

**CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
November 6, 2008
7:30 A. M.**

The City Council of the City of Lubbock, Texas met in regular session on the 6th day of November, 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 John Leonard, Council Member Floyd Price, and Council Member Todd Klein

Absent: No One

1. CITIZEN COMMENTS

Citizens appeared before the City Council to discuss various topics as follows:

- Clif Burnett appeared before Council to express his concerns with an interlocal agreement between the City and Lubbock County to spend \$940,000 to perform a feasibility study of an outer loop.
- Barbara Holland, a former City employee, appeared before Council to express her eye-witness accounts of inhumane and mismanagement practices while employed at the City of Lubbock Animal Shelter.
- Christy Martinez-Garcia appeared before Council to express her concerns regarding the proposed changes to the structure of the City Boards and Commissions. She expressed concern with the method of naming City assets, and submitted names to Council for the naming of other City assets. Ms. Martinez-Garcia expressed concerns regarding a proposal allocating money from the Solid Waste Fund to erect a kiosk at the Lubbock International Airport.
- Darla Granberry, MD. appeared before Council to express her concerns regarding a proposal to restrict carrying a handgun into Council Chambers. She stated that such prohibitions would discourage those who carry handguns lawfully from coming to the City Council Meetings.

7:40 A.M. CITY COUNCIL RECESSED INTO EXECUTIVE SESSION

2. EXECUTIVE SESSION

- 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. (Transportation, Utility Regulatory Matters)**
- 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. (Animal Control, Business Development, Fire, 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 Planning and Zoning Commission.**

9:02 A.M. REGULAR CITY COUNCIL MEETING RECONVENED.

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

Absent: No One

3. PROCLAMATIONS AND PRESENTATIONS

- 3.1. Invocation by Pastor Tyrone DuBose, Manhattan Heights Church of Christ**
- 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 to Brad Reed, Community Development Inspection Coordinator, for the Portland Cement Association 2008 Sustainable Leadership Award in the category of Homes and Residential Buildings.

Mayor Martin introduced Jim Kiehoff, representative for the Portland Cement Association. Mr. Kiehoff gave comments and presented the award to Brad Reed. Mr. Reed expressed his gratitude for receiving the award.

3.4. Presentation by the Salvation Army of their Red Kettle Campaign, the nation's longest-running annual fundraiser.

Lynn McClendon gave a presentation in an effort to recruit volunteers to assist with the Salvation Army's "Red Kettle Campaign."

3.5. Presentation of a special recognition to the E 949 Forward Support Company Family Readiness Group.

Mayor Martin presented a special recognition to the E 949 Forward Support Company Family Readiness Group for making ornaments and Christmas cards to send to troops currently serving in Iraq. Stella Gomez accepted the special recognition on behalf of the E 949 Forward Support Company Family Readiness Group, and gave comments regarding their November 8th event. She invited citizens to come and make homemade ornaments and Christmas cards for the troops. The Mayor and Council Members each presented their homemade cards to Ms. Gomez to send to the troops in Iraq.

3.6. Presentation of a special recognition to Bidal Aguerro to recognizing El Editor as the oldest Hispanic-owned bilingual newspaper in Texas.

Mayor Martin presented a special recognition to Mr. Bidal Aguerro, recognizing El Editor as the oldest Hispanic-owned bilingual newspaper in Texas. Mr. Aguerro accepted the recognition and gave comments.

4. MINUTES

4.1. Approval of Minutes from Prior Meetings :
Regular City Council Meeting, October 9, 2008
Special City Council Meeting, October 10, 2008
Special City Council Meeting, October 14, 2008

Motion was made by Council Member Price, seconded by Council Member Klein to approve the minutes of the Regular City Council Meeting, October 9, 2008; and Special City Council Meetings, October 10 and 14, 2008. Motion carried: 7 Ayes, 0 Nays.

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

- 5.2-5.9; 5.11; 5.13-5.14; 5.1; 5.10; 5.12; 6.3; 6.1; 6.2; 6.11; 6.4-6.10; 6.12

5. CONSENT AGENDA

Motion was made by Council Member Leonard, seconded by Mayor Pro Tem Gilbreath to approve Items 5.2-5.9; 5.11; 5.13; and 5.14 on the Consent Agenda as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.2. Ordinance Amendment 2nd Reading - Building Inspection : Ordinance No. 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.

On October 23, 2008, the City Council approved the first reading of the ordinance. 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 included 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:

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. Removes and/or amends provisions within the 2008 National Electrical Code that were determined by the Model Code Board to be inappropriate for Lubbock; and
5. Eliminates conflicting technical provisions.

FISCAL IMPACT

No fiscal impact.

STAFF SUBMITTING/RECOMMENDATION

Rob Allison, Development Services Assistant City Manager and the Model Code and Construction Advisory Board recommend approval.

5.3. Ordinance 2nd Reading - Planning : Ordinance No. 2008-00091 Zone Case No. 2011-E (6301 43rd Street) Consider request by Wilkerson Investment Company 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.

On October 23, 2008, the City Council approved the first reading of the ordinance. 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

No fiscal impact.

STAFF SUBMITTING/RECOMMENDATION

Rob Allison, Development Services Assistant City Manager recommends approval.

5.4. Ordinance 2nd Reading - Planning : Ordinance No. 2008-00092 Zone Case No. 3110 (1604 38th Street) 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.

On October 23, 2008, the City Council approved the first reading of the ordinance. 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.

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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 (AM) 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 West Broadway (C-4) (motel could be constructed at this location with no zone case)

S – zoned Two-Family (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 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 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 and Zoning 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 SUBMITTING/RECOMMENDATION

Rob Allison, Development Services Assistant City Manager, and the Planning and Zoning Commission recommend approval.

5.5. Ordinance 2nd Reading - Planning : Ordinance No. 2008-00093 Zone Case No. 3111 (South of 19th Street between Aspen Avenue and Guava Avenue) 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.

On October 23, 2008, the City Council approved the first reading of the ordinance. 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 Utility 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 Street

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 Avenue 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.

FISCAL IMPACT

No fiscal impact.

STAFF SUBMITTING/RECOMMENDATION

Rob Allison, Development Services Assistant City Manager, and the Planning and Zoning Commission recommend approval.

5.6. Contract Resolution - Business Development : Resolution 2008-R0422 authorizing the Mayor to execute an agreement to terminate the tax abatement agreement approved on June 23, 2005, between the City of Lubbock and Hurley Companies.

