The City Council of the City of Lubbock, Texas met in regular session on the 27th day of March, 2008, in the City Council Chambers, first floor, City Hall, 1625 13th Street, Lubbock, Texas at 7:30 A. M.

7:33 A.M. CITY COUNCIL CONVENED
City Council Chambers, 1625 13th Street, Lubbock, Texas

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

Absent: No one

1. CITIZEN COMMENTS

1.1. John Eklund will appear before the City Council to speak about enforcement of vehicles parked on the wrong side of the road.
Citizen did not appear.

1.2. Candace Cyrek will appear before the City Council to present information regarding an outdoor warning siren system.
Candace Cyrek, a graduate student in atmospheric science at Texas Tech University, appeared before Council and presented information regarding an outdoor warning siren system for the City of Lubbock and costs related to the system.

1.3. Clif Burnett will appear to speak about City ordinances.
Clifton Burnett appeared before Council to voice his concerns regarding the new sex offender ordinance and the animal ordinance.

- Citizens who appeared before Council to voice their support of the proposed Visitors Center were: Donna Walls, Charlie Hamilton, Clayton Isom, and Ron Betenbough. Scott Stephenson voiced his support of a Visitors Center, but at a much smaller cost, so that some of the money could go towards a different project.

- Citizens who appeared before Council to voice their opposition for the proposed Visitors Center were: Nadia Gonzales, Armando Gonzales, and Mikel Ward.

- Chris Winn appeared before Council to encourage everyone to get out and vote in the upcoming Lubbock County elections.
2. **EXECUTIVE SESSION**

Mayor Miller stated: “City Council will hold an Executive Session today for the purpose of consulting with the City Staff with respect to pending or contemplated litigation; the purchase, exchange, lease, or value of real property; personnel matters; and competitive matters of the public power utility, as provided by Subchapter D of Chapter 551 of the Government Code, the Open Meetings Law.”

7:55 A. M. CITY COUNCIL RECESSED TO EXECUTIVE SESSION

City Council Conference Room

All council members were present.

2.1. **Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.071, to discuss pending or contemplated litigation or settlement agreement, and hold a consultation with attorney. (Finance, Water Utilities)**

2.2. **Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.072, to deliberate the purchase, exchange, lease, or value of real property. (Water Utilities)**

2.3. **Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.074 (a)(1), to discuss personnel matters (City Attorney, City Manager, City Secretary) and take appropriate action.**

2.4. **Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.086, on the following competitive matters (Electric Utilities):**

- **2.4.1** to deliberate, vote and take final action on electric rates of Lubbock Power and Light
- **2.4.2** to discuss, vote and take final action on a competitive matter regarding operation, financial and capital statements and budgets, revenue and expense projections, strategic and business plans and studies of Lubbock Power and Light
- **2.4.3** to discuss and deliberate a competitive matter regarding the strategies, goals, funding and strategic purpose of the City of Lubbock's relationship with and membership in the West Texas Municipal Power Agency.

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 Health/Educational Facilities Development Corporation Board of Directors.**
Regular City Council Meeting
March 27, 2008

9:10 A.M. CITY COUNCIL REGULAR MEETING RECONVENED
City Council Chambers

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

Absent: No one

Mayor Miller reconvened the meeting at 9:10 A. M.

3. PROCLAMATIONS AND PRESENTATIONS were considered following Item 6.12

4. MINUTES

4.1. Regular City Council Meeting, February 14, 2008; Special City Council Meeting, February 26, 2008; Regular City Council Meeting, February 28, 2008

Motion was made by Council Member Price, seconded by Mayor Pro Tem Gilbreath to approve the minutes of the Regular City Council Meeting, February 14, 2008; the Special City Council Meeting of February 26, 2008; and the Regular City Council Meeting of February 28, 2008 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

Council Member DeLeon was away from the dais.

5. CONSENT AGENDA (Items 5.1-5.2, 5.6-5.7, 5.9-5.12, 5.14-5.16)

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to approve (Items 5.1-5.2, 5.6-5.7, 5.9-5.12, 5.14-5.16 on consent agenda as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

Note: Items 5.4, 5.5, and 5.17 were deleted.

5.1. Budget Amendment Ordinance 1st Reading - Finance: Ordinance No. 2008-O0030 Amendment No. 8 amending the FY 2007-08 budget respecting the Grant Fund.

1. Amend CPS-Bioterrorism Preparedness grant contract with the Texas Department of State Health Services by appropriating an additional $131,740 for an equipment purchase.

FISCAL IMPACT

Included in item summary.

Staff recommended approval of the first reading of this ordinance.

The Texas Municipal Retirement System (TMRS) was created by the Texas State Legislature in 1947 and is administered in accordance with the TMRS Act, Subtitle G, Title 8, Government Code, for municipal employees in the State of Texas. TMRS is a public trust fund with a fiduciary obligation to municipal employees and retirees.

Pension and other benefits are administered by TMRS on behalf of more than 820 participating Texas municipalities. TMRS provides a menu of plan options for member cities allowing each city to tailor its particular plan to match the city’s needs.

All employees, except firefighters, participate in TMRS. The plan is “joint contributory,” meaning that both the member and the City contribute to the plan. Cities join TMRS voluntarily, and the plan decisions and modifications remain in the City’s hands. Cities change plan provisions by ordinance.

Until recently, TMRS utilized the (unprojected) Unit Credit actuarial method with 25-year level percent of payroll, open amortization. The number of retirees is increasing rapidly as the large number of employees reach retirement age. These changing demographics combined with the actuarial methods TMRS used have resulted in a deteriorating funding status and increasing contribution rates for most member cities.

Recognizing these issues, on December 8, 2007, the TMRS Board voted to adopt new actuarial assumptions changing actuarial methods from Unit Credit to Projected Unit Credit, and closing the amortization period. These changes are effective for the December 31, 2007, valuation which is reflected in the funding status for the member cities’ 2008 financial statements and for the calendar year 2009 rate.

TMRS has reported the anticipated changes in rates and funding status as a result of preliminary projections. It is anticipated that the City’s unfunded liabilities will see a sizeable increase, and it is projected that rates should rise from the current 15.89% of payroll to a projected full contribution rate of approximately 22.21%.

To assist the City with the rate impact, TMRS will allow the City to phase in the new rate during an 8-year period and will automatically extend the amortization period from 25 to 30 years. To further mitigate the rate impact, TMRS has begun to transition from their 100% fixed income portfolio to a more diversified portfolio that provides a higher investment rate of return.

