; otherwise there are no negative implications from the rezoning.

The development will have no additional impact on the thoroughfare system.

The Planning and Zoning Commission recommends approval of the AM District request.

FISCAL IMPACT

No fiscal impact.

Staff and the Planning and Zoning Commission recommend approval.

Motion was made by Council Member Klein, seconded by Mayor Pro Tem Gilbreath to approve Ordinance No. 2008-00093 as recommended by staff and the Planning and Zoning Commission. Motion carried 6 Ayes; 0 Nays.

6.5. Contract Resolution - Public Works Engineering : Resolution 2008-R0416 authorizing the Mayor to execute a professional engineering services contract with Parkhill, Smith & Cooper, Inc., for Quaker Avenue from 98th Street to Farm to Market Road 1585 (130th Street) and 114th Street from Quaker Avenue to Farm to Market Road 1730 (Slide Road), RFQ 08-731-BM.

The contract includes detailed design, plans, specifications, and estimates for the construction of Quaker Avenue from 98th Street to Farm to Market Road 1585 and 114th Street from Quaker Avenue to Slide Road. Quaker Avenue and 114th Street are shown on the Master Thoroughfare Plan as type T-2 thoroughfares and, when complete, will be an eight-inch reinforced concrete section consisting of six travel lanes and a continuous left turn lane (type T-2 thoroughfare). The design will include the roadway, extension of water and sewer, any necessary drainage features, illumination, and traffic signals. The consultant will perform a subsurface utility investigation, work with utility companies to resolve any potential utility conflicts, perform a geotechnical investigation, and design a traffic control plan for construction.

Architectural, engineering, and land surveying service providers are prohibited from submitting competitive bids or cost proposals. Texas Government Code Chapter 2254.004 requires that the City select the most highly qualified provider of services on the basis of demonstrated competence and qualifications and then attempt to negotiate with that provider a contract at a fair and reasonable price.

The following engineering firms submitted statements of qualifications and are ranked as follows:

Parkhill, Smith & Cooper, Inc. of Lubbock, Texas	450*
Kimley-Horn and Associates of Irving, Texas	430*
Mactec of Lubbock, Texas	376*
Nathan D. Maier Consulting Engineers of Dallas, Texas	344
Wilson and Company of Fort Worth, Texas	343
Dannenbaum Engineering of Dallas, Texas	328*
Petsche and Associates, Inc. of McKinney, Texas	249
Craig Wallace Construction of Lubbock, Texas	138

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* These four firms received the highest scores based on their written proposals and were selected for interviews. The scores were then adjusted based on their interviews.

Statements of Qualifications were evaluated based on criteria published in the Request for Qualifications (RFQ):

Project Team Organization and Qualifications (30%)

Past Project Experience (30%)

Project Approach (35%)

Overall Responsiveness to the RFQ (5%)

A selection committee evaluated and scored statements of qualifications and selected the four firms with the highest scores for interviews. Parkhill, Smith & Cooper and their team of subconsultants have the most knowledge of the project and have designed numerous projects and developments surrounding the corridors. Their team's extensive knowledge of drainage issues associated with the project will be beneficial to the design of the project.

The Parkhill, Smith & Cooper team includes:

Hugo Reed and Associates of Lubbock, Texas

Grimes and Associates of Lubbock, Texas

So-Deep of San Antonio, Texas

PaveTex Engineering and Testing of Lubbock, Texas

The not-to-exceed \$1,203,292 contract amount equals 7% of the estimated cost of construction. The number of hours tasked to perform each item has been reviewed by staff and is believed to be within the professional engineering scope necessary to complete the project. The proposed timeline for completion of the project is 12 months.

FISCAL IMPACT

\$2 million is appropriated in Project 92155, Quaker and 114th, with \$1,203,292 available for this purpose.

Staff recommends approval.

Marsha Reed, Director of Public Works gave a presentation and answered questions from Council.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Beane to approve Resolution No. 2008-R0416 as recommended by staff. Motion carried 4 Ayes; 2 Nays. Council Member DeLeon and Council Member Price voted nay.