Hurley Companies requests to terminate a tax abatement agreement that was approved on June 23, 2005. The company is requesting the termination because the actual cost of building improvements is less than the investment amount committed in the tax abatement contract. The amount invested in the facility did not increase the property value, therefore no tax abatement was allowed.

In order to terminate the existing agreement, the municipality must first deliver a notice of intent to terminate a tax abatement agreement to the other taxing jurisdictions. The notice of intent was approved at the October 23, 2008, City Council meeting and forwarded to the other taxing jurisdictions.

FISCAL IMPACT

No fiscal impact.

STAFF SUBMITTING/RECOMMENDATION

Rob Allison, Development Services Assistant City Manager recommends approval.

5.7. Contract Resolution - Business Development : Resolution 2008-R0423 authorizing the Mayor to execute an assignment to Park West of a tax abatement agreement dated August 23, 2007, between the City of Lubbock and Minerva Partners, Ltd.

On August 23, 2007, the City Council approved a tax abatement contract with Minerva Partners involving the construction of a retail facility located at 602 Avenue Q and leased to Walgreens.

On July 31, 2008, the facility was sold to Park West. The tax abatement contract does not automatically transfer with the building. If the tax abatement contract is not assigned to the new owner, it will terminate.

Minerva Partners requests the City transfer and assign the tax abatement agreement to the new owner, Park West.

FISCAL IMPACT

No fiscal impact.

STAFF SUBMITTING/RECOMMENDATION

Rob Allison, Development Services Assistant City Manager recommends approval.

- 5.8. Resolution - Community Development : Resolution 2008-R0424 approving the price and conditions of sale by the Urban Renewal Agency to Jose Gilbert Salinas, Jr., for a vacant lot at 3111 Teak Avenue designated as Parcel 789900-18-6 described as Lot 6, Block 18, Sieber Addition, 2nd Installment.**

This is a routine sale of a vacant lot located at 3111 Teak Avenue by the Urban Renewal Agency to Jose Gilbert Salinas, Jr., for \$400. The property is to be developed with one \$80,000 single-family 1,500 square foot residence.

On September 23, 2008, the Urban Renewal Board of Commissioners approved the proposed sale.

FISCAL IMPACT

\$400 revenue to the City. The sale puts the property into private ownership, back on the tax role, and eliminates the weed mowing expense of \$120 per year, depending on the amount of rainfall.

STAFF SUBMITTING/RECOMMENDATION

Quincy White, Assistant City Manager and the Urban Renewal Board of Commissioners recommend approval.

- 5.9. Contract Resolution - Community Development : Resolution 2008-R0425 authorizing the Mayor to execute an interlocal agreement with the Texas Workforce Commission to provide the City of Lubbock Community Development Department with unemployment insurance wage records to analyze employment outcomes for clients participating in the Self Sufficiency Program.**

The agreement allows the Community Development Department to obtain current wage records or benefit information from the Texas Workforce Commission to track recipients of the Community Service Block Grant Self Sufficiency Program to determine if the recipients have transitioned out of poverty. The information is used to determine and report program success to state and federal agencies.

The Self Sufficiency Program assists low-income single-parent households and a limited number of dual parent households transition out of poverty. The Self Sufficiency Program enables a parent to obtain education that provides a better opportunity for employment with a better paying job.

Once a client completes the program, starts employment, and earns income above poverty level and transitions out of poverty, they are tracked for 90 days

to determine if they have remained self-sufficient. Once a client has transitioned out of poverty for 90 days, the client's file is completed and closed.

FISCAL IMPACT

State funds will be used from the Community Services Block Grant to pay for the wage records and benefit information. Fees for records will be charged based on a rate schedule, with a not to exceed contract amount of \$4,575.

STAFF SUBMITTING/RECOMMENDATION

Quincy White, Assistant City Manager recommends approval.

5.11. Contract Resolution - Citibus : Resolution 2008-R0426 authorizing the Mayor to execute an agreement to lease two 1996 RTS Nova Transit Buses to McDonald Transit Associates, Inc.

McDonald Transit Associates desires to lease two 1996 RTS Nova Transit Buses to be used by Lawton Transit Management in Lawton, Oklahoma. The term of the lease is through March 1, 2009. McDonald Transit Associates will pay to the City \$4,091 per bus, or \$8,183. McDonald Transit Associates is responsible for providing insurance on the vehicles during the term of the agreement.

In the Adopted FY 2008-09 Operating Budget, Citibus stated that they would sell ten buses to maintain the Federal Transit Administration mandated 20% spare bus ratio. The two buses leased to McDonald Transit Associates will be sold by the City at the end of the lease. The leased buses will be 12 years old at the end of October 2008 and are scheduled for sale at auction.

FISCAL IMPACT

\$8,183 revenue will be deposited in the Citibus Enterprise Fund.

STAFF SUBMITTING/RECOMMENDATION

James W. Loomis, Transportation and Public Works Assistant City Manager recommends approval.

5.13. Contract Resolution - Public Works : Resolution 2008-R0427 authorizing the Mayor to execute a purchase order contract with Granite Construction Company for Type D hot mix.

An emergency purchase of Type D hot mix was necessary to pave Joliet Avenue from 27th Street to 34th Street to complete the Remove and Relay Street Maintenance Project. The Remove and Relay Project involves the Street Department removing old asphalt street surface in areas throughout Lubbock and relaying the streets with new hot mix.

Following heavy rain on September 11, 2008, the wet caliche base on Joliet Avenue had to be reworked prior to the hot mix application. Reworking the caliche base caused increased density and compaction requiring additional hot mix thickness to return the street to its original grade. With the chance of additional rain in the forecast, it was decided to lay two lifts of hot mix instead

of adding caliche and reworking the base, which would have caused a considerable delay and inconvenience to the public. Consequently, more hot mix was required than originally planned. An additional 631 tons of hot mix was needed at a cost of \$47,300.

The \$47,300 purchase from Granite Construction Company is through the Texas Procurement and Support Services (TPASS) contract TxDOT 1-75-138-8045-4. TPASS administers a cooperative purchasing program created by legislation in 1979 in accordance with Sections 271.081-271.083 Local Government Code, V.T.C.A., Section 2155.202 and 2175.001(1) of the Texas Government Code, Title 10, Subtitle D. This legislation provides the legal authority for local governments to participate in the TPASS program and provides State of Texas volume purchasing power to local governments.

