

CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
October 27, 2005
7:30 A. M.

The City Council of the City of Lubbock, Texas met in regular session on the 27th day of October, 2005, 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 Marc McDougal, Mayor Pro Tem Tom Martin, Council Member Gary O. Boren, Council Member Linda DeLeon, Council Member Jim Gilbreath, Council Member Phyllis Jones, Council Member Floyd Price

Absent: No one

1. CITIZEN COMMENT PERIOD

1.1. Audrey Wilson Culpepper will address the Council about her concerns with Lubbock's water supply.

This item was deleted (Citizen did not appear).

1.2. Shawn Fuller will address the Council concerning Community Services as it pertains to manufactured homes.

- Shawn Fuller addressed Council regarding services that are provided to manufactured homeowners within the municipality. Owners of manufactured homes are having problems obtaining services such as animal control services. He stated that if you live in a manufactured home community and call Animal Services, you would be directed to call the owner or manager of the property to give your complaint. Fuller requested that Council speak to the Animal Services about this issue. He then thanked staff for assisting him in resolving several other issues. Another issue he addressed was utilities. He stated that, for years, if you owned a manufactured home outside the city limits of Lubbock and you moved into the City of Lubbock and needed to hook up your utilities, you could obtain a Home-Owners Only permit for \$25 and be allowed to run a few feet of water line or sewer line yourself. The City of Lubbock would then come out and inspect it and turn on your services. The Building Code department has changed that and now requires that a licensed electrician or plumber prepare the lines for you. Many manufactured homeowners now choose to live outside the city limits because of the cost of having that small amount of service done for you. He understands the safety issues and requested Council look into seeing what could be done.

- David Haynes, Wendell Davis, and William Watson addressed Council regarding concerns about the North and East Lubbock Community Development Corporation/Texland issues. Their understanding from the last City Council Meeting was that the grant funding for the King's Dominion Project had been cut, that the City of Lubbock is part of the process and has the power to stop what Texland is doing, and they would like to see this project completed. Comparison was made to developments in West Lubbock. Requests for equality and fairness of developments within North and East Lubbock were made. A request for a response from Council was also made.

Mayor McDougal responded to their comments by explaining the process of the Community Development grant funding, the funding for the Milwaukee Project, the funding for 82nd Street Project, the street-paving process, and directed questions regarding the process of the Texland Agreement to First Assistant City Attorney Richard Casner. The Mayor also suggested they visit with Nancy Haney, Executive Director of Community Development, or Bill Howerton, Jr., Community Development Contract Coordinator, for information on the Community Development Block Grant programs that are funded in January and June for paving of unpaved streets.

Richard Casner, First Assistant City Attorney, explained the Texland Agreement issue and made himself available for further questions if needed. Anita Burgess, City Attorney, and Lee Ann Dumbauld, City Manager assisted in answering questions.

2. 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 pending or contemplated litigation; the purchase, exchange, lease, or value of real property; personnel matters; competitive matters of the public power utility; and commercial or financial information that the governmental body has received from a business prospect with which the governmental body is conducting economic development negotiations, 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/City Manager's 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(1)(A), to discuss pending or contemplated litigation (Codes Enforcement; LP&L; Police Department; 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 (Overton; Police Department; 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 551.074(a)(1), to discuss personnel matters regarding duties, responsibilities, and/or appointments to: Planning & Zoning Commission, Urban Design/Historic Preservation Commission, and Urban Renewal Board.
- 2.5. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.086, on the following competitive matters (Electric Utilities):
 - 2.5.1. to deliberate, vote and take final action on electric rates of Lubbock Power and Light;
 - 2.5.2. 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;
 - 2.5.3. 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.
- 2.6. 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 seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations (Business Development).

9:40 A.M. CITY COUNCIL REGULAR MEETING RECONVENED
City Council Chambers

Present: Mayor Marc McDougal; Mayor Pro Tem Tom Martin; Council Member Gary O. Boren; Council Member Linda DeLeon; Council Member Jim Gilbreath; Council Member Phyllis Jones; Council Member Floyd Price; Lee Ann Dumbauld, City Manager; Anita Burgess, City Attorney; and Rebecca Garza, City Secretary

Absent: No one

Mayor McDougal reconvened the meeting at 9:40 A. M.

3. PROCLAMATIONS AND PRESENTATIONS

- 3.1. Invocation by Pastor Jerry Ramirez, Associate Pastor for Student Activities, Oakwood Baptist 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. This item was considered following Item 3.4.2

3.4. Board Appointment Recognition:

3.4.1. Civic Lubbock, Inc.

Don Caldwell, Dr. Don Haragan, Louis Kelley, and Kerry Sessions-Griffith

3.4.2. Urban Renewal/Neighborhood Redevelopment Commission

Deborah Cosgrove

3.3. Presentation of a special recognition to the Entertainment Lubbock Task Force for the 2005 Lubbock Music Festival.

Mayor McDougal presented a special recognition to the Entertainment Lubbock Task Force for the 2005 Lubbock Music Festival. Members of the Entertainment Lubbock Task Force present were Velma Medina, Don Caldwell, Dr. Don Haragan, Virgil Johnson, Jim Bertram, Phil Price, and Dick Milam. Don Caldwell gave comments.

4. MINUTES

4.1. Approval of Prior Meeting Minutes:

Special October 6, 2005

Motion was made by Council Member Gilbreath, seconded by Council Member Price to approve the minutes of the Special City Council Meeting of October 6, 2005 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5. CONSENT AGENDA (Items 5.1, 5.4 – 5.7, 5.9)

Motion was made by Council Member Gilbreath, seconded by Council Member Jones to approve Items 5.1, 5.4-5.7, and 5.9 on consent agenda as recommended by staff. Motion carried: 7Ayes, 0 Nays.

5.1. Ordinance 2nd Reading – Right-of-Way: ORDINANCE NO. 2005-00121—Abandoning and closing a portion of a 20-foot alley, adjacent to Lot 1, Fry Addition to the City of Lubbock, located at 3408 50th Street.

CVS Pharmacy is acquiring three properties at the northwest corner of 50th Street and Indiana Avenue. They plan to replat these three properties and a north-south 20-foot wide by 200-foot long alley into a single tract of land for a new pharmacy. Since the requestor of this closure is not the original dedicator of the alley area being closed, they will be charged for the closure. The total alley area being closed is 3,998.80 square feet. The Right-of-Way Department has determined a value of \$4.70 per square foot for the alley area being closed, for a total value of \$18,794.36. The replat will have a new 20-foot dedicated underground utility and drainage easement along the west side of the replat containing a total of 4,280 square feet, with a valued credit of

\$10,058 (4,280 square feet x \$4.70 = \$20,116 x 50% easement valuation). The total amount due to the City for this alley closure is \$8,736.36.

FISCAL IMPACT:

An additional \$8,736.36 revenue to the General Fund.

Staff recommended approval of the second reading of this ordinance.

5.2. This item was considered following Item 5.9.

5.3. This item was considered following Item 5.2.

5.4. Lease Agreement Resolution – Aviation: Resolution No. 2005-R0493 authorizing the Mayor to execute a lease agreement between the City and Johnnie Berry d/b/a Berry Enterprises.

Johnnie Berry d/b/a Berry Enterprises has operated a T-hangar rental service on the west side of the Airport since August 1985. When the ground lease agreement expired July 31, 2005, the improvements, T-hangars, became the property of the City. The new lease agreement is for T-hangar management.

The new agreement is for three years with two additional one-year options to renew. The lease includes an annual Consumer Price Index adjustment.

FISCAL IMPACT:

The lease agreement, made in monthly payments of \$520.88, will add \$6,240.40 in revenue to the Airport Fund annually.

The Airport Board and staff recommended approval of this resolution.