6.6. Contract Resolution - Public Works Engineering : Resolution 2008-R0417 authorizing the Mayor to execute a professional engineering services contract with Kimley-Horn and Associates, Inc., for Indiana Avenue from 103rd Street to Farm to Market Road 1585 (130th Street), RFQ 08-732-BM.

The contract includes detailed design, plans, specifications, and estimates for the construction of Indiana Avenue from 103rd Street to Farm to Market 1585. Indiana Avenue is shown on the Master Thoroughfare Plan as a Type T-2 thoroughfare, and when complete, will be an asphalt pavement section, to complete the east half of the roadway, from 103rd Street to 114th Street and an eight-inch reinforced concrete section consisting of six travel lanes and a continuous left turn lane (type 2 thoroughfare) from 114th Street to Farm to Market 1585 (130th Street). The design will include the roadway, any necessary drainage features, extension of water and sewer, illumination, and traffic signals. The consultant will perform a subsurface utility investigation, work with utility companies to resolve any potential utility conflicts, perform a geotechnical investigation, and design a traffic control plan for construction of the project.

Architectural, engineering, and land surveying service providers are prohibited from submitting competitive bids or cost proposals. Texas Government Code Chapter 2254.004 requires that the City select the most highly qualified provider of services on the basis of demonstrated competence and qualifications and then attempt to negotiate with that provider a contract at a fair and reasonable price.

The following engineering firms submitted statements of qualifications and are ranked as follows:

Kimley-Horn and Associates of Irving, Texas	442*
Parkhill, Smith and Cooper, Inc. of Lubbock, Texas	415*
Mactec of Lubbock, Texas	380*
Enprotec, Inc. of Lubbock, Texas	348
HDR Engineering, Inc. of Austin, Texas	344*
Nathan D. Maier Consulting Engineers of Dallas, Texas	344
Wilson and Company of Fort Worth, Texas	343
Dannenbaum Engineering of Dallas, Texas	328*
Craig Wallace Construction of Lubbock, Texas	138

* These five firms received the highest score based on their written proposals and were selected for interviews. The scores were then adjusted based on their interviews.

Statements of Qualifications were evaluated based on criteria published in the Request for Qualifications (RFQ):

Project Team Organization and Qualifications (30%)

Past Project Experience (30%)

Project Approach (35%)

Overall Responsiveness to the RFQ (5%)

A selection committee evaluated and scored statements of qualifications and selected the five firms with the highest scores for interviews. Kimley-Horn and Associates and their proposed team of subconsultants are the most qualified based on their understanding of the work and drainage issues.

The Kimley-Horn and Associates team includes:

AMD Engineering of Lubbock, Texas

Abacus Engineering of Lubbock, Texas

Gorronдона and Associates of Lubbock, Texas

PaveTex Engineering and Testing of Lubbock, Texas

The \$815,832 contract includes a lump sum of \$549,800 plus a not to exceed amount of \$266,032 and equals 9% of the estimated cost of construction. The number of hours tasked to perform each item has been reviewed by staff and is believed to be within the professional engineering scope necessary to complete the project. The proposed timeline for completion of the project is 12 months.

FISCAL IMPACT

\$1 million is appropriated in Project 92156, Indiana Avenue from 103rd Street to FM 1585, with \$815,832 available for this purpose.

Staff recommends approval.

Marsha Reed, Director of Public Works gave a presentation and answered questions from Council.

Motion was made by Council Member Beane, seconded by Mayor Pro Tem Gilbreath to approve Resolution 2008-R0417 as recommended by staff. Motion carried 4 Ayes; 2 Nays. Council Member Price and Council Member DeLeon voted nay.

6.7. Contract Resolution - Public Works Engineering : 2008-R0418 authorizing the Mayor to execute a professional engineering services contract with Parkhill, Smith & Cooper, Inc., for Frankford Avenue from 98th Street to 114th Street, 98th Street from Frankford Avenue to Milwaukee Avenue, and Milwaukee Avenue from 94th Street to 100th Street, RFQ 08-736-BM.