FISCAL IMPACT

\$21,532,000 is appropriated in Capital Improvement Project 92125, Street Maintenance Program, with \$47,300 available for this purpose.

STAFF SUBMITTING/RECOMMENDATION

James W. Loomis, Transportation and Public Works Assistant City Manager recommends approval.

5.14. Ordinance 1st Reading – Right-of-Way : Ordinance 2008-O0094 abandoning and closing a 20-foot alley located in Block 118, Overton Addition, 1709 10th Street.

The ordinance abandons and closes the north and south 20-foot alley located in Block 118 Overton Addition between 10th Street and Main Street west of Avenue Q. The alley is being closed for development. Since the requestor of the closure is not the original dedicator, there is a charge for the closure. The total alley area being closed is 6,000 square feet and the Right-of-Way Department has determined a value of \$1 per square foot for a total amount of \$6,000 due to the City.

Traffic Engineering has a copper communication cable serving the signal controller at Avenue Q and 10th Street. The cable will be relocated before second reading of the ordinance. Lubbock Power & Light and other utility companies are in agreement with the alley closure.

FISCAL IMPACT

\$6,000 revenue to the General Fund.

STAFF SUBMITTING/RECOMMENDATION

James W. Loomis, Transportation and Public Works Assistant City Manager 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; 5.1.1 – 5.1.4; 5.10; 5.12; 6.3; 6.1; 6.2; 6.11; 6.4 – 6.10; & 6.12)

5.1. Budget Amendment Ordinance 2nd 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.

On October 23, 2008, the City Council approved the first reading of the ordinance.

5.1.1. 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 match is budgeted in the Adopted FY 2008-09 Parks and Recreation Operating Budget.

Since 1983, staff educated 4,500 children across Lubbock and the South Plains on safety issues involving bicycle, car, and pedestrian safety. The following public, parochial, and private schools have attended Safety City classes:

- Abernathy Independent School District
- All Saints Episcopal School
- Home School Students
- Lamesa Independent School District
- Levelland Independent School District
- Littlefield Independent School District
- Lubbock Independent School District
- New Deal Independent School District
- Plainview Independent School District
- Seagraves Independent School District
- Shallowater Independent School District
- Slaton Independent School District
- Southland Independent School District
- Spur Independent School District
- Sundown Independent School District

In addition, Safety City serves as a culminating activity for traffic safety courses as a part of the Lubbock Independent School District second and fourth grade curriculum. At Safety City, children practice the lessons learned in the classroom in a realistic setting. The hands-on experience results in better

understanding of the traffic environment and its dangers. In addition, children learn water, electrical, animal, and skate boarding safety. Safety City hosts safety fairs and summer safety camps.

Grant funding allows staff to further the cause of Teaching Kids to Be Street Smart, and reduces the number of accidents involving children ages four through fourteen.

5.1.2. Accept and appropriate \$79,611 from the United States Department of Justice 2008 Edward Byrne Memorial Justice Assistance Grant Program. The program funds local government activities to prevent and control crime and improve the Criminal Justice System. The City and Lubbock County are both eligible to receive funding through the grant and have committed to a Joint Enforcement Initiative Program. 50% of the funds are received on behalf of Lubbock County and are paid directly to the County from the grant. The remaining 50% is used by the City to fund computer bar code system equipment, software, and systems upgrades 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.

5.1.3. Appropriate \$45,000 of the Central Business District Tax Increment Finance (CBD TIF) Special Revenue 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 is located in the CBD TIF, not in 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.

5.1.4. Accept and appropriate \$28,220 from the Texas Department of Housing and Community Affairs for the Comprehensive Energy Assistance Program. The grant assists low-income persons and families with energy assistance and energy efficiency by funding sub-recipient programs and city programs. The grant pays for programs and administration of the funds. Period of performance is through December 31, 2008.

FISCAL IMPACT

Included in item summary.

STAFF SUBMITTING/RECOMMENDATION

Andy Burcham, Chief Financial Officer, recommends approval.

Motion was made by Council Member Price, seconded by Council Member Beane to pass Ordinance No. 2008-O0090 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

Note: Items #5.1.1 – 5.1.4 were addressed separately by Council.

5.1.1 Resolution 2008-R0428 authorizing the Mayor to execute a contract with the Texas Department of Transportation from the Teaching Kids to Be Street Smart Grant for bicycle, car, pedestrian, and other safety related programs at Safety City.

Motion was made Council Member Price, seconded by Mayor Pro Tem Gilbreath to pass Resolution No. 2008-R0428 as recommended by staff. Motion carried: 6 Ayes, 0 Nays. Council Member DeLeon recused.

5.1.2 Resolution 2008-R0429 authorizing the Mayor to execute a contract with the United States Department of Justice for the 2008 Edward Byrne Memorial Justice Assistance Grant.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to pass Resolution No. 2008-R0429 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.1.3 (Not grant related)

5.1.4 Resolution 2008-R0430 authorizing the Mayor to execute a contract with the Texas Department of Housing and Community Affairs for the Comprehensive Energy Assistance Program, an energy assistance program.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to pass Resolution No. 2008-R0430 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.10. Contract Resolution – Water Utility : Resolution 2008-R0431 authorizing the Mayor to execute a unit price construction contract with Wright Construction Company, Inc., for the Eastport Industrial Area Water System Improvements Project, RFP 08-730-BM.

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.

For this project, the City used the competitive sealed proposal procedure promulgated by Texas Local Government Code 271.116, which is intended to help local governments attract contractors who otherwise may not have an

interest in participating on the basis of lowest bid. The procedure allows the City the ability to bring the project in within budget and to select the offeror who offers the best value based on the published selection criteria and on its ranking evaluation. In determining best value, the City may consider price and other factors 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. If the City is unable to negotiate a contract with the selected offeror, the City may proceed to the next offeror in the order of the selection ranking until a contract is reached or all proposals are rejected. This is compared to the competitive sealed bid procedure that limits the City to basing contract award on the lowest bid, which may be over budget requiring the City to either search for additional funds or re-bid the project after modifying the plans and specifications.

Selection criteria published in the RFP includes price 60%, contractor qualifications 20%, safety record 10%, and construction time 10%.