5.5. Articles of Amendment Resolution – Civic Center: Resolution No. 2005-R0494 approving the Articles of Amendment to the Articles of Incorporation of Civic Lubbock, Inc., which includes changing the duration of existence of the corporation to perpetual and the addition of indemnification clauses.

The original Articles of Incorporation, called the Charter, of Civic Lubbock, Inc. were established in February 1956. They stated that the term for which the corporation was to exist is 50 years. They also stated that the number of Directors shall be 15 members and did not include any indemnification clauses for Directors, Officers, or others associated with the Corporation.

Since the term of the Corporation's existence is slated to expire in 2006, per the original Charter, the Civic Lubbock, Inc. Board of Directors is proposing the following changes to the Articles of Incorporation (Charter):

1. Amend Paragraph 4 to read that the duration of existence of the corporation is perpetual.
2. Amend Paragraph 5 to eliminate the reference to a specific number of Board members and replace with language that states that the number of Directors shall be fixed by the bylaws of the Corporation - a housekeeping item.

3. Add Paragraph 7, which states that a Director is not liable to the Corporation for monetary damages for an act or omission in the Director's capacity, except to the extent otherwise provided by a State of Texas statute. This language is consistent with other corporations such as Market Lubbock, Inc.
4. Add Paragraph 8, which states that the Corporation shall indemnify Directors or others associated with the Corporation in litigation or other proceedings and that the Board of Directors shall, through their bylaws, have the power to define the requirements and limitations of indemnification by the Corporation. Revised bylaws, including language defining the requirements and limitations of indemnification, were approved by City Council at the September 21, 2005 Council meeting.

A copy of the Articles of Amendment to the Articles of Incorporation of Civic Lubbock, Inc. is included in City Council backup documents. A copy of the original Charter is also included.

The Civic Lubbock, Inc. Board of Directors adopted the amendment document at their Board meeting on May 17, 2005. The amendment is in accordance with Articles 4.01-4.05 of the Texas Non-Profit Corporation Act, which governs amendments to the articles of incorporation of non-profit corporations. City Council approval of this document is necessary before Civic Lubbock, Inc. files it with the Secretary of State in Austin.

FISCAL IMPACT:

A Director is not liable to Civic Lubbock, Inc. for monetary damages for an act or omission in the Director's capacity. Also, Civic Lubbock, Inc. shall indemnify Directors or others associated with Civic Lubbock, Inc. in litigation or other proceedings and the Board of Directors shall, through their bylaws, have the power to define the requirements and limitations of indemnification by the Corporation.

Staff recommended approval of the Articles of Amendment to the Articles of Incorporation of Civic Lubbock, Inc.

5.6. Purchase Resolution – Fleet Services: Resolution No. 2005-R0495 for Tractor Backhoe with Front End Loader - BID #05-106/MA.

This bid is for the purchase of three tractor backhoes with front-end loaders used by Water Utilities Pipeline Maintenance for construction, relocation, and repair of water and sewer lines.

This bid provides that the contract may be awarded either to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the City. In determining the best value for the City, the City may consider the extent to which the goods or services meet the City's needs.

Associated Supply Company (ASCO) of Lubbock, Texas submitted a \$58,003 bid for a Volvo Model BL-60 that does not meet the required bucket force specification and does not include the specified optional quick coupler

connection. ASCO also submitted a \$66,277 bid for a JCB Model 214-2WD. Water Utilities field tested the JCB 214-2WD on September 28, 2005 and several operators reported that the hydraulics on this machine were weak and the JCB 214-2WD could not perform at the required digging levels even though ASCO did not note any exceptions to the written specifications. In addition, the hydraulic kill switch on the JCB 214-2WD continuously engaged during the field test causing loss of hydraulic power. Scott Tractor & Equipment of Lubbock, Texas submitted a \$69,650 bid for a Case 580SM that meets all specifications and performs at the required digging levels. Staff recommended bid award to Scott Tractor & Equipment of Lubbock, Texas as the bidder who provides goods at the best value for the City of Lubbock.

Twenty-seven local businesses were notified of the Invitation to Bid.

FISCAL IMPACT:

This equipment will be financed using the City's master lease-purchase program.

Staff recommended bid award to Scott Tractor & Equipment of Lubbock, Texas for \$208,950.

5.7. Purchase Resolution – Fleet Services: Resolution No. 2005-R0496 for Portable Tub Grinder - BID #05-107/MA.

This bid recommendation is for one wheel mounted, diesel powered tub grinder for use at the City's landfill. Included in the request for bids are options for an extended warranty, tire grinding pack, rod pullers, and hammer mill tips. There were two bids and one no bid for the products. The unit is for use by landfill staff for grinding tree stumps and other larger waste wood products disposed of at the landfill. The optional tire grinder will allow the landfill to accept whole tires, grind the tires, and dispose of the shredded product in the landfill. The tire grinder option will also allow the City to apply for a permit to use the shredded tire product as Alternate Daily Coverage (ADC). In addition to the reduction of old tires being improperly disposed of in illegal dumping sites and in bar ditches along the streets and highways, the City organization as a whole will save money for tire disposal.

Morbark, Inc. and Rush Equipment Center, Inc., submitted bids. Vermeer Equipment of West Texas, Inc. submitted a No Bid.

FISCAL IMPACT:

This equipment will be financed using the City's master lease-purchase program and paid from the Solid Waste Fund.

Staff recommended awarding the Bid to Rush Equipment Center, Inc. The bid submitted by Rush Equipment, Inc. meets all required specifications. The local Vermeer Equipment of West Texas, Inc. submitted a No Bid. Morbark, Inc. does not meet specifications for items #3 Feed Conveyor - system provided by Morbark is a fixed conveyor and cannot be removed for maintenance; #4 Tub Assembly - a single tub design, does not have a rotating

inner tub assembly; #4.1 Inner Tub - does not provide an inner tub assembly; #4.7 Tub Shield - does not provide a tub shield; and #5.2 Drive - the tub grinder drive is the twin disc clutch system and the company does not offer the fluid coupling nor the torque converter drive system. Morbark does not offer the optional tire-grinding package.

Rush Equipment Inc.

Item #1 Tub Grinder	\$599,249
Option #1 Extended Warranty (Cat Engine only)	5,125
Option #2 Tire Grinding Package	18,500
Option #3 Rod Puller	N/C
Option #4 Tips (hammer tips)	<u>N/C</u>
	\$622,874

5.8. This item was considered following Item 5.3.

5.9. Contract Resolution – Police Department: Resolution No. 2005-R0497 for Police Firing Range Renovations - BID #05-109/MA.

This project involves the installation of a previously purchased building for the Police Department firing range. The contractor will also replace shingle roof material at the firing range with a new metal roof and will install pre-finished metal on an exposed wood surface.

Time for completion of this project is 120 consecutive calendar days and liquidated damages are \$250 per day.

Ninety-four local businesses were notified of the Invitation to Bid.

FISCAL IMPACT:

A total of \$130,000 was appropriated with \$81,477 available in Project Numbers 90388 and 138.9226 - Police Department Academy Firing Range Re-roof and Police Abandoned Motor Vehicles for this purpose.

Staff recommended City Council reject all bids, because the services originally bid are no longer necessary.

5.2 Budget Amendment #2 Ordinance 2nd Reading – Finance: ORDINANCE NO. 2005-O0123—Amendment #2 amending the FY 2005-06 budget respecting the Transit Fund, 2) the Water Fund, and 3) the Wastewater Fund.

1. Accept a \$31,943 grant from the Texas Department of Transportation (TxDOT) to provide mass transportation services to elderly individuals with disabilities, and appropriate the additional \$10,940.

The original grant was \$21,003; however, TxDOT has increased the funding of this grant to \$31,943. The original grant funds were approved with the FY 2005-06 budget.