The contract includes detailed design, plans, specifications, and estimates for the construction of Frankford Avenue from 98th Street to 114th Street, 98th Street from Frankford Avenue to Milwaukee Avenue, and Milwaukee Avenue from 94th Street to 100th Street. Frankford Avenue, 98th Street, and Milwaukee

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Avenue are shown on the Master Thoroughfare Plan as type T-2 thoroughfares and, when complete, will be an eight-inch reinforced concrete section consisting of six travel lanes and a continuous left turn lane (type T-2 thoroughfare). The design will include the roadway, extension of water and sewer, a complete analysis of playa lake 94, any necessary drainage features, illumination, and traffic signals. The consultant will perform a subsurface utility investigation, work with utility companies to resolve any potential utility conflicts, perform a geotechnical investigation, and design a traffic control plan for the construction.

Architectural, engineering, and land surveying service providers are prohibited from submitting competitive bids or cost proposals. Texas Government Code Chapter 2254.004 requires that the City select the most highly qualified provider of services on the basis of demonstrated competence and qualifications and then attempt to negotiate with that provider a contract at a fair and reasonable price.

The following engineering firms submitted statements of qualifications and are ranked as follows:

Parkhill, Smith & Cooper, Inc. of Lubbock, Texas	450*
Mactec of Lubbock, Texas	376*
Wilson and Company of Fort Worth, Texas	347
Nathan D. Maier Consulting Engineers of Dallas, Texas	344
Dannenbaum Engineering of Dallas, Texas	328*
Craig Wallace Construction of Lubbock, Texas	138

* These three firms received the highest scores based on their written proposals and were selected for interviews. The scores were then adjusted based on their interviews.

Statements of Qualifications were evaluated based on the criteria listed in the Request for Qualifications (RFQ):

- Project Team Organization and Qualifications (30%)
- Past Project Experience (30%)
- Project Approach (35%)
- Overall Responsiveness to the RFQ (5%)

A selection committee evaluated and scored statements of qualifications and selected the three firms with the highest scores for interviews. Parkhill, Smith & Cooper and their team of subconsultants have the most knowledge of the project and have designed numerous projects and developments surrounding the corridors. Their team's extensive knowledge of drainage issues associated with the project will be beneficial to the design of the project.

The Parkhill, Smith & Cooper team includes the following:

- Hugo Reed and Associates of Lubbock, Texas
- Grimes and Associates of Lubbock, Texas
- So-Deep of San Antonio, Texas
- PaveTex Engineering and Testing of Lubbock, Texas

The not-to-exceed \$1,248,788 contract amount equals 7% of the estimated cost of construction. The number of hours tasked to perform each item has been reviewed by staff and is believed to be within the professional engineering scope necessary to complete the project. The proposed timeline for completion of the project is 12 months.

FISCAL IMPACT

\$2 million is appropriated in Project 92158 - 98th, Frankford, and Milwaukee, with \$1,248,788 available for this purpose.

Staff recommends approval.

Marsha Reed, Director of Public Works gave comments and answered questions from Council.

Motion was made by Council Member Beane, seconded by Council Member Klein to approve Resolution 2008-R0418 as recommended by staff. Motion carried 4 Ayes; 2 Nays. Council Member DeLeon and Council Member Price voted nay.

6.8. Contract Resolution - Public Works Engineering : Resolution 2008-R0419 authorizing the Mayor to execute a professional engineering services contract with Hugo Reed and Associates, Inc., for Right-or-Way Coordination of the Gateway Streets Projects.

The contract includes surveying required to determine right-of-way parcels needed for the completion of the Gateway Streets projects. Hugo Reed and Associates will survey existing and needed right-of-way parcels, determine existing utility locations, prepare right-of-way documents, research ownership records of properties, assist with right of entry documents, and assist with coordination of right-of-way dedications with property owners.