Proposals were received from the following companies:

Wright Construction Co. of Grapevine, TX	\$720,327	493 points
Utility Contractors of America of Wolfforth, TX	\$774,500	467 points
Morton Irrigation of Plainview, TX	\$745,630	455 points
Craig Wallace Construction of Lubbock, TX	\$749,216	444 points
Deerwood Construction of Lubbock, TX	\$756,196	449 points

Wright Construction Company proposes to use eight local subcontractors and suppliers at a cost of \$392,871. Allen Butler Construction of Lubbock uses Wright Construction Company as a subcontractor for the Paving Improvements on Slide Road and Erskine Street Project. Wright Construction uses Lubbock subcontractors and suppliers on the project at a cost of \$2.9 million.

The construction time requirement is 120 days for substantial completion and an additional 30 days for final completion. Liquidated damages are \$400 per day for substantial completion and \$200 per day for final completion.

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.

Nineteen local contractors were notified of the Request for Proposal.

FISCAL IMPACT

\$1.7 million is appropriated in Capital Project 91082, Eastport Water Renovation, with \$720,327 available for this purpose.

STAFF SUBMITTING/RECOMMENDATION

Thomas L. Adams, Water Utility Deputy City Manager and Lubbock Water Advisory Commission recommend approval.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass Resolution No. 2008-R0431 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.12. Contract Resolution - Public Works : Resolution 2008-R0432 authorizing the Mayor to execute a unit price construction contract with M&S Concrete Company for the 19th Street ADA Curb Ramps Project, RFP 08-739-DD.

The contract includes reconstructing Americans with Disabilities Act (ADA) non-compliant pedestrian curb ramps on the south side of 19th Street between Avenue U and Avenue X providing an accessible route to businesses.

For this project, the City used the competitive sealed proposal procedure promulgated by Texas Local Government Code 271.116, which is intended to help local governments attract contractors who otherwise may not have an interest in participating on the basis of lowest bid. The procedure allows the City the ability to bring the project in within budget and to select the offeror who offers the best value based on the published selection criteria and on its ranking evaluation. In determining best value, the City may consider price and other factors 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. If the City is unable to negotiate a contract with the selected offeror, the City may proceed to the next offeror in the order of the selection ranking until a contract is reached or all proposals are rejected. This is compared to the competitive sealed bid procedure that limits the City to basing contract award on the lowest bid, which may be over budget requiring the City to either search for additional funds or re-bid the project after modifying the plans and specifications.

Selection criteria published in the RFP includes price 70%, contractor qualifications 20%, safety record 5%, and construction time 5%.

Proposals are ranked as follows:

M&S Concrete Company of Levelland, TX:

- \$86,875 465

J.R.'s Landscaping and Sprinkler Systems of Lubbock, TX:

- \$88,630 446

West Texas Paving of Lubbock, TX:

- \$194,650 261

Time for completion is 60 working days and liquidated damages are \$100 per day.

The contract is awarded by the unit price. The total amount of the award is estimated and actual expenditures may be more or less depending on actual needs. The price per unit will not change.

Thirty-eight local contractors were notified of the Request for Proposal.

FISCAL IMPACT

\$440,000 is appropriated in Capital Improvement Project 91053, Safe Routes to School, with 86,875 available for this purpose.

STAFF SUBMITTING/RECOMMENDATION

James W. Loomis, Transportation and Public Works Assistant City Manager recommends approval.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to pass Resolution No. 2008-R0432 as recommended by staff. Motion carried: 6 Ayes, 0 Nays. Council Member DeLeon recused.

6.3. Ordinance Amendment 1st Reading – Stormwater Management : Ordinance 2008-O0095 adding Chapter 30 to the Code of Ordinances of the City of Lubbock by adding thereto a new Article I pertaining to storm water drainage within the City of Lubbock, providing a penalty, providing a savings clause, providing for repeal of conflicting ordinances, and providing for publication.

The proposed ordinance amendment adds Chapter 30, Article I, Storm Water Regulations, to the Code of Ordinances. The ordinance provides the legal authority necessary to control stormwater discharges to and from those portions of the Municipal Separate Storm Sewer System (MS4) over which the City has jurisdiction.

The ordinance includes provisions for permitting mobile wash cleaning, reviewing Storm Water Pollution Prevention Plans (SWP3), inspecting construction sites and industrial facilities, and providing enforcement capabilities. The City's new MS4 permit and the Texas Pollutant Discharge Elimination System (TPDES) general permits for industrial facilities and construction sites require the City, as the enforcement authority, to carry out all inspections, surveillance, and monitoring procedures necessary to determine compliance.

Some specific items in the ordinance include:

- Mobile Wash Permitting – A \$25 application fee and permit application is required for all persons engaging in the use and/or operation of a mobile wash apparatus. The mobile car wash permittees are required to make application and pay the fee annually.
- Storm Water Plan Review – All construction sites are required to submit SWP3s to the Storm Water Management Department for review. A Schedule of Fees is established based on the amount of disturbed area on a site. The standard fee range is \$50-\$100 for disturbed areas up to 20 acres with a \$5 per acre increase above 20 acres.
- Access to Industrial Facilities and Construction Sites – The ordinance provides guidelines and expectations for entering and inspecting permitted sites.

The provisions allow City personnel to actively inspect sites and facilities as required by the MS4 permit issued by the state.

- Enforcement Capabilities – Voluntary compliance is desired, but a graduated enforcement process is a part of the ordinance. The process includes verbal warnings, written warnings, stop work orders (for construction sites), and fines.

A fee is not included for industrial facilities due to the nature of how industrial facilities are processed. Industrial facilities are operating under the TPDES General Permit for Storm Water Discharges Associated with Industrial Facilities that became effective in August 2006. Upon reapplication for the new state Industrial Permit in 2011, staff recommends a fee be assessed at that time.

A general discussion was presented to the City Council on June 26, 2008, during Work Session. Presentations were made to the Developer's Council and the Model Codes Committee. Comments made by the City Council during Work Session and by the Developer's Council have been incorporated into the ordinance. The Model Codes Committee tabled their discussion pending comments from the City Council during first reading. The ordinance will be re-presented to the Model Codes Committee before the second reading of the ordinance.

FISCAL IMPACT

There are no additional budget requests associated with the ordinance. The City Council authorized several personnel positions in anticipation of the new permit requirements. New inspectors will be hired to perform the duties outlined in the ordinance.

The fees generated for mobile wash permits and Storm Water Plan Review are anticipated to produce additional revenue in the Storm Water Fund to help offset some of the costs of the additional personnel.