2. Transfer one full-time position from the Water Reservoir cost center in the Water Fund to the Land Application Site cost center in the Wastewater Fund. No transfer of funding is necessary.

FISCAL IMPACT:

No City matching funds are required.

Staff recommended approval of the second reading of this ordinance.

Jeff Yates, Chief Financial Officer, gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass on second and final reading Ordinance No. 2005-O0123 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.3. Property Offer Resolution – Right-of-Way: Resolution No. 2005-R0498 authorizing the Right-of-Way Department to make an offer to the estate of E. L. Snodgrass, Jr. and Linna Snodgrass, Marilyn Maner Bartee, Damon Hill, Boy Scouts of America-South Plains Chapter, and Marilyn Faye Bartee, Trustee of the Vivian Faye Maner Trust for Marilyn Faye Bartee and Audrey Nan Cloud, Trustee of the Vivian Faye Maner Trust for Audrey Nan Cloud for the eight residential lots in the Phyllis Wheatley Addition to the City of Lubbock, located south of East 34th Street, north of East 37th Street, and east of Martin Luther King, Jr. Boulevard.

The City is in the initial stages of acquiring properties as they become available for economic development in the Phyllis Wheatley Addition. This addition is located south of the City of Lubbock Cemetery, east of Martin Luther King, Jr. Boulevard, north of East 37th Street, and bounded on the east by the City of Lubbock's Waste Water Treatment Plant. This area has been vacant for nearly 20 years and by acquiring these properties, the City can create positive development in this area in the future. This resolution authorizes the Right-of-Way Department to make an offer to the estate of E. L. Snodgrass, Jr. and Linna Snodgrass for Lot 1, Block 4, Lots 1 and 2, Block 8, and Lot 10, Block 12, Marilyn Maner Bartee for Lot 14, Block 8, Damon Hill for Lot 6, Block 1, Boy Scouts of America-South Plains Chapter for Lot 1, Block 14, and Marilyn Faye Bartee, Trustee of the Vivian Faye Maner Trust for Marilyn Faye Bartee and Audrey Nan Cloud, Trustee of the Vivian Faye Maner Trust for Audrey Nan Cloud for Lot 12, Block 7, all in the Phyllis Wheatley Addition. Shaw Wofford appraised these lots at a value of \$500 each, which is the offer to the above named owners for each lot.

FISCAL IMPACT:

Expense to the City of \$4,000 from Account Number 90396.8302.

Staff recommended approval of this resolution.

Ed Bucy, Right-of-Way Agent, gave comments and answered questions from Council.

Motion was made by Council Member Gilbreath, seconded by Council Member Price to pass Resolution No. 2005-R0498 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.8. Contract Resolution – Street Drainage Engineering: Resolution No. 2005-R0499 for West End Place Phase II Paving Improvements - BID #05-108/BM.

This project consists of improving dirt roads with asphalt paving, concrete curb and gutter, and concrete drainage structures. The streets are in a Community Development Block Grant target area. The proposed paving improvements will connect several paved streets, including an arterial street and a collector street, with permanent hard surfaces.

The improvements will eliminate site drainage problems caused by drainage from improved areas outfalling to un-maintained earthen ditches. The paving will also eliminate many continuous dust complaints that occur when the roads are dry and complaints of un-navigable roads when the roads are wet. Both solutions will decrease Street Department maintenance requirements.

Time for completion of this project is 85 working days and liquidated damages are \$50 per day.

Forty-three local businesses were notified of the Invitation to Bid and only one bid was received.

A total of \$345,000 was appropriated from Community Development Block Grant Funds for street paving in West End and Guava Avenue, with \$345,000 available in Project Number 80019.9259 Community Development Block Grant 2004-2005 Street Capital for this purpose.

FISCAL IMPACT:

No impact to general fund; 100% grant funded.

The \$383,257 bid exceeds the appropriated funding, therefore, staff recommended rejecting all bids.

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

Motion was made by Council Member Gilbreath, seconded by Council Member Jones to pass Resolution No. 2005-R0499 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.10. Contract Resolution – Water Engineering: Resolution No. 2005-R0500 for Engineering Services for Major Water Line Replacement & Water Distribution System Improvements - RFQ #05-068/VK.

This project involves engineering services for major water line replacement within the Avenue A and 34th Street corridors and a water distribution system improvement in the downtown Lubbock area.

A Selection Committee was appointed by the Director of Water Utilities to

review and rank responses to the Request for Qualifications (RFQ). The Committee used the basic evaluation method in the City Purchasing and Contract Management Department Evaluation Procedures for Competitive Negotiation for Professional Services.

The evaluation criteria in the RFQ included:

- 1) Project team organization and qualifications, 40%
- 2) Past project experience, 20 %
- 3) Project approach, 30%
- 4) Overall responsiveness to the RFQ, 10%

The following firms submitted responses to the RFQ and are ranked as follows:

- HDR Engineering, Inc. of Austin, TX 450
Subcontractors:
Hugo Reed & Associates of Lubbock, TX
Wilson Surveying of Lubbock, TX
Terra Testing, Inc. of Lubbock, TX
- Enprotec, Hibbs & Todd of Lubbock, TX 424
Subcontractor:
Lockwood, Andrews & Newnam, Inc. of Austin, TX
- Alan Plummer Associates, Inc. of Fort Worth, TX 400
- Parkhill, Smith, and Cooper, Inc. of Lubbock, TX 226
Subcontractor:
Brockett/Davis/Drake, Inc. of Dallas, TX

HDR Engineering gathered a team of engineers and staff that has proven success with several projects of similar scope and size. The professional qualifications of HDR Engineering are extensive and diverse. The Committee agreed that HDR Engineering understood the concept of work and displayed an excellent understanding of the tasks involved to complete this project in a timely and efficient manner.

Thirty-seven local firms were notified of the Request for Qualifications.

FISCAL IMPACT:

A total of \$472,000 was appropriated with \$249,000 available in Project Number 90273 - Major Water Line Replacement for this purpose.

Staff recommended contract award to HDR Engineering, Inc. of Austin, Texas.

Wood Franklin, Interim Chief Engineer for Water Utilities, gave comments and answered questions from Council.

After having discussions with the 34th Street Association and hearing their concerns, Council Member Boren suggested that the engineering group give the businesses along 34th Street ample time of notice of when the main trunk/main transmission line would be laid and allow entrance in and out of the shopping centers. He also suggested that if it is cost-effective, and as the streets are being torn up, the engineering group should take a look at fixing the curb and gutter, which would make this a one-step process of the whole project. This would eliminate coming back months later and tearing the street up again to do the curb work.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Boren to pass Resolution No. 2005-R0500 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.11. Change Order Resolution – City Engineer: Resolution No. 2005-R0501 authorizing the Mayor to execute Change Order No. 2 on the Milwaukee Avenue from 34th Street to 92nd Street Improvement Project.

The contractor on this project is Granite Construction Company and they have agreed to continue remediation of compaction of a utility ditch beyond the limits of their original contract using the original contract unit pricing. City Council had expressed an interest in Granite Construction continuing this remediation work with the Milwaukee Avenue project.

The southern limits of the existing contract are 92nd Street and Milwaukee Avenue. With this change order, the contractor will continue south to 98th Street, then east in 98th Street to Juneau Avenue. The remainder of the remediation from Juneau Avenue east will be done with the 98th Street paving project planned for bid later this year.

Original Contract	\$17,316,932.50
Change Order #1	(\$ 212,840.00)
Change Order #2	<u>\$ 416,200.00</u>
New Contract	\$17,520,292.50

The contractor has requested additional time of 120 calendar days at the end of the contract to complete this utility trench backfill work. The milestone and completion dates of all other work in the original contract will not change with this change order.

FISCAL IMPACT:

The 2005-06 Capital Projects Budget includes \$20,500,000 for this project. With the contracted construction, including this change order and engineering, a total amount of \$19,122,335 will be obligated for this project.