Services include right-of-way coordination for the following corridors:

1. Quaker Avenue from 98th Street to Farm to Market Road 1585 (130th Street) and 114th Street from Quaker Avenue to Farm to Market Road 1730 (Slide Road)
2. Indiana Avenue from 103rd Street to Farm to Market Road 1585 (130th Street)
3. Frankford Avenue from 98th Street to 114th Street, 98th Street from Frankford Avenue to Milwaukee Avenue, and Milwaukee Avenue from 94th Street to 100th Street
4. Ash Avenue from Farm to Market Road 1294 to Utah Street
5. Milwaukee Avenue from 100th Street to Farm to Market Road 1585 (130th Street)
6. 98th Street from University Avenue to U.S. 87 and University Avenue from 98th Street to 114th Street

7. 114th Street from Farm to Market Road 1730 (Slide Road) to Milwaukee Avenue
8. 114th Street from Quaker Avenue to University Avenue
9. Milwaukee Avenue from Erskine Street to Farm to Market Road 2255 (4th Street) and Erskine Street from Milwaukee Avenue to Frankford Avenue

The not-to-exceed contract amount is \$364,467. The proposed timeline for completion is 26 months.

Architectural, engineering, and land surveying service providers are prohibited from submitting competitive bids or cost proposals. Texas Government Code Chapter 2254.004 requires that the City select the most highly qualified provider of services on the basis of demonstrated competence and qualifications and then attempt to negotiate with that provider a contract at a fair and reasonable price.

FISCAL IMPACT

\$500,000 is appropriated in Project 8537, Gateway Streets Rights-of-Way Coordination, with \$364,467 available for this purpose.

Staff recommends approval.

Marsha Reed, Director of Public Works gave comments and answered questions from Council.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Klein to approve Resolution 2008-R0419 as recommended by staff. Motion carried 4 Ayes; 2 Nays. Council Member DeLeon and Council Member Price voted nay.

6.12. Resolution - City Council : Resolution 2008-R0420 authorizing the Mayor to execute an amendment to the license agreement with American Heritage Museum, Inc., extending the Fund Date to obtain sufficient funding to construct, operate, and maintain the American Museum of Agriculture.

The 2003 license agreement with the American Heritage Museum (AHM), doing business as the American Museum of Agriculture, requires AHM to obtain sufficient funding no later than November 1, 2008, (the "Fund Date") and to submit to the City proof of sufficient funding to construct, operate, and maintain the American Museum of Agriculture. The American Heritage Museum Board of Directors requests extending the Fund Date to May 1, 2009, to allow the Board additional time to obtain sufficient funding and to submit proof of sufficient funding to the Parks and Recreation Board before submitting proof to the City.

FISCAL IMPACT

No fiscal impact.

Paul R. Beane, Council Member District 4, recommends approval.

Council Member Beane and Curtis Griffith, representing the American Heritage Museum, Inc. gave comments and answered questions.

Motion was made by Council Member Beane, seconded by Council Member Klein to approve Resolution 2008-R0420. Motion carried 6 Ayes; 0 Nays.

6.9. Contract Resolution – Water Utility : Consider a resolution authorizing the Mayor to execute a unit price construction contract with Wright Construction Company, Inc., for the Eastport Industrial Area Water System Improvements Project, BID 08-730-BM.

This item was continued to the November 6, 2008 City Council Meeting.

The construction contract involves the replacement of water lines and improvement of the water system for the Eastport Industrial Area at Preston Smith International Airport. The work includes installation of two miles of water mains, appurtenant valves and fire hydrants, reconnection to existing water services, street repair, and abandonment of existing water lines.

The Eastport Industrial Area water system was constructed in the early 1940s and has reached the end of its useful life. Replacement of the line will improve water quality and water pressure characteristics in the Eastport area. Improvements will reduce maintenance and repair cost associated with line breakages.

Proposals were received from the following companies:

- Wright Construction of Grapevine, Texas with a proposal of \$720,327
- Morton Irrigation of Plainview, Texas \$745,630
- Craig Wallace Construction of Lubbock, Texas \$749,325
- Utility Contractors of America of Wolfforth, Texas \$774,500
- Deerwood Construction of Lubbock, Texas \$796,196

The contract is awarded by unit price. The total amount of the award is estimated and actual expenditures may be more or less depending on the actual needs of the project. The price per unit will not change. The construction time requirement is 120 days for substantial completion and an additional 30 days for final completion.