The TMRS Board has issued a Request for Proposal (RFP) for future actuarial services. The current actuary is eligible to re-propose, but this action creates at
least the possibility that a different actuary may perform the December 31, 2008, valuation. Accordingly, member cities would like to ensure a smooth transition and reduce the likelihood that the 2008 valuation and resulting 2010 rate are significantly different due solely to differences in professional judgment and actuarial methods that are used by the new actuary. To address these concerns and to assist member cities in this major transition, the Government Finance Officers Association of Texas has worked with the North Central Texas Council of Governments (NCTCOG) to coordinate a joint RFP for actuarial services. The selection committee for this RFP was comprised of representatives from Carrollton, NCTCOG, Addison, Friendswood, Georgetown, Tyler, and Lubbock. The selection committee met on January 31, 2008, and unanimously recommended Gabriel, Roeder, Smith & Company (GRS) to deliver actuarial and consulting services. The purpose of the RFP is as follows:

- Provide the City with an independent valuation, separate from TMRS, that provides assurance that the substantial discussed rate increases are necessary.
- Provide the City with an actuarial resource to help explain the difficult and complex issues involved, and develop feasible options for reducing the rate impact. The actuarial resource is also available to attend City Council meetings and employee/retiree meetings.
- A shared services arrangement provides a single point of contact between TMRS and those cities utilizing the joint RFP.
- Obtain a highly qualified and experienced actuarial firm at a lower cost than each city could obtain individually.

**FISCAL IMPACT**

The cost of basic services is $13,000, which includes:

- Replication valuation as of December 31, 2007, of the City's TMRS benefit plan as it currently exists using the Projected Unit Credit actuarial method, 25-30 year closed level percentage of pay amortization as applicable and the exact same assumptions as the TMRS actuary.
- Using the information gained in the base valuation, help the City to identify viable options for modifying the plan to improve the funding status and reduce contribution rate impact.
- An exhibit showing, under the TMRS benefits structure, the impact of all currently available prospective changes.
- Membership to the GRS valuation portal. The module allows the City to change specified benefit provisions for current or future employees and create "what-if" scenarios.
- Up to two hours of technical assistance for the valuation portal.
Two in-person or conference call meetings as mutually agreed upon by the City and GRS.

Two actuarial certifications of benefit modifications or financing scenarios.

Additional fees include:

- Out-of-pocket travel expenses identified in the contract;
- Costs related to additional certifications of options first modeled through the portal at $500; and
- Cost studies related to plan modifications not currently available under TMRS.

An administrative fee to NCTCOG of $100 is required to compensate NCTCOG for the costs of administering this agreement.

The cost of the agreement is funded through the Adopted FY 2007-08 Non-departmental Operating Budget.

Staff recommended approval of this resolution.

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

5.4. Ordinance 1st Reading - Water Utilities: Consider an ordinance amending Chapter 2 of the Code of Ordinances of the City of Lubbock, Texas, by adding Sections 2-570 through 2-585, inclusive, establishing the Lake Alan Henry Board of Appeals ("Board"); providing for the appointment, qualifications, terms, vacancies, and removal of the members of the Board; providing for the procedures for, and appeals from, the Board; providing and adopting regulations for Lake Alan Henry and easements in favor of the City of Lubbock, Texas, adjoining Lake Alan Henry ("Easements") regarding structures and facilities and erosion control; providing for legal nonconforming status of certain structures and facilities within the Easements upon the conditions prescribed; providing a savings clause; providing a penalty clause; and providing for publication.

This item was deleted.

5.5. Resolution - Water Utilities: Consider a resolution authorizing the Mayor to execute for and in behalf of the City of Lubbock, conditioned and contingent upon the City of Lubbock's adoption on second and final reading of that certain Ordinance, Item 5.4 on the Agenda of the March 27, 2008, meeting of the City Council of the City of Lubbock, that certain Compromise Settlement Agreement, Cause No. 07-05-06194, North Ridge Homeowners Association, et al. v. City of Lubbock, compromising and settling the captioned cause related to the construction and maintenance of structures and facilities within Lake Alan Henry and easements in favor of the City adjoining Lake Alan Henry.
This item was deleted.

5.6. **Contract Amendment Resolution - Water Utilities: Resolution No. 2008-R0100** authorizing the Mayor to execute Amendment No. 4 to the agreement for engineering services with Black & Veatch for construction administration, field support, and resident services for the Southeast Water Reclamation Plant Improvements project.

On January 13, 2005, City Council awarded a $303,100 contract to Black & Veatch to perform preliminary engineering services for improvements to the Southeast Water Reclamation Plant (Resolution 2005-R0023). The following amendments have been approved by City Council:

Amendment No. 1 dated December 1, 2005 (Resolution 2005-R0563), added $6,185,000 for design phase and bid phase, $100,000 for value engineering, and $50,000 for permit support.

Amendment No. 2 dated August 24, 2006 (Resolution 2006-R0410), added $86,000 for wastewater discharge analysis and modeling for North Fork of the Double Mountain Fork of the Brazos River.

Amendment No. 3 dated September 27, 2007 (Resolution 2007-R0461), revised the project description and scope of services as recommended in the preliminary engineering report. The contract was renegotiated with cost of services not to exceed $6,421,000.

This Amendment, No. 4, includes construction administration, field support, and resident services with a cost not to exceed $3,219,689.

A total of 7,592 hours for the full-time Resident Project Representative (RPR) service and 1,040 hours for the part-time RPR services are anticipated. In addition to managing the daily construction activities, services include the following:

1. Interpret construction contract documents when requested by the owner.
2. Observe and document construction progress and consult with the owner.
3. Receive, review, and recommended submittal drawings.
4. Receive, review, and recommended monthly payment requests from contractor.
5. Provide documentation and administer the processing of change requests.
6. Manage general construction phase.
7. Administer materials testing.
8. Produce record drawings from the engineer of record.
9. Assist in issuance of substantial completion.

The revised contract amount is $9,640,689. The Lubbock Water Advisory Commission considered this item at their meeting held on February 22, 2008.

On February 14, 2008, City Council awarded a $42.52 million contract to Eagle Contracting of Keller, Texas, for the construction of the Southeast Water Reclamation Plant Improvements. The time for completion is 42 months.
FISCAL IMPACT

$66 million is appropriated in Capital Improvement Project 92126, Southeast Water Reclamation Plant Improvements, with $3,219,689 available for this purpose.

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

5.7. Contract Resolution - Water Utilities: Resolution No. 2008-0101 authorizing the Mayor to execute a contract with Parkhill Smith & Cooper for the engineering design of the water treatment plant, terminal storage reservoir, and facilities associated with the Lake Alan Henry pipeline project, RFQ 06-712-BM.

In August 2006, City Council approved a contract with Parkhill, Smith and Cooper for preliminary engineering services related to the development of plans for the Lake Alan Henry pipeline, pump stations, water treatment plant, and distributions supply lines. The preliminary engineering report was completed in November 2007, and the project is moving into the final engineering design phase.