STAFF SUBMITTING/RECOMMENDATION

James W. Loomis, Transportation and Public Works Assistant City Manager recommends approval.

Michael Keenum, Storm Water Engineer and Marsha Reed, Director of Public Works, gave a presentation and answered questions from Council.

Motion was made by Council Member Leonard, seconded by Council Member Price to pass Ordinance No. 2008-O0095 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

- 6.1. Public Hearing 10:00 a.m. - LP&L : Hold a public hearing pursuant to Section 2-485 of the Code of Ordinances of the City of Lubbock to consider amending certain sections of Chapter 2, Article XVIII of the Code of Ordinances of the City of Lubbock as recommended by the Electric Utility Board of the City of Lubbock.**

Mayor Martin opened the Public Hearing at 10:18 A.M. No one appeared in favor or opposition. Mayor Martin closed the Hearing at 10:18 A.M.

On September 16, 2008, the Electric Utility Board recommended amendments to the existing ordinance governing the disbursement of net revenues of Lubbock Power & Light (LP&L). The recommended changes are red-lined in the agenda backup document.

The Electric Utility Board, in accordance with Section 2-485(a) of Chapter 2, Article XVIII of the Code of Ordinances, is responsible for recommending amendments to this particular chapter of the Code of Ordinances. In order to formally incorporate the amendments recommended by the Board, the City Council must first call a public hearing and publish notification in the Lubbock Avalanche-Journal of the proposed ordinance amendments. The notice of the public hearing is published at least 30 days before the date of the public hearing and at least once a week for three consecutive weeks with the date of the last publication occurring not less than one week or more than two weeks before the date of the public hearing. The first public hearing was conducted on September 25, 2008.

FISCAL IMPACT

For FY 2008-09, the Board shall transfer to the City a fee equivalent to a franchise fee and payment in lieu of taxes (FFE) of \$5 million. For FY 2009-10, LP&L shall transfer to the City a FFE in one of the following ways:

(1) The lesser of five percent of the gross revenue generated from all retail electric sales (the "GRR") or fifty percent of the change in net assets (as stated in the Statement of Revenues, Expenses and Changes in Fund Net Assets in the latest Comprehensive Annual Financial Report ("CAFR") adding back any FFE transfer), once the General Reserve reaches \$50 million; or

(2) In the event the General Reserve is less than \$50 million, then the lesser of fifty percent of the change in net assets (as stated in the Statement of Revenues, Expenses and Changes in Fund Net Assets in the latest CAFR adding back any FFE transfer) or in accordance with the following formula:

[(actual reserve level divided by \$50 million) multiplied times five percent] multiplied times the gross revenue generated from all retail electric sales. The formula can also be expressed as follows: $FFE = [(actual\ reserve/\$50\ million) \times 0.05] \times GRR$

STAFF SUBMITTING/RECOMMENDATION

Gary Zheng, LP&L CEO/President and the Electric Utility Board recommend approval.

Andy Burcham, Chief Financial Officer gave a presentation and answered questions from Council.

6.2. Ordinance 1st Reading - LP&L : Ordinance 2008-O0096 amending section 2-484 of Chapter 2, Article XVIII of the Code of Ordinances of the City of Lubbock by clarifying the definition of reserves and by establishing a

formula for determining the amount transferred as a fee equivalent to a franchise fee, providing a savings clause, and providing for publication.

The amendment to Section 2-484 of Chapter 2, Article XVIII of the Code of Ordinances of the City of Lubbock establishes a formula to determine the fee equivalent to a franchise fee (FFE) to the General Fund by Lubbock Power & Light (“LP&L”) and further clarifies the definition of a General Reserve to be maintained by LP&L. Public hearings were held on September 25, 2008, and November 6, 2008.

Ordinance No. 2004-O0140 passed by the City Council on December 16, 2004, as amended and as found in Chapter 2, Article XVIII of the Code of Ordinances (the “Ordinance”), establishes the Electric Utility Board (the “Board”) and in part, details the amount of cash reserves to be maintained by LP&L and the procedure for disbursing net revenues of LP&L.

After reviewing the Ordinance, the Board, who is responsible for recommending amendments to the Ordinance to the City Council, believes that it would be in the best interest of LP&L and the City to amend the Ordinance as follows:

1. Establish a formula by which the FFE is calculated. The formula has two components, one based on a General Reserve of LP&L of \$50 million and greater and one based on a General Reserve of LP&L less than \$50 million; and
2. Further clarify the definition of the General Reserve as that term is used in the Ordinance to mean those assets classified in the latest Comprehensive Annual Financial Report as cash and cash equivalents and investments of the City’s electric utility fund but not to include accounts receivable, restricted assets or other non-cash assets. Furthermore, the General Reserve is in addition to cash necessary to satisfy all current accounts payable, including any current purchase power accounts that are payable.

The Board will report to the City Council by April of each year the Board’s estimate of LP&L’s General Reserve, gross retail revenue and the subsequent FFE to be transferred in the next fiscal year. In the subsequent fiscal year, the Board shall adjust the next FFE transfer by an amount equal to the difference between the FFE transfer based on the estimated values of the General Reserve and the GRR and the FFE based on the actual values of the General Reserve and the GRR.

FISCAL IMPACT

For budget purposes, this amendment will allow LP&L and the City of Lubbock to predict with some degree of certainty the amount to be transferred as a franchise fee equivalent to the City’s General Fund.

For FY 2008-09, the Board shall transfer to the City a fee equivalent to a franchise fee and payment in lieu of taxes (FFE) of \$5 million. For FY 2009-10, LP&L shall transfer to the City a FFE in one of the following ways:

(1) The lesser of five percent of the gross revenue generated from all retail electric sales (the "GRR") or fifty percent of the change in net assets (as stated in the Statement of Revenues, Expenses and Changes in Fund Net Assets in the latest Comprehensive Annual Financial Report (the "CAFR") adding back any FFE transfer), once the General Reserve reaches \$50 million; or

(2) In the event the General Reserve is less than \$50 million, then the lesser of fifty percent of the change in net assets (as stated in the Statement of Revenues, Expenses and Changes in Fund Net Assets in the latest CAFR adding back any FFE transfer) or in accordance with the following formula:

[(actual reserve level divided by \$50 million) multiplied times five percent] multiplied times the gross revenue generated from all retail electric sales. The formula can also be expressed as follows: $FFE = [(actual\ reserve/\$50\ million) \times 0.05] \times GRR$

STAFF SUBMITTING/RECOMMENDATION

Gary Zheng, LP&L CEO/President and the Electric Utility Board recommend approval.