Staff recommended approval of this change order.

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

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Gilbreath to pass Resolution No. 2005-R0501 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.12. Oil and Gas Surface Agreement Resolution – Business Development: Resolution No. 2005-R0502 acknowledging an oil and gas surface agreement between the North and East Lubbock Community Development Corporation and Texland Petroleum, LP regarding residential development at Kings Dominion and approving the Grant Management Agreement between the City of Lubbock and the North and East Lubbock Community Development Corporation.

The City has contracted with the North and East Lubbock Community Development Corporation (CDC) for the past two fiscal years to oversee and promote economic development in North and East Lubbock. This will be the third year of the grant to the CDC. The term of the agreement is one year, beginning October 1, 2005 and ending on September 30, 2006. The agreement was amended to provide that the grant amount is to be paid in quarterly installments, after approval of each payment by City Council. The agreement was amended to provide that the City of Lubbock will fund the North and East Lubbock CDC the amount of \$62,500 for the first fiscal quarter and the remainder of the grant amount will be released to the Corporation upon approval of City Council in the amounts and increments as deemed appropriate at the sole discretion of City Council. The total grant amount shall not exceed \$250,000.

FISCAL IMPACT:

The grant amount is \$250,000 and is included in the FY 2005-06 budget.

Staff recommended approval of this resolution.

Motion was made by Council Member DeLeon, seconded by Council Member Gilbreath to pass Resolution No. 2005-R0502 approving the Grant Management Agreement between the City of Lubbock and North and East Lubbock Community Development Corporation with an amendment to acknowledge that an oil and gas Surface Agreement between North and East Lubbock Community Development Corporation and Texland Petroleum, LP regarding residential development at King's Dominion is being negotiated. Motion carried: 7 Ayes, 0 Nays.

5.13. Gas Reliability Infrastructure Program Resolution – City Manager: Resolution No. 2005-R0503 for suspension of the Gas Reliability Infrastructure Program tariff request of the West Texas Division of Atmos Energy for a period of 45 days, such suspension beginning November 2, 2005.

Pursuant to Texas Utilities Code, Section 103.001, City Council is the regulatory authority that has exclusive original jurisdiction over the rates, operation, and service of a gas utility operating within the City of Lubbock. The 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). The West Texas Division of Atmos Energy last filed a rate case with the City on October 21, 2003.

On September 2, 2005 the West Texas Division of Atmos Energy filed simultaneously with the City of Lubbock 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. In their GRIP tariff filing, Atmos Energy is requesting an increase of \$1.21 per customer per month for Residential Gas Service; \$3.49 for Commercial Gas Service; \$38.82 for Small Industrial Gas Service; \$17.29 for Public Authority Gas Service; and \$15.18 for State Institution Gas Service. These GRIP tariff increases will go into effect 60 days after filing on November 2, 2005, unless further action is taken by the City. City Council, as the regulatory authority, may suspend the implementation of the GRIP tariff increases for a period of up to 45 days.

FISCAL IMPACT:

Staff opines that it would be in the best interest of the residents and businesses of the City of Lubbock to further study and review the GRIP tariff filing of the West Texas Division of Atmos Energy and recommended City Council suspend the implementation of the GRIP tariff request of the West Texas Division of Atmos Energy for a period of 45 days; such suspension beginning November 2, 2005.

Jeff Yates, Chief Financial Officer, gave comments and answered questions from Council.

Motion was made by Council Member Boren, seconded by Council Member DeLeon to pass Resolution No. 2005-R0503 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6. REGULAR AGENDA

6.1. Public Hearing – 10:00 AM – Zoning

6.1.1. Ordinance No. 2005-O0124 - ZONE CASE NO. 3052 (3618 23rd Street) – Ordinance 1st Reading: Hold a public hearing to consider the request of Tommy J. Swann (for Reynolds + Kirk & Dunn, LLC) for a zoning change from R-1 to A-M on Lot 11, Block 1, Eubanks-Fort Addition.

Mayor McDougal opened the public hearing at 10:15 a. m. No one appeared on behalf of Reynolds + Kirk & Dunn, LLC. No one appeared in opposition. Mayor McDougal closed the hearing at 10:16 a. m.

The applicant is requesting A-M zoning in the A-M Policy District.

Adjacent land uses:

- North – residential
- South – medical
- East – residential
- West – residential

The request complies with the Comprehensive Land Use Plan policy and future development will comply with the development standards of the zoning code. The project will have no effect on the thoroughfare system.

The Planning Commission recommended the request.

Staff supports the Planning Commission recommendation.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Price to pass on first reading Ordinance No. 2005-00124 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.1.2. Ordinance No. 2005-00125 - ZONE CASE NO. 1826-E (3402 50th Street) – Ordinance 1st Reading: Hold a public hearing to consider the request of Paul Phillips (for First Hartford Realty) for a zoning change from C-3, R-3, and R-2 to C-3 on proposed Lot 1-A-1, Fry Addition.

Mayor McDougal opened the public hearing at 10:15 a. m. No one appeared on behalf of First Hartford Realty. No one appeared in opposition. Mayor McDougal closed the hearing at 10:16 a. m.

The applicant is “cleaning up” an area adjacent to 50th Street and Indiana Avenue that has a mixture of C-3, R-3, and R-2 zoning, re-platting to relocate an alley, and proposing to build a new commercial structure on the resulting new parcel.

Adjacent land uses:

- North – residential and commercial
- South – commercial
- East – commercial
- West – multifamily

The project is consistent with both the Comprehensive Land Use Plan and zoning policies. The project is consistent with the recent contract report for revitalization of the mid-town area that has not been adopted, but has a number of sound policy suggestions in it. The project should have little or no effect on the thoroughfare system.

The Planning Commission recommended the request with a condition:

- Tied to the proposed site plan for ZC 1826E.

Staff supports the Planning Commission recommendation.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Price to pass on first reading Ordinance No. 2005-00125 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.1.3. Ordinance No. 2005-00126 - ZONE CASE NO. 3049 (south of 98th Street and west of Avenue U) – Ordinance 1st Reading: Hold a public hearing to consider the request of Hugo Reed and Associates, Inc. (for Joe Stettheimer Development) for a zoning change from T to R-1 Specific Use for reduced setbacks, R-1 Specific Use for garden homes, and R-2 Specific use for reduced setbacks on 132.1 acres of unplatted land out of Block E, Section 10.

Mayor McDougal opened the public hearing at 10:15 a. m. No one appeared on behalf of Joe Stettheimer Development. No one appeared in opposition. Mayor McDougal closed the hearing at 10:16 a. m.

The request will accommodate a Specific Use Permit for reduced setback in the R-1 and R-2 areas of the subdivision and a Garden Home section.

Adjacent land uses:

- North – vacant
- South – residential
- East – city limits, partially developed
- West – commercial zoned, vacant

The request is consistent with the current practice of a twenty-foot front setback on standard homes and duplex structures as well as the proposed garden home area. The proposal also is consistent with zoning policy.

The project will have no more impact on the thoroughfare system than anticipated.

The Planning Commission recommended the request with the following conditions:

1. The front minimum setback in the R-1 designated area shall be twenty feet, except that the setback on a cul-de-sac may be a minimum of five feet with the exception of a front entry garage.
2. The side setback for structures on corner parcels in all portions of the subdivision with a minimum twenty-foot front setback shall be a minimum of five feet, with the provision that no structure will intrude on the twenty-five foot vision triangle at any intersection.
3. For the corner lots, the fence adjacent to side streets shall be set back from the side property line five feet.

4. The front minimum setback in the R-2 designated area shall be twenty feet, except that the setback on a cul-de-sac may be a minimum of five feet with the exception of a front entry garage.