The contract with Parkhill, Smith & Cooper (in association with Black & Veatch and Freese & Nichols) consists of the engineering design of a water treatment plant. The scope of services includes conducting a membrane pilot test to select the most appropriate membrane technology as well as the engineering design for a water treatment plant and the associated terminal storage reservoir.

This contract will keep the Lake Alan Henry infrastructure project on schedule. Although the total contract amount is for $3,589,500, the contract specifies that only specified tasks can be performed during this fiscal year. These authorized tasks reduce the amount committed to the contract for this fiscal year to $1,159,000.

The Lubbock Water Advisory Commission considered this item at their meeting held on February 22, 2008.

FISCAL IMPACT

$5 million is appropriated in Capital Improvement Project 92068, Lake Alan Henry Pipeline Final Design, with $1.159 million available for this contract.

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

5.8. This item was moved from consent agenda to regular agenda and considered following Item 5.3.

5.9. Resolution - Fleet: Resolution No. 2008-R0102 authorizing the City Council to reject all bids for a three axle truck cab and chassis for the Street Department, BID 08-028-FO.
The Street Department and Fleet Department evaluated bids for the cab and chassis as part of the Street Maintenance Improvement Plan and recommended that staff rebid the vehicle with revised specifications. Only one bidder from Dallas, Texas, met specifications and four local bidders did not quote a truck as specified.

Staff recommended City Council reject all bids. This item will be rebid using revised specifications.

FISCAL IMPACT

No fiscal impact.

Staff recommended approval of this resolution.


The first reading of the ordinance was approved at the January 24, 2008, City Council meeting. The ordinance abandons and closes an east/west 20-foot wide alley located between Block 4 and Tract I, Westhaven Addition, which is located south of Second Place and east of Indiana Avenue. The alley area is being closed for re-development purposes and will remain an underground utility easement.

The requestor owns both sides of the alley and all utility companies are in agreement with this alley closure. Since the requestor of the closure is not the original dedicant of the alley area being closed, there is a charge. The total area of the alley being closed is 8,000 square feet. The Right-of-Way Department has determined a value of $0.97 per square foot based on adjacent property land values.

The amount due to the City is $3,880. The assessed value is $7,760. The 50% reduction for easement valuation makes the selling price $3,880.

FISCAL IMPACT

Revenue to the General Fund of $3,880.

Staff recommended approval of the second reading of this ordinance.

5.11. Ordinance 2nd Reading - Right-of-Way: Ordinance No. 2008-O0027 Consider an ordinance abandoning and closing two 25-foot drainage easements located in Blocks 10 and 11, Burlington Industrial No. 2 Addition to the City of Lubbock, 711 East 42nd Street.

The first reading of the ordinance was approved at the March 13, 2008, City Council meeting. The ordinance abandons and closes two 25-foot drainage easements located in Blocks 10 and 11 of the Burlington Industrial No. 2 Addition located east of Globe Avenue and north and south of East 42nd Street.
The closure is due to new development across the easements. These easements were dedicated by separate instrument in the 1950s for a storm sewer line that was never constructed and is no longer needed. The Storm Water Management Department is in agreement with the drainage easement closure.

**FISCAL IMPACT**

No fiscal impact.

Staff recommended approval of the second reading of this ordinance.

**5.12. Ordinance 2nd Reading - Right-of-Way: Ordinance No. 2008-O0026**

Consider an ordinance abandoning and closing three 10-foot underground utility easements, a 12.5-foot underground utility easement, and a portion of a 15-foot utility easement located in Tract I, Westhaven Addition and lots 17-19, Block 9, Westhaven Addition, 221 Indiana Avenue.

The first reading of the ordinance was approved at the March 13, 2008, City Council meeting. The ordinance abandons and closes three 10-foot underground utility easements, a 12.5-foot underground utility easement, and a portion of a 15-foot utility easement located just east of Indiana Avenue and north of Fourth Street. The easements are no longer needed due to the redevelopment of the area. All utility companies are in agreement with the easement closures.

**FISCAL IMPACT**

No fiscal impact.

Staff recommended approval of the second reading of this ordinance.

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

**5.14. Resolution - Citibus: Resolution No. 2008-R0103 authorizing the Citibus General Manager to execute a Federal Transit Administration FY 2006 Section 5309 Discretionary Grant, No. TX04-0020-00 for expansion, renovation, and security enhancements to a parking lot as well as replacement of the bus wash.**

The Federal Transit Administration has allocated $574,200 to Citibus as part of Section 5309 Discretionary Grant, No. TX-04-0020-00. The funds are used for expansion, renovation, and security enhancements for a bus and employee parking lot and for replacement of the existing bus wash.

The parking lot expansion is needed to house Citibus vehicles and to adequately secure the fleet. The parking lot renovation does not require the acquisition of additional property.

Federal Transit Administration regulations require electronic application and electronic execution of all grants. Therefore, Citibus requests that Mr. John Wilson, Citibus General Manager, execute this grant, once approved by City Council.
FISCAL IMPACT

The Transportation Development Credits from the Texas Department of Transportation allow the project to use 100% Federal Transit Administration Funds. No local funding is needed.

Citibus and staff recommended approval of this resolution.

5.15. Resolution - Citibus: Resolution No. 2008-R0104 authorizing the Citibus General Manager to execute a grant agreement in connection with a Federal Transit Administration Section 5307 Grant Application, TX-90-X791-00, to provide funding for preventative maintenance, Americans with Disabilities Act paratransit, capital, and planning assistance for FY 2008.

Citibus electronically applied for and received a $2,699,086 Federal Transit Administration (FTA) Section 5307 Grant, Project No. TX-90-X791-00, for FY 2008. This is a routine grant that Citibus receives on an annual basis. The Lubbock Public Transit Advisory Board approved the FTA Section 5307 Grant and it has been incorporated into the Adopted FY 2007-08 Budget. The funds for the grant are used for preventative maintenance, non-fixed route Americans with Disabilities Act paratransit, planning, and capital, which includes transit enhancements.

Funds from the grant cannot be used for operating assistance due to the Lubbock urbanized area exceeding 200,000 population with the 2000 census.

Federal Transit Administration regulations require electronic application and electronic execution of all grants. Therefore, Citibus requests that Mr. John Wilson, Citibus General Manager, execute this grant, once approved by the City Council.

FISCAL IMPACT

The match required for this grant is included in the Adopted FY 2007-08 Citibus budget. Acceptance of this grant will result in no additional cost to the City of Lubbock.

Citibus and staff recommended approval of this resolution.

5.16. Contract Amendment Resolution - Health: Resolution No. 2008-R0105 authorizing and directing the Mayor to execute for and on behalf of the City of Lubbock an Amendment 001B to Contract No. 2008-022931-001 CPS-Bioterrorism Preparedness and any associated documents with the State of Texas acting by and through its Department of State Health Services.