Motion was made by Council Member Leonard, seconded by Mayor Pro Tem Gilbreath to pass Ordinance No. 2008-O0096 as recommended by LP&L and the Electric Utility Board. Motion carried: 7 Ayes, 0 Nays.

6.11. Resolution - City Council : Resolution 2008-R0434 recognizing Colonel Donald McCullough as an outstanding citizen of the City of Lubbock, expressing gratitude to Colonel McCullough for his military service to the United States of America and naming a fountain at Leroy Elmore Park in Colonel McCullough's honor.

Retired Colonel Donald J. McCullough was an important and valued member of the citizenship of Lubbock, Texas, serving on numerous boards and in numerous capacities to the benefit of the City of Lubbock, Texas.

Colonel McCullough graduated from Garner High School in 1952 and was a 1958 graduate of the U.S. Military Academy at West Point, New York. On June 5, 1958, in Highland Falls, New York, he was married to Margaret Mary Davis. Later, in 1972, he received an M.B.A. Degree from Arizona State University. During his 30-year career in the U.S. Air Force, he served in many capacities; from flying combat missions in Vietnam to serving as the Deputy Commander of Resource at Reese Air Force Base.

FISCAL IMPACT

No fiscal impact.

STAFF SUBMITTING/RECOMMENDATION

Todd R. Klein, Councilman District 3 recommends approval.

Council Member Klein gave comments, thanking the wife of Colonel McCullough. Mayor Martin thanked Margaret Mary McCullough for attending;

expressed his gratitude for the Colonel; and gave condolences to Mrs. McCullough.

Motion was made by Council Member Klein, seconded by Mayor Pro Tem Gilbreath to pass Resolution No. 2008-R0433 as recommended. Motion carried: 6 Ayes, 0 Nays. Council Member Price was away from the dais.

6.4. Contract Resolution - Public Works : Resolution 2008-R0434 authorizing the Mayor to execute a professional engineering services agreement with Freese and Nichols, Inc., for the design of the 34th Street and University Avenue Project, RFQ 08-729-DD.

The contract includes detailed design, plans, specifications, and estimates for the reconstruction of 34th Street and University Avenue. The design includes the roadway, water and sewer adjustments, sidewalks and curb ramps, and traffic signal adjustments. 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:

Freese and Nichols of Lubbock, Texas	453*
Mactec of Lubbock, Texas	411*
Dannenbaum Engineering of Dallas, Texas	396
AMD Engineering, LP of Lubbock, Texas	382*
Nathan D. Maier Consulting Engineers of Dallas, Texas	361
Oller Engineering of Lubbock, Texas	277
Craig Wallace Construction of Lubbock, Texas	161

* 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 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 three firms with the highest scores for interviews. Freese and Nichols and their team of subconsultants have the most knowledge of the project.

During the interviews the consultants were asked to bring their own estimated opinion of cost associated with the reconstruction of 34th Street and University Avenue. The current budget appears to be enough to cover the basic project but none of the consultants thought there would be enough funds for landscaping and beautification of this intersection.

The Freese and Nichols team includes:

Gorrondona & Associates of Lubbock, Texas

HVJ Associates of Houston, Texas

The contract includes a lump sum of \$76,511 for basic services and a not-to-exceed amount of \$56,013 for special services for a total not-to-exceed contract amount of \$132,524. This amount equals 13% 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 six months.

FISCAL IMPACT

\$1,395,000 is appropriated in Capital Improvement Project 91196, 34th and University Intersection Reconstruction, with \$132,524 available for this purpose.

STAFF SUBMITTING/RECOMMENDATION

James W. Loomis, Transportation and Public Works Assistant City Manager recommends approval.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to pass Resolution No. 2008-R0434 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

- 6.5. Resolution - City Council : Consider a resolution authorizing the City Manager to have signs posted in conformance with the requirements of Section 229.001, Local Government Code, and Section 30.05, Penal Code, prohibiting all persons other than licensed peace officers from carrying firearms at public meetings of the City of Lubbock in the Lubbock City Hall at 1625 13th Street, Lubbock, Texas.**

This item failed.

The resolution authorizes the City to post signs at City Hall prohibiting the carrying of firearms by any person other than a commissioned peace officer.

FISCAL IMPACT

No fiscal impact.

STAFF SUBMITTING/RECOMMENDATION

Linda DeLeon, Councilwoman District 1 and Floyd Price, Councilman District 2 recommend approval.

Council Member DeLeon and Council Member Price gave comments and expressed their views regarding this item.

Motion was made by Council Member DeLeon, seconded by Council Member Price. Motion failed: 2 Ayes, 5 Nays. Mayor Martin, Mayor Pro Tem Gilbreath, Council Member Leonard, Council Member Klein and Council Member Beane voted nay.

- 6.6. Ordinance 1st Reading – City Council : Consider an ordinance changing membership and/or length of terms of various City of Lubbock boards and commissions, including the Planning and Zoning Commission, Civil Service Commission (ex officio members), Permit & License Appeal Board, Board of Health, Model Codes and Construction Advisory Board, Transit Advisory Board, Community Development and Services Board, and Libraries Board.**

This item failed.

The ordinance changes membership and/or length of terms of various City of Lubbock boards and commissions, including the Planning and Zoning Commission, Civil Service Commission (ex officio members), Permit & License Appeal Board, Board of Health, Model Codes and Construction Advisory Board, Transit Advisory Board, Community Development and Services Board, and Libraries Board.

FISCAL IMPACT

No fiscal impact.

STAFF SUBMITTING/RECOMMENDATION

Todd R. Klein, Councilman District 3 recommends approval.

Council Member Klein gave comments and answered questions from other Council Member on the dais.

Motion was made by Council Member Klein, seconded by Council Member Beane. Motion failed: 3 Ayes, 4 Nays. Mayor Martin, Mayor Pro Tem Gilbreath, Council Member Price, and Council Member DeLeon voted nay.

- 6.7. Resolution – City Council : Consider a resolution providing for two-year terms of office and 50% night meetings for various advisory boards and**

authorizing the Mayor to execute a new policy for Volume 1 of the City of Lubbock Policies and Procedures Manual entitled “Boards and Commissions – Term Limits with regard to establishing term limits; and an amendment to “Boards & Commissions – Replacement of Members” with regard to attendance of members.