In purchasing real property, personal property that is not affixed to real property, or services, if the City receives a bid from a bidder whose principal place of business is within Lubbock city limits (resident bidder) and whose bid is within 5% of the lowest bid received from a bidder who is not within Lubbock city limits, Texas Local Government Code 271.905 allows the City to contract with the lowest bidder, or the resident bidder if City Council

determines that the resident bidder offers the City the best combination of contract price and additional economic development opportunities for the City created by the contract award, including the employment of Lubbock residents and increased tax revenues to Lubbock. The \$749,325 bid from Craig Wallace Construction of Lubbock, Texas, is within 4% (\$28,998) of the \$720,327 bid from Wright Construction of Grapevine, Texas.

FISCAL IMPACT

\$1.2 million is appropriated with \$1.162 million available in Capital Project 91082, Eastport Water Renovation.

The Lubbock Water Advisory Commission and staff recommend contract award to the lowest bidder, Wright Construction of Grapevine, Texas, for \$720,327.

Victor Kilman, Director of Purchasing, and Wood Franklin, Chief Engineer for Water Utilities gave comments and answered questions from Council.

Motion was made by Mayor Pro Tem Gilbreath to award the contract to Craig Wallace Construction. Motion died for lack of a second.

Motion was made by Council Member DeLeon, seconded by Council Member Price to award contract to Wright Construction. Motion failed: 3 Ayes, 3 Nays. Mayor Martin, Mayor Pro Tem Gilbreath, and Council Member Beane voted nay.

Motion was made by Council Member Beane to award the contract to Craig Wallace Construction, seconded by Mayor Pro Tem Gilbreath. Motion failed: 3 Ayes, 3 Nays. Council Member Price, Council Member DeLeon, and Council Member Klein voted nay.

Council consensus to continue this item to the November 6, 2008 City Council Meeting.

6.11. Contract Resolution - Facilities : Resolution 2008-R0420 authorizing the Mayor to execute a job order contract with Talon/LPE for interior renovations at the Guadalupe Center.

The interior renovations of the Guadalupe Center include construction of two Americans with Disabilities Act disabled accessible restrooms, interior painting, demolition of office spaces to provide a large recreation room, renovation of the kitchen area, and installation of a shower facility and a washer/dryer room. New heating, ventilating, and air conditioning equipment is scheduled for replacement. Additional renovations will bring the facility into Americans with Disabilities Act compliance in the work area. Limited exterior work will include curb and ramp work and parking lot resealing and restriping.

The \$108,261 contract with Talon/LPE (Contract No. TX04-061908-TAL) is made through the National Joint Powers Alliance (NJPA) purchasing cooperative using an electronic system, known as EZIQC, to access indefinite quantity construction contracts (job order contracts) that are competitively bid to accomplish maintenance, repair, and minor new construction. The contracts are based on a catalog of pre-priced construction tasks for all divisions of

construction. NJPA is a Service Cooperative and governmental agency created by Minnesota Statute 123A.21 to allow participating governmental agencies to reduce the cost of goods and services by leveraging their combined purchasing power. Texas Government Code Chapter 791 allows political subdivisions of Texas to contract with another political subdivision of Texas or another state to purchase goods and services. Pursuant to Texas Local Government Code Chapter 271.102, participating in purchasing cooperatives with other local governments and cooperative purchasing organizations satisfies state law requiring the City to solicit competitive bids.

Talon/LPE proposes to use AMCO Electric of Lubbock, Texas, as the subcontractor for all electrical work.

FISCAL IMPACT

\$340,000 is appropriated in Capital Improvement Project 91204, Guadalupe Neighborhood Center, with \$108,261 available for this purpose.

Staff recommends approval.

Victor Kilman, Director of Purchasing and Dela Esqueda, Executive Director of the Guadalupe/Parkway Neighborhood Centers gave comments and answered questions from Council.