The amendment increases funding by $131,740 because new discretionary funds for equipment have been awarded by the Centers for Disease Control and Prevention (CDC). Discretionary funding under this contract amendment is for completion of activities and performance measures as outlined in Exhibit C, Discretionary Funding Project, FY 2008. Discretionary funds from the state provide for one-time funds for projects to address needs at the
local/regional level (limited to equipment purchases, exercises and non-recurring costs) and must be completed by July 31, 2008. With consensus, the public health jurisdictions in DSHS Public Health Region 1 (DSHS Region 1, Lubbock, Amarillo, South Plains Health District) identified and agreed on four regional projects. All were accepted by the state and awarded to the individual health departments.

The contract allows for the purchasing of two Emergency Response Shelters Air Base –X Model ABX-2030-18x26 air inflated rapid deploying shelter, pre-wired for lighting and electrical components. The unit cost is $65,870 each. The emergency response shelters will be forward-placed in designated locations within Public Health Service Region 1 and will be available upon request by jurisdictions within the region. In addition, by May 31, 2008, a Memorandum of Agreement and/or Memorandum of Understanding for shelter deployment within the regional jurisdiction will be established. The emergency response shelters will be positioned to meet target capabilities including isolation and quarantine, medical surge, mass prophylaxis, and citizen evacuation and shelter-in-place. The Lubbock Health Department will maintain inventory of Emergency Response Shelter equipment and the holding jurisdictions are responsible for security, monitoring, and maintenance.

**FISCAL IMPACT**

The additional $131,740 is included on the first reading of Budget Amendment No. 8.

Staff recommended approval of this resolution.

5.17. **Interlocal Agreement Resolution – City Manager:** Consider a resolution authorizing the Mayor to execute an interlocal agreement with the Lubbock Housing Authority for administrative services.

This item was deleted.

6. **REGULAR AGENDA**

**Note:** Regular Agenda items, Consent Agenda items, and Proclamations and Presentations moved to Regular Agenda, are listed in the order they were addressed (5.3, 5.8, 5.13, 6.9, 6.12, 3.1-3.8, 6.10, 6.7-6.8, 6.6, 6.11, 6.1-6.5).

5.3. **Contract Resolution – Finance:** Resolution No. 2008-R0106 authorizing the Mayor to execute a local transportation advanced funding agreement with the Texas Department of Transportation for the design and construction of a new interchange at Slide Road and North Loop 289.

In February 2004, the City Council established the Gateway Streets Project Fund to fund street projects that spur economic development. The primary funding source for the Gateway Streets Project Fund is 40% of the utility franchise fees. In FY 2007-08, the estimated revenue is $5.8 million.

The centerpiece of the Gateway Streets Program is the Northwest Passage. The Northwest Passage connects state highways in the area with major City arterials creating access to Northwest Lubbock.
In the fall of 2006, the City submitted an application to TxDOT for a pass through financing agreement that allows the City to construct the portions of the Northwest Passage that are on the state highway system with a reimbursement from TxDOT funds. During that time period, the City agreed to provide $25 million to TxDOT for the construction of the Marsha Sharp Freeway Phase 3B project. The $25 million was to be paid in two payments, the first in January 2007 and the second in January 2008.

Through 2007, TxDOT received federal funding revisions that reduced their project capacity and the TxDOT Commission put a moratorium on pass through financing agreements, including the City's.

In the fall of 2007, a City team traveled to Austin to negotiate a modified pass through agreement with TxDOT. The result of that meeting was an agreement that the City would not make the second $12.5 million payment in January 2008, but will redirect that funding into the Slide Road Overpass project. The City also agreed to fund an additional $12.5 million for the construction of the Slide Road Overpass.

The local transportation advanced funding agreement caps the City’s cost at $25 million for the Slide Road Overpass with TxDOT responsible for any additional funding needed to complete the project. The overpass will allow Slide Road to extend from Fourth Street to Marshall Avenue.

TxDOT, with Metropolitan Planning Organization concurrence, has further agreed to move forward with the reconstruction of the Fourth Street (F.M. 2255) bridge and the widening of Fourth Street to six lanes under the bridge structure. The project also includes the construction of six lanes on Loop 289 from Fourth Street to east of Slide Road.

**FISCAL IMPACT**

The advanced funding agreement caps the City's contribution to $25 million. The $25 million will be funded through the Gateway Streets Fund. At the first City Council meeting in April, 2008 a fully revised Gateway Streets Project Fund project package will be presented along with the needed appropriations and project closures. The revised Gateway Streets Project Fund program will not exceed the existing appropriations.

Staff recommended approval of this resolution.

Jeff Yates, Chief Financial Officer, and Marsha Reed, Director of Public Works, gave comments and answered questions from Council.

Motion was made by Council Member Price, seconded by Mayor Pro Tem Gilbreath to pass Resolution No. 2008-R0106 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.8. **Contract Resolution - Facilities Management: Resolution No. 2008-R0107 authorizing the Mayor to execute a lease agreement with WestCal for warehouse storage space.**
The Lease Agreement is with WestCal provides warehouse storage space. The term of this lease is twelve months and is renewable for up to five additional one-year terms.

**FISCAL IMPACT**

The cost of the lease is $4,650 per month and includes payment of utilities. Funding is included in the Adopted FY 2007-08 Operating Budget.

Staff recommended approval of this resolution.

Motion was made by Council Member Leonard, seconded by Mayor Pro Tem Gilbreath to pass Resolution No. 2008-R0107 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.13. **Ordinance 2nd Reading - Right-of-Way: Ordinance No. 2008-O0028**

Consider an ordinance abandoning and closing two 32.5-foot alleys located in Blocks 38 and 29, Overton Addition, two 20-foot alleys located in Blocks 39 and 28, Overton Addition, and Avenue T between Ninth and Tenth Street and Avenue T between the south right-of-way line of Tenth Street and the north right-of-way line of the east-west alley south of Tenth Street in the Overton Addition, and repealing ordinance No. 2007-O0036.

The first reading of the ordinance was approved at the March 13, 2008, City Council meeting. The ordinance abandons and closes two 32.5-foot alleys located in Blocks 38 and 29 of the Overton Addition; two 20-foot alleys located in Blocks 39 and 28 of the Overton Addition; Avenue T between the south right-of-way line of Ninth Street and the north right-of-way line of Tenth Street; and Avenue T between the south right-of-way line of Tenth Street and the north right-of-way line of the east-west alley south of Tenth Street.

The ordinance repeals ordinance No. 2007-O0036 due to the revised project description. The closures are between Glenna Goodacre Boulevard and Main Street and are east of Avenue U and west of Avenue S. The closures are due to the re-development of the area by Capstone Development Corporation. All utility companies are in agreement with the closures.