Staff supports the Planning Commission recommendation.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Price to pass on first reading Ordinance No. 2005-00126 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.1.4. Ordinance No. 2005-00127 - ZONE CASE NO. 1947-F (5816 34th Street) – Ordinance 1st Reading: Hold a public hearing to consider the request of Hugo Reed and Associates, Inc. (for Ana Xiong) for a zoning change from C-3 with conditions to IHC on 4.4 acres of unplatted land out of Block AK, Section 44.

Mayor McDougal opened the public hearing at 10:15 a. m. No one appeared on behalf of Ana Xiong. No one appeared in opposition. Mayor McDougal closed the hearing at 10:16 a. m.

The parcel is proposed with an Interstate Commercial District designation to accommodate construction of a motel and a restaurant. Initially, with the motel discussion only, staff had suggested AM Specific Use but the restaurant requires heavier zoning. The applicant has submitted an extensive list of strikes from the IHC proposed district.

Adjacent land uses:

- North – multifamily
- East – commercial
- South – commercial, partially vacant
- West – Loop 289

The proposal is consistent with the Comprehensive Plan in that heavier zoning is anticipated along regional roadways, which includes Loop 289.

The request will meet the criteria of the IHC District and is compatible with zoning policy.

The proposed strikes include:

- (2) Agriculture implement and tractor sales and service (totally within a building).
- (3) Ambulance service.
- (4) Automobile body shops, outside storage limited to customer vehicles only.
- (5) Automobile brake shop.
- (6) Automobile glass shop.
- (7) Automobile seat cover and upholstery shop.

- (8) Automobile transmission shop.
- (9) Automobile and recreational vehicles sales and service (may include body and paint shop, as accessory use).
- (11) Boat and boat trailer sales and service.
- (13) Bus station.
- (15) Candy plant.
- (16) Canvas goods shop, tents and awnings (no manufacturing).
- (19) Dance hall (no mixed alcoholic beverage sales permitted).
- (21) Feed store with no grinding, packaging, or mixing of feed permitted.
- (24) Game room, pool, billiard and/or domino parlor.
- (25) Garage, public, repair. (Outside storage of customer automobiles authorized.) All work and separate parts shall be inside a building
- (37) Lumber yard, with no mill. All materials must be in a building.
- (43) Nightclub, bar or lounge.
- (53) Road machinery sales and service (totally within a building).
- (55) Secondhand or used car sales lot, not including wrecking and repairing, but including minor tuning.
- (58) Trailer and truck sales and service.
- (61) Wholesale house, sales office and storage—No cotton storage.

The project should have little impact on the overall thoroughfare system.

The Planning Commission recommended the request with three conditions:

1. The proposed strikes from IHC noted above.
2. That one curb return be allowed to the proposed Tract B.
3. That curb cuts on the proposed Tract A shall be approved by TxDOT.

Since the Planning Commission hearing, the applicant has asked that two more strikes be added to the list above and that City Council consider an amendment to the curb cut condition since the tract is going to be platted as a single tract. Staff conferred with the applicant and proposed the two amendments at the hearing. Staff is in support of the project, subject to the changed conditions.

Randy Henson, Senior Planner, gave comments and answered questions from Council.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Price to pass on first reading Ordinance No. 2005-O0127 by amending the CONDITIONS to read "THAT two curb returns be allowed to the proposed Tract B." and amending #2 of the LIST OF USES THAT SHALL NOT BE PERMITTED by adding:

- ◆ Lodges, fraternity/sorority houses.
- ◆ Coin-operated machines for incidental use.
- ◆ Plumbing services.
- ◆ Refrigeration services.

Motion carried: 7 Ayes, 0 Nays.

6.1.5. Ordinance No. 2005-O0128 - ZONE CASE NO. 3050 (northeast corner of FM 1585 and Quaker Avenue) – Ordinance 1st Reading: Hold a public hearing to consider the request of Mike Thoma (for Excel Land Development) for a zoning change from T to R-1 Specific Use for reduced setback, GO, R-1 Specific Use for town homes, R-2 Specific Use for reduced setback, and C-3 on 160 acres of unplatted land out of Section 22, Block E-2.

Mayor McDougal opened the public hearing at 10:15 a. m. No one appeared on behalf of Excel Land Development. No one appeared in opposition. Mayor McDougal closed the hearing at 10:16 a. m.

The request in the just annexed area, this parcel is the quarter section north and east of the intersection of FM 1585 and Quaker Avenue.

The dominant land use in all directions is vacant.

The request will meet the policies set out in the yet to be approved Comprehensive Land Use Plan for the two square mile area. One issue being discussed and reviewed as a possible change in land use policy appears to be present on this proposal. The strip parcels along Quaker Avenue are requested as Garden Office, which is a buffer district by definition versus true commercial. The reason staff is making a distinction for this design is that the decision to return to a style of "strip commercial" along thoroughfares with a carefully governed number of curb returns has not been presented to the Planning Commission or City Council as a policy change at this point.

The primary unresolved issue before proposing a Comprehensive Land Use Amendment is the potential for adding too much commercial to the inventory of zoned land in various parts of town, a practice that is not good. The amount of property zoned for various uses should approximate the actual need versus a policy of over-zoning for commercial and being trapped into a situation of either vacant or substandard development being the result. Although the owners of land would like for all property to be zoned commercial initially, the reality that residential is the greatest consumer of land eventually wins the battle. If land is zoned commercial prematurely, it is very difficult

to return it to residential values without an owner losing a large amount of money; having bought at commercial rates and sold at residential rates, or foreclosure of the property because of a loan failure. These types of issues are not entirely a public decision making situation, but the public process of zoning should not intentionally create the situation.

The Planning Department is running land use totals for numerous developed portions of the City to get an “average” of needs per square mile before any change to the current 660-foot by 660-foot policy is proposed for change. But, as noted in several earlier zone cases, the basis for not allowing strip commercial after adoption of the 1975 Comprehensive Land Use Plan was to limit access to the thoroughfares between mile intersections, not to restrain trade or not have strip commercial. A second reason for the 660-foot by 660-foot commercial corners was, and is, to allow development of smaller retail shops in conjunction with a major tenant; but the number of major tenants has not been enough to provide one on each corner. As Lubbock continues to increase in size and move outward, the number of corners becomes geometrically greater in number and major establishments serving as anchors are limited. Reverting to commercial “strip zoning” will not create the concentration of retail that is now advocated, but with strict governance of curb cuts the benefit to the public - being able to negotiate the thoroughfare system with the least competition from side entry - will be the same, and no one will have to live next to a thoroughfare. For years the current style of development has been criticized by some, but all of those lots adjacent to thoroughfares have developed and seem to co-exist quite well. This entire dialog is to say that staff is not ready to make the leap of change for strip commercial at this time, and will advocate making the change very carefully if the acreage numbers prove an additional need.

Also as noted in earlier cases, several locations in the southwest part of town have chosen to down zone to duplex or single family from the original ten acre allotment, while several corners have generated a greater amount of need for commercial acres than ten – all of which points to the need to carefully adapt to conditions established by the Comprehensive Plan as market needs are manifested.

The Planning Commission recommended the request with the following conditions:

1. The commercial parcel shall be limited to two curb returns on Quaker Avenue, and two commercial curb returns on FM 1585 (the FM 1585 portions of the plat are subject to approval for all street and curb returns by TxDOT).
2. The two Garden Office tracts adjacent to Quaker Avenue shall be limited to two curb returns each, and provision of a cross-access

easement shall be submitted with the platting of any portion of each tract.

3. The Garden Office tract adjacent to FM 1585 shall be allowed only one curb return if approved by TxDOT.
4. A site plan review of the materials, layout, and design of the commercial tract shall be approved by the Planning Commission prior to a construction permit being issued.