This item failed.

The resolution provides for two-year terms of office and 50% night meetings for various advisory boards and authorizes the Mayor to execute a new policy for Volume 1 of the City of Lubbock Policies and Procedures Manual entitled “Boards and Commissions – Term Limits with regard to establishing term limits; and an amendment to “Boards & Commissions – Replacement of Members” with regard to attendance of members.

FISCAL IMPACT

No fiscal impact.

STAFF SUBMITTING/RECOMMENDATION

Todd R. Klein, Councilman District 3 recommends approval.

Council Member Klein gave comments and answered questions from other Council Member on the dais.

Motion was made by Council Member Klein, seconded by Council Member Beane. Motion failed: 3 Ayes, 4 Nays. Mayor Martin, Mayor Pro Tem Gilbreath, Council Member Price, and Council Member DeLeon voted nay.

- 6.8. Resolution - City Council : Consider a resolution proposing to amend Paragraph XI(B) of the City Council Rules, Order of Business and Procedures with regard to City board and commission terms of office and term limitations, which resolution may not be finally passed upon first reading and will require a second reading pursuant to the City Council Rules, Order of Business and Procedures.**

This item died for lack of a second.

The resolution proposes to amend Paragraph XI(B) of the City Council Rules, Order of Business and Procedures with regard to City board and commission terms of office and term limitations, which resolution may not be finally passed upon first reading and will require a second reading pursuant to the City Council Rules, Order of Business and Procedures.

FISCAL IMPACT

No fiscal impact.

STAFF SUBMITTING/RECOMMENDATION

Todd R. Klein, Councilman District 3 recommends approval.

Motion was made by Council Member Klein. Motion died due to the lack of a second.

6.9. Resolution - City Council : Resolution 2008-R0435 supporting a community college in East Lubbock to further economic development a source of higher education in East Lubbock providing educational opportunities for the community while furthering economic development for Lubbock.

The resolution supports a community college in East Lubbock to further economic development a source of higher education in East Lubbock providing educational opportunities for the community while furthering economic development for Lubbock.

FISCAL IMPACT

No fiscal impact.

STAFF SUBMITTING/RECOMMENDATION

Todd R. Klein, Councilman District 3 recommends approval.

Council Member Klein gave comments and answered questions from other Council Member on the dais.

Motion was made by Council Member Klein, seconded by Council Member Beane to pass Resolution No. 2008-R0435 amending the last paragraph to, "That the City Council and the City of Lubbock do hereby recognize the need for a community college in East Lubbock." Motion carried: 7 Ayes, 0 Nays.

6.10. Budget Amendment Ordinance 1st Reading - City Council : Consider budget ordinance Amendment No. 2 amending the FY 2008-09 budget respecting the Solid Waste Fund and Capital Program.

This item died for lack of a second.

1. Establish a Capital Improvement Project and appropriate \$40,000 from the Solid Waste Fund fund balance for the purchase and installation of a kiosk with visitor and general City information. The kiosk will be located at the Lubbock Preston Smith International Airport and will accept cash and credit cards for the purchase of movie tickets and Citibus tickets. The kiosk will be the first of several kiosks to be located throughout Lubbock, including the Lubbock Christian University campus, Texas Tech University campus, and the South Plains Mall. The initial installment costs will be paid from the Solid Waste Fund, with future maintenance and replacement costs funded with sponsor advertising.

Installation costs include data lines, transaction capabilities, cash/credit card capabilities, and programming costs. Maintenance costs include data lines and software agreements. There may be additional costs not identified at this time.

2. Appropriate \$40,000 of the Solid Waste Fund fund balance for five bus shelters.

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The cost per location is \$8,000, which includes \$7,000 for an enclosed shelter with specialized protective coating, and \$1,000 for a concrete pad foundation.

Attachment A lists boarding locations that currently do not have bus shelters available to patrons. The list has not been prioritized by Citibus. The City Council is tasked with identifying five locations for the establishment of new bus shelters.

FISCAL IMPACT

Included in item summary.

STAFF SUBMITTING/RECOMMENDATION

Todd R. Klein, Councilman District 3 recommends approval.

Council Member Klein gave comments.

Motion was made by Council Member Klein. Motion died due to the lack of a second.

6.12. Board Appointments - City Secretary : Consider four appointments to the Planning and Zoning Commission.

Consider four appointments to the Planning and Zoning Commission.

FISCAL IMPACT

No fiscal impact.

Motion was made by Council Member Leonard, seconded by Council Member Beane to appoint Greg Garland, Henry Ray Lozada, Todd McKee and Nancy Garrett to the Planning and Zoning Commission. Motion carried: 6 Ayes, 1 Nay. Council Member DeLeon voted nay.

11:20 A.M. CITY COUNCIL RECESSED INTO EXECUTIVE SESSION.

1:03 P.M. REGULAR CITY COUNCIL MEETING RECONVENED.

7. WORK SESSION/BUSINESS AGENDA

7.1. Update on projects and progress to address sewer odor and gas issues in the area of University Avenue and 60th Street.

Update on projects and progress to address sewer odor and gas issues in the area of University Avenue and 60th Street.

FISCAL IMPACT

No fiscal impact.

STAFF SUBMITTING/RECOMMENDATION

Todd R. Klein, Councilman District 3

Aubrey Spear, Director of Water Utilities gave a presentation to Council reporting on the status of the sewer system improvements on 60th Street and University Avenue. Mr. Spear began his presentation by giving brief background regarding the odors in the neighborhood; history of how the sewer main was constructed; and the impact of how the aging homes and plumbing are contributing to the sewer odor issues. He identified the characteristics of hydrogen sulfide, which was identified as the odor the residents in the area smelled.

Mr. Spear recapped improvements done to the sewer prior to 2008. He mentioned that the City met with residents to explain the situation and offer assistance to the homeowners in the area. The citizenry was informed of the assistance program available through the Community Development Department to aide in the cost of replacing aged plumbing.

Mr. Spear outlined to Council the 2008 Sewer System Improvement project. During Phase One, he addressed that the 24-inch sewer main will be rerouted around a manhole with constriction on University Avenue. Phase Two of the improvements will involve reconstructing a 6-inch sewer line above the 24-inch main from Canton Avenue to Boston Avenue in the alley between 59th and 60th Street. Mr. Spear anticipates Phase One completion date of December 31, 2008; and Phase Two completion of March 2009.