Because the requestor of the closures is not one of the original dedicators, there will be a charge for the closure. The total alley area being closed is 63,000 square feet. The Right-of-Way Department has determined a value of one dollar per square foot, or $63,000. In the re-plat, the requestor is dedicating 48,000 square feet of new alleys, which will remain an underground utility easement for a credit of $24,000. The total amount due the City for the alley closure is $63,000 less a $24,000 credit, or $39,000.

The total street area being closed is 20,750 square feet valued at $1 per square foot, or $20,750.
FISCAL IMPACT

The street and alley closure together will generate $59,750 of revenue to the General fund.

The Right-of-Way Department recommended the approval of the first reading of these alley and street closures.

Marsha Reed, Director of Public Works, gave comments and answered questions from Council. She informed Council that there were documents found prior to City Council meeting revealing that some of the closures being requested were actually the original dedicato, and Mr. McDougal had actually dedicated a portion of these alleys that he is asking for closure. According to the ordinance, he is not to be charged for that portion. Ms. Reed went on to say that there is approximately 15,000 square feet of additional alley that Mr. McDougal will not be charged for, which will make the revenue on this item $44,750, rather than the $59,750.

Motion was made by Council Member Price, seconded by Mayor Pro Tem Gilbreath to pass on second and final reading Ordinance No. 2008-O0028 with amending the revenue to $44,750, according to the 15,000 square feet not charged. Motion carried: 7 Ayes, 0 Nays.

6.9. Ordinance 1st Reading - Police: Ordinance No. 2008-O0031 adding Article IV to Chapter 18 of the City of Lubbock code of ordinances entitled "Sex Offenders" declaring it an offense for some such persons to establish their residence in close proximity to where children commonly gather, providing affirmative defenses to prosecution for such offense, providing a penalty, providing a savings clause, and providing for publication.

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

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

FISCAL IMPACT

No fiscal impact.

Staff recommended approval of the first reading of this ordinance.

Motion was made by Council Member DeLeon, seconded by Council Member Klein to pass on first reading Ordinance No. 2008-O0031 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

City Attorney Anita Burgess and City Secretary Becky Garza answered questions from Council Member DeLeon regarding the effective date of this ordinance.
6.12. Board Appointments - City Secretary: Consider two appointments to the Health/Educational Facilities Development Corporation Board of Directors, three appointments to the Animal Shelter Advisory Committee, three appointments to the Board of Health, and four appointments to the Keep Lubbock Beautiful Advisory Committee.

Motion was made by Council Member DeLeon, seconded by Mayor Pro Tem Gilbreath to appoint Yvonne Gutierrez and Lori Rice-Spearman to the Health/Educational Facilities Development Corporation Board of Directors. Motion carried: 7 Ayes, 0 Nays.

Motion was made by Council Member Price, seconded by Council Member Klein to reappoint Annette Castellano-Chavez, Joyce Dahlbeck, and Larry Phillippe to the Animal Shelter Advisory Committee. Motion carried: 7 Ayes, 0 Nays.

Motion was made by Council Member DeLeon, seconded by Council Member Price to appoint Josie Alvarado, and reappoint Susan Bozeman and Darnell Dingle to the Board of Health. Motion carried: 7 Ayes, 0 Nays.

Motion was made by Council Member DeLeon, seconded by Council Member Price to appoint Kay Brown, James Milford, and Margarita Olivarez, and reappoint Lucy Eade to the Keep Lubbock Beautiful Advisory Committee. Motion carried: 7 Ayes, 0 Nays.

3. PROCLAMATIONS AND PRESENTATIONS

3.1. Invocation by Monsignor Eugene Driscoll, Holy Spirit Catholic Church

3.2. Pledge of Allegiance to the Flags.

Pledge of Allegiance was given in unison by those in the City Council Chambers to both the United States flag and the Texas flag.

3.3. Presentation of a special recognition commemorating April 2008 as National Child Abuse Prevention Month.

Amy Sims, Assistant City Attorney, and representatives from the Children’s Advocacy Center, joined Mayor Miller as he presented special recognition to commemorate April 2008 as National Child Abuse Prevention Month.

3.4. Presentation of a special recognition to Natalia Salazar, President of the Arnett-Benson Neighborhood Association, recognizing her efforts to plan a drug-free rally, concert in the park, and health fair.

Mayor Miller presented special recognition to Natalia Salazar, President of the Arnett-Benson Neighborhood Association, recognizing her efforts to plan a drug-free rally, concert in the park, and health fair. Ms. Salazar gave comments.
3.5. Presentation of a special recognition commemorating March 31, 2008, as Cesar E. Chavez Day.

Mayor Miller presented special recognition commemorating March 31, 2008 as Cesar E. Chavez Day. Christy Martinez-Garcia and supporters were present to accept the special recognition. Ms. Martinez-Garcia gave comments.

3.6. Presentation of a proclamation commemorating April 3-5, 2008, as ABC Pro Rodeo Days.

Mayor Miller presented a proclamation to commemorate April 3-5, 2008, as ABC Pro Rodeo Days. Present to accept the proclamation were Leslie Cox, Director of Telecom and Fleet Operations, along with other representatives of the American Business Club. Ray Short, 2008 Chairman of the ABC Rodeo, gave comments.

3.7. Presentation of a special recognition to retiring Deputy City Secretary Tommy Combs recognizing his service to the City of Lubbock.

Mayor Miller presented special recognition to retiring Deputy City Secretary Tommy Combs, recognizing his 30 years of service to the United States Army, and his six years of service to the City of Lubbock.

3.8. Board Recognition:

Lubbock Emergency Communications District Board of Managers:

Mr. Steve Hailey

Urban Renewal/Redevelopment Commission:

Ms. Cassandra Mojica,
Mr. Gary Ferguson

Structural Standards Commission:

Mr. Gaylon Kerr

Lubbock Housing Authority:

Ms. Elena Quintanilla (unable to attend)

6. REGULAR AGENDA (continued)


An application has been received from Christy Martinez, on behalf of the Cesar E. Chavez Commemoration Committee, to change the name of certain portions of North Avenue U, Cornell Street, North Avenue N, Baylor Street, North Avenue K, and First Street, along a route from generally the Erskine Street and North Avenue U area to Atzlan Park. The request is to change the
names of these certain portions of streets to Cesar E. Chavez Drive. The proponents submitted the required applications, petitions, and application fee. Lubbock street naming was primarily established to bring consistency and ease of locating streets and addresses in our street grid system. In general, east-west streets are numerical, and north-south avenues are alphabetical. The existing street names follow that naming procedure. The proposed name change will vary from that naming procedure. However, City Council provided for a procedure for requests to change the name of existing streets. The procedure for changing a street name is described in Section 24-38 of the Code of Ordinances.