Council Member Price requested the \$100,000 in the budget not allocated to the North & East Lubbock Community Development Corporation be put toward renovation of the neighborhood centers; and that \$50,000 of the capital improvement funds be transferred to the renovation project as well.

Motion was made by Council Member DeLeon, seconded by Council Member Klein to approve Resolution 2008-R0421 as recommended by staff. Motion carried 6 Ayes; 0 Nays with a directive to the City Manager to put together a plan to finish this project.

10:55 A.M. CITY COUNCIL RECESSED.

11:04 A.M. CITY COUNCIL RECONVENED.

6. REGULAR AGENDA (CONTINUED)

- 6.4. Public Hearing 11:00 a.m. - Planning : Conduct a public hearing on proposed annexation of the land area between 660 feet east of the center line of Frankford Avenue, 660 feet south of the center line of Farm to Market Road 1585, 55 feet west of the center line of Alcove Avenue, all south of the existing city limits south of 114th Street.**

Mayor Martin opened the public hearing at 11:06 a.m. No one spoke in favor of the annexation. The following citizens spoke in opposition of the annexation of the land area between 660 feet east of the center line of Frankford Avenue, 660 feet south of the center line of Farm to Market Road 1585, 55 feet west of the center line of Alcove Avenue, all south of the existing city limits south of 114th Street:

Gary Britt

Tom Schneider

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David Mangold	Mel Abby
Earl Andrews	Forester F. Dean
John Boling	Teb Thames
Terry Fortenberry	Bill Irwin
Brad Birdsong	John Smothers
Aubrey Stark	Amber York
Tom Killian	

Mayor Martin closed the public hearing at 11:57 a.m. and instructed staff to prepare options for possible “cut outs” for this proposed annexation, and bring them back to City Council. Mayor Martin also encouraged the citizens to meet with Randy Henson.

On October 14, 2008, the City Council conducted the first public hearing. During the July 10, 2008, City Council Work Session, the City Council discussed potential areas for annexation and the process for annexation. The City Council identified, as an annexation priority, the land area between 660 feet east of the center line of Frankford Avenue, 660 feet south of the center line of Farm to Market Road 1585 (FM 1585), 55 feet west of the center line of Alcove Avenue, all south of the existing city limits south of 114th Street. The three square miles along the south boundary of Lubbock are located in the immediate path of current community growth. Two sections to the east between 114th Street and FM 1585 were annexed several years ago. FM 1585 is a major artery for the southern part of Lubbock County and, as property adjacent to FM 1585 develops, annexation will benefit the county. To date, many residential and business uses have developed with no coordination and little governance of curb returns, which are critical as the area continues to develop and traffic increases.

On September 25, 2008, the City Council approved a resolution directing the Planning Department to prepare a service plan for the area to be annexed, and directed the City Attorney to prepare an annexation ordinance for consideration by the City Council to annex the area pursuant to the Subchapter C-1 procedure of Chapter 43 of the Local Government Code. The proposed ordinance, map showing the area to be annexed, and the proposed service plan are provided.

Two public hearings allow an opportunity for the City Council to receive comments on the proposed ordinance. A minimum of 30 days before the first scheduled public hearing, staff mailed notices to property owners on record at the Lubbock County Appraisal District. Public hearings were advertised as required in the Lubbock Avalanche Journal. The date of the first public hearing is the point from which all the scheduled events must occur according to State of Texas annexation law.

Annexation is the process by which a city extends its municipal services, regulations, voting privileges, and taxing authority to new territory, and is normally proposed for an area in the immediate path of growth to prevent

undesirable development patterns. Cities annex territory to provide urbanizing areas with municipal services and to exercise regulatory authority necessary to protect public health, safety and welfare. Annexation is a means of managing growth and providing zoning controls through an orderly process according to the Comprehensive Land Use Plan and within the scope of the Zoning Code and Building Codes.