Staff supports the Planning Commission recommendation.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Price to pass on first reading Ordinance No. 2005-00128 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.1.6. Ordinance No. 2005-00129 - ZONE CASE NO. 3051 (12402 Slide Road) – Ordinance 1st Reading: Hold a public hearing to consider the request of Ken Flagg (for Richard Webb) for a zoning change from T to IHC Specific Use for an office warehouse development on Tract B, Sandy Mariah Estates Addition.

Mayor McDougal opened the public hearing at 10:15 a. m. No one appeared on behalf of Richard Webb. No one appeared in opposition. Mayor McDougal closed the hearing at 10:16 a. m.

This parcel is within the recently annexed area. The Planning Department is continuing to work on an overall Comprehensive Plan amendment for the area but Mr. Webb would like to get started on a project that mirrors a project built to the south of the County Road adjacent to Slide Road (approximately 124th Street).

Adjacent land uses:

- North – commercial
- South – commercial
- East – vacant
- West – residential

The request is in concert with the Comprehensive Land Use Plan that is in draft form in the Planning Department, but has yet to be presented and approved by the Planning Commission and City Council.

The project is utilizing a Specific Use Permit to address setback from 124th Street (normally a 43 foot dimension would be required), but in this instance residential exists to the west and the setback will match the residential. In addition, the site plan will establish the number of parking spaces since the exact split between office and storage area for each business space has yet to be determined. The project to the north was constructed in a similar manner and the applicant reports that no parking issues have occurred.

The project should not negatively impact the thoroughfare system. TxDOT will have the final say regarding the number of curb cuts allowed to Slide Road.

The Planning Commission recommended the request as Interstate Commercial with several conditions:

1. Tied to the proposed site plan with the ability for minor adjustments for building locations based on final survey and plat requirements.
2. Tied to the number of parking spaces illustrated on the plan as a minimum.
3. Subject to approval by TxDOT for curb cuts to Slide Road.
4. Tied to the proposed building elevation style presented in the application.

Staff supports the Planning Commission recommendation.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Price to pass on first reading Ordinance No. 2005-00129 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.2. Ordinance No. 2005-00130 - Public Hearing and Ordinance 1st Reading – 10:00 AM – Public Works Engineering: Hold a public hearing to consider assessments for paving improvements on an assessment program for 98th Street from FM 1730 (Slide Road) to Frankford Avenue.

Mayor McDougal opened the public hearing at 10:16 a. m. Ernie Kiesling and Scott MacKenzie appeared on behalf of the paving improvements. No one appeared in opposition. Mayor McDougal closed the hearing at 10:25 a. m.

The proposed paving improvements consist of the following street:

<u>Unit Number</u>	<u>Description</u>
2388.01.1	98 th Street from FM 1730 (Slide Road) to Frankford Avenue

98th Street is a thoroughfare and is to be paved as a capital improvement project. Assessments are proposed against the owners of property abutting 98th Street to obtain their share of the paving costs.

98th Street is an approved capital project and the purpose of this hearing is to provide the affected property owners on 98th Street an opportunity to express their feelings in regard to the assessment of cost for such improvements. After public comment, City Council will determine the portion of the costs that will be assessed to the abutting property owners for the paving improvements for this unit.

Under Texas law a municipality may not assess an amount exceeding the special benefits, or enhancement value, of the paving improvements to the

abutting properties. The enhancement must be established by a qualified person and the municipality must participate in at least 10% of the cost of street and/or alley paving.

The “calculated rate” shown on the assessment rolls is the maximum assessment rate which may be levied, consistent with state law and the City of Lubbock policy, exclusive of the enhancement value. This rate is calculated on the basis of the property owners paying 100% of the curb and gutter cost and 90% of the paving cost.

The “enhancement rate” shown on the rolls is the estimated amount that the value of the abutting property will be increased by the proposed paving improvements.

A qualified appraiser was engaged by the City to determine the enhancement value of the paving improvements for each of the abutting properties included in this project. His report indicates that the enhancement value for the paving of 98th Street is significantly less than the construction cost. These determinations are consistent with historical enhancement studies. A copy of the appraiser’s report is available for inspection.

The alternatives available to the City Council are as follows:

1. Authorize the assessment of the abutting property owners at the amount specified by the appraiser as the enhancement value, or at a rate less than the enhancement value. Historically past City Councils have assessed property abutting thoroughfares at the enhancement rate. Although alleys and minor streets are viewed to primarily benefit the abutting property owners, thoroughfare paving is viewed to benefit the City as a whole.
2. Do not assess any amount for this unit.

Public Works engineering staff recommended alternative 1.

FISCAL IMPACT

Should City Council approve the "enhancement rate" in setting the paving assessments, it would result in property owners’ contribution toward the paving cost of \$218,027.52. However, two of the three properties recommended for assessment are currently unplatted, undeveloped properties. Under current City Paving Policy, owners of unplatted property may elect to delay paving assessments until such time as the property is platted. With this assessment project, \$184,114.92 of the proposed assessments could be delayed until the properties plat.

Unit 2388.01 98th Street from FM 1730 (Slide Road) to Frankford Avenue

Public Works engineering staff recommended that the assessment rate be established at the enhancement rate.

Keith Smith, Civil Engineer, gave comments and answered questions from Council.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Price to pass on first reading Ordinance No. 2005-O0130 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

Council Member Gilbreath recused himself.

- 6.3. This item was considered following Item 6.11.**
- 6.4. This item was considered following Item 6.3.**
- 6.5. This item was considered following Item 6.4.**
- 6.6. This item was considered following Item 6.5.**
- 6.7. This item was considered following Item 6.6.**
- 6.8. This item was considered following Item 6.7.**
- 6.9. This item was considered following Item 6.8.**
- 6.10. Budget Amendment #3 1st Reading – Finance: Ordinance No. 2005-O0131 amendment #3 amending the FY 2005-06 budget respecting the 1) General Fund, 2) Electric Fund, 3) General Capital Projects Fund, 4) Parks Capital Projects Fund, and 5) Water Fund.**

The Operating Budget and Capital Improvement Program (CIP) may be amended throughout the year to provide for the changing funding needs of the City. Budget amendment #3 amends the adopted FY 2005-06 Operating Budget and CIP as follows:

The establishment of a Capital Improvement Project for the environmental assessment of Plant #1 in the General Capital Projects Fund. The \$50,000 cost of the assessment will be shared equally between the City and LP&L, with \$25,000 coming from each fund balance.

The closure of Capital Improvement Project 90007 - Canyon Lakes Dam #4, in the Parks Capital Projects Fund. This project was originally voted on as a bond project in the 1999 bond election. Since that time, the project has required re-engineering several times due to the discovery of historical artifacts. As a result, the new location is undesirable and does not fall in line with the original intent of the project. Staff recommended this project be closed and the funding reallocated to other projects in the Parks Capital Projects Fund. The remaining GO Bond funding in this project is currently \$2,256,914.

In 2002 the City received a \$500,000 matching grant from Texas Parks and Wildlife (TP&W) to construct McAlister Park and associated amenities. Funding for this project was requested through the CIP process, but was not recommended. An additional \$800,000 is needed to complete the lighting, ADA infrastructure, parking lots, roads, and amenities. Funding was never budgeted for the match of this grant. Without the completion of this project, the City would have to pay TP&W \$234,000 for work already reimbursed by the state. The grant from TP&W includes Challenger Little League Field, a Little League for the physically challenged.

Staff is recommending that the remaining GO Bond funding of \$2,256,914 be reallocated as follows:

- To a new CIP project for McAlister Park Improvements \$ 800,000
 - To CIP project 90384 - Challenger Little League Sports 275,000
- Total Reallocation \$1,075,000

The remaining \$1,181,914 is available to be reallocated in the future.

The total appropriation for the new CIP project for McAlister Park Improvements is \$1,300,000, funded through a \$500,000 grant from Texas Parks and Wildlife and \$800,000 from 1999 GO Bonds.