City Council has recently enacted a moratorium on changing the street names. However, this request was filed prior to Council's moratorium, and this request is therefore being processed accordingly.

City Council had recently approved a street name change of certain portions of Canyon Lakes Drive to Cesar E. Chavez Drive. This street name change proposal was requested to link those previously named portions of Cesar E. Chavez Drive together to have a continuous, connected named street from the previously named portions of Cesar E. Chavez Drive. It appears that changing the name of this street will require ten properties to change their addresses.

On the petition for the street name change, 22 of 35 (63%) of the owners of abutting property signed in favor of the name change. This count does not include properties owned by the City, state, railroad, or Lubbock Independent School District. The signatures in favor of the name change represent 72.5% of the abutting footage.

Letters were mailed to abutting property owners, as their names and addresses appear on the current tax rolls, informing them of the January 8, 2008, Planning & Zoning Commission public hearing. There were no responses to the mailed notice. Comments favoring the street name change were made at the Planning and Zoning Commission public hearing, with no comments in opposition.

Following the public hearing, the Planning and Zoning Commission voted unanimously to recommended approval of the street name change.

**FISCAL IMPACT**

There will be direct costs for the manufacturing and installation of new street name markers. Traffic Engineering has estimated the need of a total of 20 signs at $285 per sign, for a total cost of $5,700. The original portions of Cesar E. Chavez Drive were named at the direction of the City Council and the cost of the signage is at the City's expense. Staff is preparing to construct and install these signs for this street name change using funds from the adopted FY 2007-08 Traffic Department operating budget.

The application meets all ordinance requirements, and the Planning and Zoning Commission unanimously recommended approval.
City Attorney Anita Burgess gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Jones to pass Resolution No. 2008-R0108 as recommended by staff. Motion carried: 4 Ayes, 3 Nays. Mayor Pro Tem Gilbreath, and Council Members Leonard and Klein voted Nay.

6.7. Alternative Project Delivery Method Resolution - Business Development: Resolution No. 2008-R0109 authorizing and directing the Director of Purchasing and Contract Management to use the Competitive Sealed Proposals delivery method as the construction project method providing the best value for the City of Lubbock for the Visitor Information Center and Gateway Park project.

Subchapter H, Section 271 of the Local Government Code provides for alternate project delivery methods for certain projects. For projects involving the construction of a facility, Subchapter H permits a municipality to use any of the following methods that provides the best value for the municipality:

- competitive sealed bidding;
- competitive sealed proposals;
- a design-build contract;
- a contract using a construction manager; or
- a job order contract.

Parkhill, Smith, & Cooper recommended the Competitive Sealed Proposal construction method for the Visitor Information Center and Gateway Park project.

The competitive sealed proposal procedure promulgated by Section 271.116, Texas Local Government Code, helps local governments attract contractors who otherwise may not have an interest in participating on the basis of lowest bid and gives the City the ability to bring the project in within budget with the contractor who offers the best value. The procedure allows the City to select the offeror that offers the best value based on the published selection criteria and on its ranking evaluation. In determining best value, the City is not restricted to considering price alone, but may consider any other factor stated in the selection criteria. The City and its engineer or architect may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification. 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.

Section 271.114 of the Texas Local Government Code requires that the governing body of a municipality that is considering a construction contract using a method other than competitive sealed bidding must determine which delivery method provides the best value for the City.
FISCAL IMPACT

The estimated cost of construction is $1,249,490 for site work, $2,726,900 for construction of the building, $823,433 for the exhibits and audio visual component, and $50,000 for the relocation of the Walk of Fame.

Staff recommended approval of this resolution.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass Resolution No. 2008-R0109 as recommended by staff.

Scott Joslove, President of the Texas Hotel and Lodging Association; David Seim, representing the Downtown Redevelopment Commission; Rob Meyer, President of the Lubbock Hotel and Motel Association; David Alderson, Chairman of the Lubbock Economic Development Alliance Board of Directors; and Velma Medina, realtor, gave comments in favor of the proposed Visitors Center, and answered questions from Council.

After further discussions, Mayor Pro Tem Gilbreath called for the question, seconded by Council Member Jones. Vote was taken, which passed: 6 Ayes, 1 Nay. Council Member Klein voted Nay.

Vote was then taken on the original motion made by Council Member DeLeon and seconded by Council Member Price to pass the resolution. Motion carried: 6 Ayes, 1 Nay. Council Member Klein voted Nay.

6.8. Contract Resolution - Business Development: Resolution No. 2008-R0110 authorizing the Mayor to execute a professional services agreement with Parkhill, Smith & Cooper to provide architectural and engineering services for the Visitor Information Center and Gateway Park Project.

On March 22, 2007, the City Council purchased property at 1816 Crickets Avenue for a Visitor Information Center and Gateway Park. The facility will provide a one-stop location for information about local and regional activities and amenities, including college athletics, cultural events, and West Texas’ history.

The City engaged Parkhill, Smith & Cooper (PSC) to evaluate the site, existing buildings, relationships with the adjacent properties, and space programming. The most cost feasible option is to demolish the existing buildings to construct the new 7,400 square foot facility.

Staff recommended executing a professional services agreement with PSC to develop architectural and engineering plans for the Visitor Information Center and Gateway Park. The scope of services includes site work, exhibit design services, and relocation of the West Texas Walk of Fame to Gateway Park.

Relocating the West Texas Walk of Fame to the Depot Entertainment District is a recommendation of the Downtown Revitalization Action Plan.

Compensation for basic services shall be a lump sum fee of $782,270 plus an anticipated reimbursable budget of $20,000. This excludes work effort related to the linear park development on adjacent land.
FISCAL IMPACT

The first reading of the budget amendment for this project is on this agenda. On second reading, the total amount of the appropriation for Capital Improvement Project 90406, Visitor Information Center, will be $6,712,139, with $802,270 available for this purpose.

Staff recommended the contract be awarded to Parkhill, Smith & Cooper of Lubbock, Texas.

Motion was made by Council Member Price, seconded by Council Member DeLeon to pass Resolution No. 2008-R0110 as recommended by staff. Motion carried: 6 Ayes, 1 Nay. Council Member Klein voted Nay.

6.6. Budget Ordinance Amendment 2nd Reading - Finance: Ordinance No. 2008-O0029 Consider budget ordinance Amendment No. 7 amending the FY 2007-08 budget respecting the Grant Fund, Hotel Motel Fund, Water Fund, and Capital Improvement Program.

The ordinance, originally including items one through four, was approved on the first reading at the March 13, 2008, City Council meeting.

1. Accept and appropriate $4,000 from the Texas Department of Transportation for the Labor Day Impaired Driving Mobilization Incentive Project. The City will be reimbursed for the purchase of traffic safety equipment and/or training.