FISCAL IMPACT

No capital expense is recommended in the proposed service plan as the area fits the definition under State law allowing annexation to provide services "as in like areas" of the rest of the City. Operational expenses (soft services - police, fire, etc.) will be absorbed by various departments within current operating budgets.

Staff recommends approval.

No action was taken by Council.

7. WORK SESSION/BUSINESS AGENDA

7.1. Representatives from the Board of Health and the Animal Shelter Advisory Board will present each board's top five recommended locations for the proposed Animal Shelter.

Representatives from the Board of Health and the Animal Shelter Advisory Board will present each board's top five recommended locations for the proposed Animal Shelter.

FISCAL IMPACT

No fiscal impact.

Larry Phillippe, Chair of the Animal Shelter Advisory Board gave a presentation on the Board's recommendations for a site for the new animal shelter. Mr. Phillippe informed Council that the Board used the following criteria in the site selection process: 1) Visibility from the street; 2) Accessibility from all directions; 3) Throughfare access; 4) Central location; 5) Cost of land; 6) Availability of utilities; 7) Adjoining land use; 8) Room for expansion; and 9) On the way versus to a destination.

Mr. Phillippe further stated that using the aforementioned criteria, the Board was able to identify 23 potential sites. The Board then identified the top 4 sites to recommend: 1) McAllister Park; 2) 6302 Iola; 3) 2701 Alcove; and 4) 2201 North Loop 289.

Mr. Phillippe informed Council the Board voted on five sites. However, the Board later discovered their fifth choice was no longer available.

Darnell Dingle, Chair of the Board of Health presented the Board of Health's recommendation of its top five sites for a new animal shelter. Using the same criteria as outlined above the Board of Health identified 5 sites as possible

locations: 1) McAllister Park; 2) 3503 Avenue Q; 3) 2202 Landmark Lane; 4) 6302 Iola; and 5) 6010 34th Street.

Ms. Dingle informed Council that after a vote was taken to recommend the aforementioned sites; it was discovered the Avenue Q and the 34th Street locations are no longer available. Ms. Dingle suggested to Council that a site be chosen by them, since this has been an ongoing issue.

Mayor Martin expressed his appreciation for the work both Boards have done to bring recommendations before Council. Mayor Martin informed them that Council would have to discuss the acquisition of a possible site in Executive Session. He also stated the Council appreciates the Boards' availability if Council should need their assistance again.

Each Council Member asked questions and addressed areas of concern to Mr. Phillippe, Ms. Dingle and Scott Snider, Assistant City Manager.

12:30 P.M. CITY COUNCIL RECESSED INTO EXECUTIVE SESSION.

2:18 P.M. CITY COUNCIL RECONVENED.

6. REGULAR AGENDA (CONTINUED)

6.13. Board Appointments - City Secretary : Consider one appointment to the Building Board of Appeals; four appointments to the Electric Utility Board; six appointments to the Entertainment Lubbock Sub-Committee; three appointments to the Museum & Art Standing Sub-Committee; one appointment to the North Overton Tax Increment Financing Board of Directors; and four appointments to the Planning and Zoning Commission.

Consider one appointment to the Building Board of Appeals; four appointments to the Electric Utility Board; six appointments to the Entertainment Lubbock Sub-Committee; three appointments to the Museum & Art Standing Sub-Committee; one appointment to the North Overton Tax Increment Financing Board of Directors; and four appointments to the Planning and Zoning Commission.

FISCAL IMPACT

No fiscal impact.

Becky Garza, City Secretary, recommends approval.

Motion made by Mayor Pro Tem Gilbreath, seconded by Council Member Klein to appoint Michael Landress to the Building Board of Appeals; reappoint Suz Ann Kirby, Marciano Morales, Chris Snead, and John Zwiacher to the Electric Utility Board; and appoint Howard Thrash to the North Overton TIF Board of Directors. No action was taken on appointments to the Entertainment Lubbock Sub-Committee, Museum & Arts Standing Sub-Committee, and the Planning and Zoning Commission. Motion carried 6 Ayes; 0 Nays.

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2:20 P.M. CITY COUNCIL ADJOURNED.

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