The additional appropriation for CIP project 90384 - Challenger Little League Sports changes the total appropriation to \$648,000, funded through a \$95,000 grant from Texas Parks and Wildlife, an \$86,000 private donation, \$192,000 from already approved City funds, and \$275,000 from 1999 GO Bonds.

To establish a new CIP project for the replacement and installation of backflow devices on city-owned facilities, an appropriation of \$100,000 for this project is proposed from the Water Fund balance. This project is in response to City Council direction to ensure all facilities are in compliance with the ordinance. Facilities Management is assisting with the inspection of all city-owned facilities.

FISCAL IMPACT:

There will be a \$25,000 impact to the General Fund balance and a \$25,000 impact to the Electric Fund balance.

The reallocation of General Obligation Bonds has no impact to the operating budget, and as the bonds have already been issued, no additional debt will be issued for these projects.

There is a \$100,000 impact to the Water Fund balance.

Staff recommended approval of the first reading of this ordinance.

Council Member DeLeon voiced her concerns about where the money from Capital Improvement Project #90007 would be spent, with there being other parks needing funding. Lee Ann Dumbauld, City Manager and Randy Truesdell, Director of Community Services, gave comments and answered questions from Council. Consensus from Council was to be presented with a list of recommended priorities pertaining to park projects by the end of the calendar year or in January 2006.

Council Member Boren asked City Manager to bring back to Council a progress report update on the amphitheater. City Manager Dumbauld stated that the report would be presented at the same time the parks project list of recommended priorities was presented.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Gilbreath to pass on first reading Ordinance No. 2005-00131 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.11. Board Appointments – City Secretary: Consider four appointments to the Appointments Advisory Board, two appointments to the Board of Health, one appointment to the Community Development & Services Board, one appointment to the Planning & Zoning Commission, one appointment to the Urban Design/Historic Preservation Commission, and two appointments to the Urban Renewal Board/Neighborhood Redevelopment Commission.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Gilbreath to appoint Tracy Bacon, Shay Wallace, Sharon Bass, and Steve Siege to the Appointments Advisory Board. Motion carried: 6 Ayes, 0 Nays.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Gilbreath to appoint Donald May and Dana Craig to the Board of Health. Motion carried: 6 Ayes, 0 Nays.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Gilbreath to appoint Angela Taylor to the Community Development & Services Board. Motion carried: 6 Ayes, 0 Nays.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Gilbreath to appoint Jeff Lowrey to the Planning & Zoning Commission. Motion carried: 6 Ayes, 0 Nays.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Gilbreath to appoint Winn Sikes to the Urban Design/Historic Preservation Commission. Motion carried: 7 Ayes, 0 Nays.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Gilbreath to appoint Suzanne Comer and Mary Trevino to the Urban Renewal Board/Neighborhood Redevelopment Commission. Motion carried: 6 Ayes, 0 Nays.

Council Member Boren was away from the dais.

10:45 A. M. CITY COUNCIL RECESSED

10:55 A. M. CITY COUNCIL RECONVENED

6.3. Public Hearing – 10:30 AM – Business Development: Continue a public hearing from the October 13, 2005 City Council meeting to consider the creation of a Public Improvement District for Willow Bend that includes the east half of Section 3, Block D6, Lubbock County, Texas generally bounded by 4th Street, Inler Avenue, 19th Street, and the west line of the east half of Section 3, Block D6, Lubbock County.

Mayor Pro Tem Martin opened the public hearing at 10:55 a. m. No one appeared on behalf of a Public Improvement District for Willow Bend. No

one appeared in opposition. Mayor Pro Tem Martin closed the hearing at 10:59 a. m.

The purpose of this hearing is to present information regarding the advisability of establishing a Public Improvement District (PID) pursuant to Chapter 372 of the Texas Local Government Code to City Council and allow the opportunity for property owners in the proposed District to speak in favor of, or opposition to, the creation of a PID. The Willow Bend PID District is a defined assessment area providing specific types of services for a given area. City Council approved the calling of a Public Hearing at their September 8, 2005 meeting for October 13, 2005 at 10:15 a.m. Due to an error in the general boundaries of the PID in the public hearing notice, this public hearing was continued until October 27, 2005 at 10:30 a.m. A corrected notice of Public Hearing was published in the Lubbock Avalanche Journal on Friday, October 7, 2005 and corrected notices were mailed to the property owners on October 7, 2005 as required by the statute.

Staff recommended the public hearing be held at 10:30 A.M. on October 27, 2005.

Cheryl Brock, Business Research Specialist, gave a presentation that included information on the nature of the services and improvement, the estimated cost of the services and improvements, and the boundaries of the North Overton Public Improvement District.

Mayor McDougal recused himself.

Council Member Boren was away from the dais.

6.4. Public Hearing – 10:40 AM – Business Development: Hold a public hearing to consider an ordinance to levy the assessment for the North Overton Public Improvement District, the boundary of which includes a portion of the area between 4th Street on the north, Avenue Q to the east, Broadway Street on the south, and University Avenue to the west.

Mayor Pro Tem Martin opened the public hearing at 11:00 a. m. No one appeared on behalf of the North Overton Public Improvement District. No one appeared in opposition. Mayor Pro Tem Martin closed the hearing at 11:02 a. m.

The purpose of this hearing is to allow property owners in the North Overton Public Improvement District (District) the opportunity to speak in favor of, or opposition to, the assessment to be levied in the District. The City is required to hold a public hearing annually to levy the assessment. A notice of Public Hearing was published in the Avalanche Journal on Friday, October 14, 2005 and notices were mailed to the property owners on Friday, October 14, 2005 as required by statute.

Staff recommended holding the public hearing for the North Overton Public Improvement District at 10:40 A.M. on October 27, 2005.

Cheryl Brock, Business Research Specialist, and John Knight, Assistant City Attorney, responded to Council Member DeLeon's question on extending the boundaries.

Mayor McDougal recused himself.

Council Member Boren was away from the dais.

6.5. Public Hearing – 10:45 AM – Business Development: Hold a public hearing to consider an ordinance to levy the assessment for the North Point Public Improvement District, the boundary of which includes the area between Erskine and Ursuline Streets, and between North Quaker Avenue to a line east of Frankford Avenue.

Mayor Pro Tem Martin opened the public hearing at 11:02 a. m. No one appeared on behalf of the North Point Public Improvement District. No one appeared in opposition. Mayor Pro Tem Martin closed the hearing at 11:03 a. m.

The purpose of this hearing is to allow property owners in the North Point Public Improvement District (District) the opportunity to speak in favor of, or opposition to, the assessment to be levied in the District. The City is required to hold a public hearing annually to levy the assessment. A notice of Public Hearing was published in the Avalanche Journal on Friday, October 14, 2005 and notices were mailed to the property owners on Friday, October 14, 2005 as required by statute.

Staff recommended holding the public hearing for the North Point Public Improvement District at 10:45 A.M. on October 27, 2005.

John Moore, a concerned citizen, stated to Council that he was present to get more information on the upgrades to the North Point PID. Mayor Pro Tem Martin instructed him to get with Cheryl Brock, Business Research Specialist, or someone in the Community Development Department to assist with answers to his questions.

Mayor McDougal recused himself.

Council Member Boren was away from the dais.

6.6. Willow Bend Public Improvement District Resolution – Business Development: Resolution No. 2005-R0492 making findings and authorizing establishment of the Willow Bend Public Improvement District that includes the east half of Section 3, Block D6, Lubbock County, Texas generally bounded by 4th Street, Inler Avenue, 19th Street, and the west line of the east half of Section 3, Block D6, Lubbock County, Texas.