2. Accept and appropriate $280,000 from the Department of Homeland Security for the Fire Department's heavy rescue truck and rescue equipment. The total project is $491,662. The remaining $211,662 match is funded by the City and will be requested through the FY 2008-09 Operating Budget process.

3. Authorize one Water Utility Grant Manager full-time position and one Park Well and Related Facility Maintenance Worker full-time position in the Water Utility Department. The cost of these positions is funded through staff vacancy savings for the remainder of the fiscal year.

The Grant Manager's estimated annual salary is $55,000. The Grant Manager assists with identifying grant and financial assistance opportunities, preparation of grant applications, record keeping and documentation for grants received, requesting grant funds, coordinating with the Accounting Department to maintain grant records and documentation, and coordinating with other Water Utility departments and other communities as necessary on related grant projects.

The Park Well and Related Facility Maintenance Worker's estimated annual salary is $26,000. With the increase in the number of park wells that are now complete, there is a need for staff to maintain the wells, sand filters, and related equipment for 19 parks with irrigation converted to ground water and for another 16 parks planned within the next two years. The number of wells could double as the Park Well project continues to progress.
4. Amend Capital Improvement Project 9146, 50th Street-Slide/Loop 289, by increasing the appropriation from $10,967,000 to $12,467,000. The additional funding is needed to cover the increased cost of right-of-way acquisition and for utility relocation of utility lines in private easements. The additional $1.5 million will be funded through the issuance of FY 2008 Tax Supported Revenue Certificates of Obligation.

5. Amend Capital Improvement Project 90406, Visitor Center, by increasing the appropriation from $2,960,000 to $6,712,139. The additional $3,752,139 will be funded through the issuance of FY 2008-09 Hotel Tax supported Certificate of Obligation.

The proposed project budget for the new Visitor Information Center includes, $802,270 for Design, $1,249,490 for Site Work, $2,726,900 for construction of the building, $823,433 for the exhibits and audio visual component, $50,000 for the relocation of the Walk of Fame, and $7,268 for contingency.

**FISCAL IMPACT**

Included in item summary.

Staff recommended approval of the second reading of this ordinance.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass on second and final reading Ordinance No. 2008-O0029 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

10:35 A. M. CITY COUNCIL RECESSED

10:45 A. M. CITY COUNCIL RECONVENED

6.11. **Resolution - Atmos:** Resolution No. 2008-R0111 granting a request of the West Texas Division of Atmos Energy to extend the deadline to implement the 2006 Gas Reliability Infrastructure Program from March 31, 2008 to June 1, 2008.

Section 104.301 of the Texas Utilities Code authorizes a gas utility, within two years of their last filed rate case, to file with the regulatory authority a tariff or rate schedule that provides for an interim adjustment in the utility’s monthly customer charge to recover the cost of changes in the investment in service for gas utility services, also known as the Gas Reliability Infrastructure Program (“GRIP”) or an Interim Rate Adjustment (“IRA”). Pursuant to Section 103.001 of the Texas Utilities Code, City Council is the regulatory authority that has exclusive original jurisdiction over the rates, operation, and service of a gas utility operating within Lubbock. The West Texas Division of Atmos Energy, on November 15, 2007, filed simultaneously with the City and the Railroad Commission of the State of Texas a GRIP tariff filing containing the proposed tariff, tariff calculation, earnings monitoring report and detail project reports. The West Texas Division of Atmos Energy, in their GRIP tariff filing, is requesting an increase of $0.70 per customer per month for Residential Gas Service; $2.01 for Commercial Gas Service; $22.33 for Small Industrial Gas Service; $9.95 for
Public Authority Gas Service; and $8.73 for State Institution Gas Service. The tariff increases will go into effect 60 days after filing (January 14, 2008), unless further action is taken by the regulatory authority.

City Council suspended the implementation of the GRIP tariff increases for a period of 45 days at the January 10, 2008, City Council meeting. On February 22, 2008, the West Texas Division of Atmos Energy requested that the deadline to implement the 2006 GRIP in Lubbock be further extended until March 31, 2008, to which the City of Lubbock agreed. On March 19, 2008, the West Texas Division of Atmos Energy requested that the deadline to implement the 2006 GRIP in Lubbock be further extended until June 1, 2008. The letter from Atmos, dated March 19, 2008, is provided.

**FISCAL IMPACT**

No fiscal impact.

City Attorney Anita Burgess answered questions from Mayor Pro Tem Gilbreath regarding making the motion on this item.

Gary Gregory, representative of Atmos Energy, gave comments and answered questions from Council.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to amend Resolution No. 2008-R0111 by denying the request for extension. Motion carried: 7 Ayes, 0 Nays.

6.1. **Public Hearing 10:00 a.m. - Planning: Ordinance No. 2008-O0032 Hold a public hearing to consider a proposed code change to move the drive in restaurant use from the C-4 District to the C-3 District.**

Mayor Miller opened the public hearing at 10:55 a.m. No one appeared in favor and no one appeared in opposition of the code change. Mayor Miller closed the hearing at 11:01 a.m.

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

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

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

FISCAL IMPACT

No fiscal impact.

Staff supports the recommendation of the Planning and Zoning Commission.

Motion was made by Council Member Price, seconded by Council Member DeLeon to pass on first reading Ordinance No. 2008-O0032 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.2. Public Hearing 10:00 a.m. - Planning: Ordinance No. 2008-O0033 Zone Case No. 2995-F (70th Street and Milwaukee Avenue) Hold a public hearing to consider request by Burl Masters (for George McMahan Development) for zoning change from R-1 Specific Use to C-3 on 11.25 acres of unplatted land out of Block AK, Section 30.

Mayor Miller opened the public hearing at 10:55 a. m. No one appeared on behalf of George McMahan Development. No one appeared in opposition. Mayor Miller closed the hearing at 11:01 a. m.

The applicant is requesting an area currently zoned for residential adjacent to Milwaukee Avenue to be rezoned to Commercial-3 (C-3). The applicant presented the case requesting that a number of permitted uses in the C-3 District be eliminated as permitted uses.

Adjacent land uses:

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

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

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

The applicant is requesting commercial zoning south of an existing commercial area. As noted, the request exceeds the 660-foot 10 acre distance, but so does the commercial across the street. Should this area not be successful as a commercial zone, the current Bacon Crest preliminary plat is designed for the land area to revert to residential as initially proposed. If the case is approved, please include in the motion that the request represents a minor change to the Comprehensive Land Use Plan.

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

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

1. Prior to platting and/or development of any of the property, a traffic management plan (curb cuts on Milwaukee Avenue) shall be reviewed and approved by the Lubbock Planning and Zoning Commission.