7.2. Presentation on the Southeast Water Reclamation Plant Improvement Projects and the related Texas Commission on Environmental Quality Permit Amendment Notice.

The Southeast Water Reclamation Plant (SEWRP) Capital Improvement Projects include the following:

1. No. 90359 for Phase I Influent Lift Station Improvements,
2. No. 92126 for Phase II Plant #4 Improvements,
3. No. 2008214 for Phase III Solids Improvements, and
4. No. 2008218 for Phase IV Plant 3 Improvements.

The Texas Commission on Environmental Quality Permit Amendment Notice related to the SEWRP capital projects, Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010353002 (EPA I.D. No. TX0106071), is provided.

FISCAL IMPACT

No fiscal impact.

STAFF SUBMITTING/RECOMMENDATION

Thomas L. Adams, Water Utility Deputy City Manager

Tom Adams, Deputy City Manager gave a presentation to Council, briefing them on the Southeast Water Reclamation Plant (SEWRP) Project and the Texas Commission on Environmental Quality (TCEQ) Permit Notice. Mr.

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Adams began by outlining the goals of the SEWRP, which are to clean up wastewater; eliminate groundwater contamination; develop alternative and byproduct uses of recycled water; and begin preparation for future water supply.

Mr. Adams briefed Council on the history of the SEWRP. Preliminary engineering was completed in 2005. SEWRP has been divided into four phases:

- Phase 1 – 2008 – Engineering & Construction Completed
- Phase 2 – 2008 – Engineering completed, project under construction, permit amendment notice scheduled
- Phase 3 – 2010 – Begin preliminary engineering
- Phase 4 – 2012 – Proposed in capital improvement plan

Mr. Adams explained that by dividing the Project into the aforementioned Phases, the cost impact would be minimized to the citizenry.

Preliminary Engineering recommended the use of Biological Nutrient Removal (BNR) with Integrated Fixed Film Activated Sludge (IFAS) to treat the wastewater. Mr. Adams stated that BNR with IFAS are effective, efficient and do not cost a lot of money. This method of treatment would also allow the process to occur naturally. Mr. Adams highlighted this method was one of many methods they are looking at to treat the water.

Mr. Adams gave Council an overview of the existing SEWRP facilities and stated that “Plant 1” no longer exists, and “Plant 2” will have to be shutdown due to outdated technology. “Plant 3” is proposed to be upgraded in a later phase; however “Plant 4” is where the primary work is currently taking place. “Plant 4” will be able to treat 80% of the wastewater.

Mr. Adams pointed out to Council the benefits of doing the construction in phases. During Phase 1 & Phase 2 he projects over \$20,000,000 in savings and the two phases will costs \$46,000,000. He projects that Phase 3 and Phase 4 will costs \$25,000,000 and \$35,000,000 respectively. Mr. Adams stated the improvements at “Plant 3” and “Plant 4” will produce stream quality effluences and allow more water to be treated. He further stated that “Plant 4’s” improvements will treat the water to bring it up to drinking water standards.

Mr. Adams reviewed some construction issues with the Council. During Phase 1 the screw pumps were replaced with an influent lift station. They’re currently in Phase 2 of construction and a clarifier has been erected.

Mr. Adams informed Council that TCEQ requires a Public Notice for permit renewal and amendments. The Public Notice for the Permit will be issued on Monday, November 10, 2008. He also informed Council that a second permit application will also require notice in the coming weeks for the discharge on the land application site of the groundwater.

Mr. Adams mentioned to Council the Permit will have some major amendments. One discharge point will be added to the North Fork at the wastewater plant, so no pumping will be required. The disinfection process will

change from chlorine to ultraviolet light in order to not impact downstream wildlife.

Other issues Mr. Adams wanted Council to be aware of were that the additional discharge may increase from 6 million gallons a day to as high as 20 million gallons a day. He further informed Council of the potential that citizens may have questions regarding the water quality, and assured Council that this water is treated to a higher quality.

7.3. Discussion of Animal Services.

Discussion of Animal Services.

FISCAL IMPACT

No fiscal impact.

STAFF SUBMITTING/RECOMMENDATION

John W. Leonard, III Councilman District 5

Council Member Leonard opened the discussion stating the Animal Services Department seems to be having a lot of negative issues. Council Member Leonard mentioned that he has some emails that were sent to him, outlining specifics and generalities. He went on to discuss some of the problems outlined in the various emails he received.

Mayor Martin pointed out the obvious concern the Council has regarding the Animal Services Department, and asked Ms. Dumbauld for her suggestions to remedy the concerns. Ms. Dumbauld stated that Deputy City Manager Tom Adams has offered to oversee the construction of the new animal shelter and the operations of the Animal Services Department. Ms. Dumbauld feels that Mr. Adams is certainly qualified to head-up these endeavors, due to his prior experiences building an animal shelter, passing ordinances regarding animal control, and implementing policy and procedures for animal services while serving as City Manager in San Angelo. Ms. Dumbauld stated these changes can be made by submitting a revised organizational chart to the Council. Mayor Martin stated that a change in the organizational chart would involve a budget amendment ordinance, due to the fact that the organizational chart is adopted along with the budget. Mayor Martin instructed Don Vandiver, Interim City Attorney and Ms. Dumbauld to research what steps must be taken to formalize Ms. Dumbauld suggestion. Mayor Martin instructed Ms. Dumbauld and Mr. Vandiver to prepare whatever is necessary to adopt the change in the organizational chart, and to bring it back to the Council during the November 20, 2008 Regular City Council Meeting.

Mayor Martin requested that Ms. Dumbauld and Mr. Vandiver also research around the State how prevalent it is to have Animal Services directly reporting to the Police department, and how many dangerous animal reports have been called into the Police department and then reported to Animal Services. Mayor Martin stated that Police are the eyes and ears of the street; and he wants to be sure they are reporting dangerous animal situations to animal control. Council

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Member Price agreed with Mayor Martin that the first responders have a duty to report dangerous situations to dispatch and the proper departments.

Council Member DeLeon stated that she appreciates Mr. Overstreet's professionalism in answering the Council's questions. She feels that Mr. Overstreet has stepped forward in the role as head of the department in addressing the issues within his department. She further expressed her gratitude to Mr. Overstreet for solving the problems.

2:42 P.M. CITY COUNCIL ADJOURNED.

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