

**CITY OF LUBBOCK  
SPECIAL CITY COUNCIL MEETING**

**April 25, 2005**

**8:00 A. M.**

**The City Council of the City of Lubbock, Texas met in special session on the 25th day of April, 2005, in the City Council Chambers, first floor, City Hall, 1625 13th Street, Lubbock, Texas at 8:00 A. M.**

**8:00 A. M. CITY COUNCIL CONVENED  
City Council Chambers, 1625 13th Street, Lubbock, Texas**

**Present: Mayor Marc McDougal, Mayor Pro Tem Tom Martin, Council Member Gary O. Boren, Council Member Jim Gilbreath, Council Member Phyllis Jones, Council Member Floyd Price**

**Absent: Council Member Linda DeLeon**

**Mayor McDougal called the meeting to order at 8:00 A. M.**

**The first items considered were Items 3-4.**

**EXECUTIVE SESSION**

**Mayor McDougal stated: "City Council will hold an Executive Session today for the purpose of consulting with the City Staff with respect to purchase, exchange, lease, or value of real property; commercial or financial information that the governmental body has received from a business prospect that the governmental body is conducting economic development negotiations, as provided by Subchapter D of Chapter 551 of the Government Code, the Open Meetings Law."**

**8:08 A. M. CITY COUNCIL RECESSED TO EXECUTIVE SESSION  
City Council/City Manager's Conference Room**

**All council members were present, except Council Member Linda DeLeon**

- (1) 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 (Overton).**
- (2) Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.087 to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body is conducting economic development negotiations (Overton).**

**SPECIAL SESSION**

- (3.) **Resolution No. 2005-R0170 authorizing the Mayor to execute an Escrow Agreement by and between the City of Lubbock and American State Bank, as escrow agent, and the Developers of the Milwaukee Project from 34<sup>th</sup> Street to 92<sup>nd</sup> Street, being (i) Bacon Crest, LTD; (ii) Betenbough Capital, Inc.; (iii) Rick Betenbough; (iv) Ron Betenbough; (v) Day Estates, LTD; (vi) Hubwest Development, LLC; (vii) Canyon Hub Holdings, L.P.; (viii) Milwaukee, LTD; (ix) S & S Commercial Properties, LLC; and (x) Sonny Arnold Trust.**

**This was the first item considered.**

This Escrow Agreement establishes an Escrow Fund at American State Bank for the Developers of the Milwaukee Project to deposit their share of the project costs.

The above listed developers/landowners abutting Milwaukee Avenue from 34<sup>th</sup> Street to 92<sup>nd</sup> Street entered into Development Agreements (Sept. 16, 2004 and Oct. 11, 2004) with the City for the design and construction of the street paving improvements, drainage improvements, and various water and sewer line installation. As part of those Agreements, the Developers provided Bank Letters of Credit to the City, in the amount of their estimated share of the project cost, to assure their participation in the project costs.

This construction project was scheduled for bid at 2 pm, Thursday, April 21, 2005. After bids are received, the Developers share of the cost will be re-calculated based on actual bids. However, unless agreed upon otherwise, the Developers share is limited to 5% more than their original estimated cost participation, should bids come in higher than estimated.

The Developers will then deposit their actual cost participation in the Milwaukee Project into this Escrow Fund being established by this Escrow Agreement. The City will make monthly draws from the Escrow Fund in the prorated share of the Developer funds deposited as compared to the total construction cost. Interest accrued in the Escrow Fund will be paid to the Developers, in their prorated share, at the completion of the project.

The Developers will be required to place their share of the Project cost in the Escrow Fund prior to the Award of the bid at the April 28, 2005 City Council meeting.

**FISCAL IMPACT:**

The estimated Developer participation in the cost of this project is \$3,873,266 (plus \$324,345 with Christian City View Fellowship which will be considered under a separate Agreement at the April 28, 2005 City Council meeting). The total estimated construction cost of the Project is \$16.5 million. The Developer participation will be adjusted following the opening of bids on Thursday, April 21<sup>st</sup>. However, unless agreed upon

otherwise, the Developers share of the Project cost will not exceed 5% more than their original estimated participation.

The staff recommended approval of this Agreement establishing the Escrow Fund for the Milwaukee Project.

Larry Hertel, City Engineer, gave comments and answered questions from Council.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Price to pass Resolution No. 2005-R0170 as recommended by staff. Motion carried: 6 Yeas, 0 Nays.

( 4.) **Resolution No. 2005-R0171 authorizing the Mayor to execute the First Amendment to the Development Agreement with Hubwest Development, LLC, and Canyon Hub Holdings, LP, for the Milwaukee Project from 34<sup>th</sup> Street to 92<sup>nd</sup> Street.**

Charles Hodges, representing the above listed Developers/Landowners, has requested the installation of a traffic signal with the Milwaukee Project. The location of the signal is at the intersection of Milwaukee and a proposed major driveway entrance into a planned commercial development. The proposed driveway is located approximately 1,300 feet north of US 62/82 (Brownfield Highway).

The Developer will pay all costs associated with the installation of this traffic signal. The total cost estimated for the engineering and construction of this signalized intersection is \$107,570.

This Developer is also a part of the group of Developers/Landowners involved with the Milwaukee Project. He had previously signed the Developer Agreement and furnished a Bank Letter of Credit for their portion of the Milwaukee Project costs. This is an Amendment to their original Developers Agreement to include the traffic signal as part of the Milwaukee Project. They will also be required to place their share of the Milwaukee Project cost, based on actual bid prices received, into the Escrow Fund prior to the award of the Milwaukee Project bid on April 28, 2005. (The Escrow Agreement for all Developers is being considered by the Council at this same City Council meeting.)

This \$107,570 for the traffic signal will be required to be deposited into the Escrow Fund, as well as their other share of the Milwaukee Project construction costs.

**FISCAL IMPACT:**

The Developer will pay all the costs (\$107,570) associated with the construction of this traffic signal as part of the Milwaukee Project.

The staff recommended approval of this Amendment to the original Developers Agreement to include Developer participation in the cost of the traffic signal, as part of the Milwaukee Project.

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Motion was made by Mayor Pro Tem Martin, seconded by Council Member Boren to pass Resolution No. 2005-R0171 as recommended by staff. Motion carried: 6 Yeas, 0 Nays.

**At this time, Council recessed to Executive Session.**

**9:10 A. M. COUNCIL ADJOURNED**

There being no further business to come before Council, Council Member Gilbreath adjourned the meeting immediately after Executive Session.