2. The following uses shall not be permitted (numbers reflect their entry in the Zoning Code):
   - (3) bowling alley
   - (6) gasoline service station
   - (8) miniature golf course
   - (8a) quick tune or quick oil change
   - (11) skating rinks

**FISCAL IMPACT**

No fiscal impact.

Staff recommended approval of the first reading of this ordinance.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Jones to pass on first reading Ordinance No. 2008-00033 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.3. **Public Hearing 10:00 a.m. - Planning: Ordinance No. 2008-00034 Zone Case No. 3082 (7903 19th Street) Hold a public hearing to consider request of Andy R. Hernandez for a zoning change from R-1 to C-4 on 1 acre of unplatted land out of Section 41, Block AK.**
Mayor Miller opened the public hearing at 10:55 a.m. Mike Webster (Lamar Advertising) appeared on behalf of Andy R. Hernandez. No one appeared in opposition. Mayor Miller closed the hearing at 11:01 a.m.

At the request of the Planning and Zoning Commission, this case was continued by City Council during the January 2008 meeting. This continuation was to give staff sufficient time to present a Work Session/Public Hearing on billboards to City Council and the Planning and Zoning Commission. Those Work Sessions/Public Hearings were held in February, and this case is being brought back for consideration by City Council.

Adjacent land uses:
N – 19th Street and vacant
S – The horse arena of the homeowner to the south
E – Commercial
W – Commercial

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

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

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

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

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

The request to remove billboards from the strike list constitutes a modification to the informal West 19th Street Corridor zoning policy. During the March 2008 meeting, The Planning and Zoning Commission considered four cases to allow billboards either in new C-4 cases or in requests to modify existing C-4 cases on properties along West 19th Street. During the discussion of the cases, the Planning and Zoning Commission considered the appropriateness of a modification to the informal West 19th Street Corridor zoning policy to allow billboards. Each of those requests was denied by unanimous vote of the Planning and Zoning Commission members voting, affirming the Planning and Zoning Commissions commitment to the informal West 19th Street Corridor zoning policy.

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

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

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

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

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

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

1. The C-4 uses shall be limited to those uses unconditionally permitted in the C-4 zoning district except:
   a) Automobile body shops
   b) Commercial private clubs and teenage clubs
c) Dancehall
d) Used furniture store
e) Game room (except as an incidental use in a restaurant), pool, billiard and/or domino parlor
f) Motorcycle shop
g) Second hand goods store or pawn shop
h) Used car lot
i) Nightclub, bars or lounge

2. Billboards placed on this property shall have a minimum separation of 2,640 feet from any other billboard regardless of the side of the street they are on.

3. Billboards shall be modern steel monopole structures.

4. A site plan, including building elevations showing materials, color and texture, shall be submitted and approved by the Planning and Zoning Commission prior to the issuance of a Building Permit.

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

**FISCAL IMPACT**

No fiscal impact.

Staff supports the recommendation of the Planning and Zoning Commission.

Bill Boon, Planner, gave comments and answered questions from Council.

Motion was made by Council Member Leonard, seconded by Council Member Price to pass on first reading Ordinance No. 2008-O0034 with modification to the informal West 19th Street Corridor zoning policy to allow new or reconstructed billboards (with proper spacing) along West 19th Street. Motion carried: 5 Ayes, 2 Nays. Mayor Pro Tem Gilbreath and Council Member Jones voted Nay.
6.4. Public Hearing 10:00 a.m. - Planning: Ordinance No. 2008-O0035 Zone Case No. 3104 (124th Street and west of Quaker Avenue) Hold a public hearing to consider request by Hugo Reed and Associates for zoning change from T to AM on 10.2 acres of unplatted land out of Block E-2, Section 23.

Mayor Miller opened the public hearing at 10:55 a.m. No one appeared on behalf of Hugo Reed and Associates. No one appeared in opposition. Mayor Miller closed the hearing at 11:01 a.m.

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

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

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

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

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

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

1. Initially, the parcel is limited to two curb returns to Quaker Avenue. Should future development indicate the need for a greater number, a site plan may be proposed to the Planning Commission for expansion of the limitation of two.

2. The medical uses on the site may include all permitted AM uses including message therapy as well as other established non-traditional health and wellness activities. These uses may include training and active provision of these services to the public. Sales of products related to the professions or allowed in the AM District shall be allowed.

3. The existing home may remain with the current legal nonconforming status (an approved home occupation by the Zoning Board of Adjustment) subject to the condition of that approval. Ultimately, the home may be used as a support facility including, but not limited to, on site living quarters for a caretaker of the property.
4. If cottages for short term stay clients are introduced, the AM Districts allows apartments. The cottage complex will be treated as an apartment development for short stays, not developed as a hotel.

5. The requirement for a screening fence for the adjacent residential or T zoned property shall be reviewed by the Planning Commission prior to any new construction. The Commission has the authority by Code to waive screening when beneficial to the business and adjacent residents.

6. Parking on new structures shall meet the “office” ratio of 1/200, or if shared parking is an asset, the applicant shall request that consideration by the Zoning Board of Adjustment.

FISCAL IMPACT

No fiscal impact.

The staff supports the recommendation of the Planning Commission.

Motion was made by Council Member Price, seconded by Council Member Leonard to pass on first reading Ordinance No. 2008-O0035 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.5. Public Hearing 10:00 a.m. - Health: Resolution No. 2008-R0112 Hold a public hearing to consider a proposal and recommendations that a portion of McAlister Park, west of Milwaukee Avenue, be used as the site of an animal shelter.

Mayor Miller opened the public hearing at 10:55 a.m. Marshall Chumbley and Clifton Burnett appeared in favor of the proposal and recommendations. No one appeared in opposition. Mayor Miller closed the hearing at 11:01 a.m.

The property at McAlister Park was purchased with Federal Funds, as administered by the Texas Parks and Wildlife Department (TP&W). Any land use, other than park use, requires a conversion. A conversion replaces the park property with newly acquired parkland. The purchase price of the newly acquired parkland must meet or exceed the appraised value of the property to be replaced. TP&W prefers the newly acquired property to be adjacent to the existing parkland, however in some cases that is not possible. In those cases the property can be located within other areas of the City.

According to TP&W an Animal Shelter and associated parking would not qualify as a park use. The area included in the footprint of the building and parking lot would require conversion.

FISCAL IMPACT

This public hearing does not have a fiscal impact, but a survey was required at a cost of $12,500. The survey, and any other costs incurred, were funded through Capital Improvement Project 91158, Animal Shelter Facility.

Staff recommended approval of this resolution.
Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Klein to pass Resolution No. 2008-R0112 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

7. WORK SESSION

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

This item was deleted.

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

This item was deleted

11:07 A. M. COUNCIL ADJOURNED

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