Property owners in Willow Bend have petitioned to form a Public Improvement District (PID). A PID is a defined assessment area providing specific types of public improvements or maintenance of a given area. One of the statutory requirements for City Council is to hold a Public Hearing regarding the advisability of creating the PID. A notice of Public Hearing was

published in the Avalanche Journal on Friday, September 23, 2005 and notices were mailed to the property owners on September 23, 2005 as required by the statute. Due to an error in the general boundaries in the original public hearing notice, a corrected notice was published in the Avalanche Journal on October 7, 2005 and corrected notices were mailed to property owners on October 7, 2005.

Pursuant to Chapter 372 of the Texas Local Government Code, this resolution illustrates the following findings:

1. The advisability of the services;
2. The nature of the services;
3. The estimated cost of the services;
4. The boundaries of the public improvement district;
5. The method of assessment; and
6. The apportionment of costs between the district and the municipality as a whole.

City Council will need to make these findings in order to create the PID. Included in the backup documents are copies of the petition, a one-page summary of the components of the PID, the proposed boundary description, the map of the district, notice of Public Hearing, and validation of signatures on the petition.

FISCAL IMPACT:

The intent of this PID is to provide additional services to the residents without additional expense paid by those residents.

Staff recommended approval of this resolution.

Motion was made by Council Member Gilbreath, seconded by Council Member DeLeon to pass Resolution No. 2005-R0492 as recommended by staff. Motion carried: 5 Ayes, 0 Nays.

Mayor McDougal recused himself.

Council Member Boren was away from the dais.

- 6.7. North Overton Public Improvement District Ordinance 1st Reading – Business Development: Ordinance No. 2005-O0132 reviewing classifications for the methods of assessing special benefits for the services and improvements of property in the North Overton Public Improvement District; approving, adopting and filing with the City Secretary the Assessment Roll; closing the hearing and levying assessments based on the Revised Service Plan for the cost of certain services and/or improvements to be provided in the District during 2006.**

Each year the City is required to review classifications for the methods of assessing; approve, adopt and file the assessment roll with the City Secretary; and levy the assessment for the North Overton Public Improvement District. This item is preceded by a Public Hearing, which allows property owners in the PID to speak in favor of, or in opposition to, the assessment rate pursuant to Chapter 372 of the Texas Local Government Code. The proposed assessment rate for 2006 is \$0.15 per \$100 of valuation through year 2010, decreasing to \$0.10 per \$100 of valuation in 2011. All property zoned commercial and high-density residential under the City of Lubbock Zoning Ordinance will be assessed for 2006. All single-family and duplex-zoned property will be assessed on a block-by-block basis as public improvements to be maintained by PID funds are completed in that block. Staff is anticipating assessments on single-family and duplex-zoned properties in 2006. City Council is also required to review the Service Plan annually. The Revised Service Plan is included in the backup documentation.

FISCAL IMPACT

The assessments will go into a separate North Overton Public Improvement District Fund. The funds raised by the assessment will be used to provide security service, landscape maintenance and street and pedestrian lighting maintenance on projects in the District, as well as cover a portion of the costs of administering the PID. The total assessment that will be collected for 2005 is \$161,228. The original budget was adopted with revenues totaling \$41,117. The budget will be amended when the actual collection amount is determined by the appraisal district.

Staff recommended approval of the first reading of this ordinance.

Motion was made by Council Member Gilbreath, seconded by Council Member Price to pass on first reading Ordinance No. 2005-O0132 as recommended by staff. Motion carried: 5 Ayes, 0 Nays.

Mayor McDougal recused himself.

Council Member Boren was away from the dais.

6.8. North Point Public Improvement District Ordinance 1st Reading – Business Development: Ordinance No. 2005-O0133 reviewing classifications for the methods of assessing special benefits for the services and improvements of property in the North Point Public Improvement District; approving, adopting and filing with the City Secretary the Assessment Roll; closing the hearing and levying assessments for the cost of certain services and/or improvements to be provided in the District during 2006.

Each year the City is required to review classifications for the methods of assessing; approve, adopt and file the assessment roll with the City Secretary; and levy the assessment for the North Point Public Improvement District. This item is preceded by a Public Hearing, which allows property owners in the PID to speak in favor of, or in opposition to, the assessment rate pursuant to

Chapter 372 of the Texas Local Government Code. The proposed assessment rate for 2006 is \$0.14 per \$100 of valuation through year 2010, decreasing to \$0.04 per \$100 of valuation in 2011. All property will be assessed for 2006.

FISCAL IMPACT:

The assessments will go into a separate North Point Public Improvement District Fund. The funds raised by the assessment in the District will be used to provide maintenance on the common areas on North Slide Road and adjacent right-of-way, creating and maintaining a green space located under a utility easement, and enhancing and maintaining amenities in the entry stations on North Slide Road, as well as cover a portion of the costs of administering the PID. The total assessment that will be collected for 2005 is \$14,038.

Staff recommended approval of the first reading of this ordinance.

Motion was made by Council Member Gilbreath, seconded by Council Member Price to pass on first reading Ordinance No. 2005-O0133 as recommended by staff. Motion carried: 5 Ayes, 0 Nays.

Mayor McDougal recused himself.

Council Member Boren was away from the dais.

6.9. Ordinance 2nd Reading – Right-of-Way: ORDINANCE NO. 2005-0122 —Abandoning and closing a 20-foot alley located in Block 112, Overton Addition to the City of Lubbock located at 1801 7th Street.

This alley portion in the Overton Addition is being closed as part of the McDougal North Overton redevelopment project. The one-block area that includes the alley closure, located between 7th Street, Glenna Goodacre Boulevard, and Avenues R and S, is being replatted into Tract 18, Overton Park Addition. Since McDougal Construction was not the original dedicator of the alley area being closed, they will be charged for the closure. The total area of alley being closed is 5,000 square feet. The adjacent properties are zoned R-2 residential and the Right-of-Way Department has determined a value of \$1 per square foot for the closed alley area. The amount due to the City for this alley closure is \$5,000 (\$1 x 5,000 square feet).

FISCAL IMPACT:

\$5,000 revenue to the City.

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. 2005-O0122 as recommended by staff. Motion carried: 5 Ayes, 0 Nays.

Mayor McDougal recused himself.

Council Member Boren was away from the dais.

**11:05 A. M. CITY COUNCIL WORK SESSION CONVENED
Committee Room 103**

7. WORK SESSION

7.1. This Item was considered following Item 7.2.

7.2. Discussion – Community Development: Discuss priorities for Community Development funding for FY 2006 reallocation and FY 2006-07 Community Development Block Grant, HOME, and Emergency Shelter Grant funding and develop a consensus to be communicated to the Community Development Services Board.

Mayor McDougal stated the reason this item was placed on the agenda was because he and Mayor Pro Tem Martin went to the Community Development Services Board two years ago to discuss Council priorities. One year ago, the Mayor and Mayor Pro Tem discussed those priorities with Council and then went back and visited with the Board again before their reallocation in January 2005 and again before their session in June. Mayor and Mayor Pro Tem were invited to visit with the Board again, so this is why the item is on the agenda.

Mayor Pro Tem Martin explained that Council has asked the Community Development Services Board to take into consideration, when they make their allocations, the priorities Council has had for the past two years, realizing that the amount of Community Development Block Grant funds seem to go down every year. The last two years, Council's priorities have been the Citibus Para Transit Service, street paving in the lower income areas of the City, Lubbock Interfaith Hospitality Network Center renovation, code enforcement, the Central Lubbock Study, Community Health Center of Lubbock, and the North and East Lubbock Community Development Corporation Micro Loan Program. Mayor McDougal added the renovation of the YWCA swimming pool located on Elgin to the priority list. Consensus from Council was to visit with the Board regarding street paving and sidewalks for reallocation in January and discuss the remainder of the priorities for reallocation in June, except the Central Lubbock Study and the Community Health Center of Lubbock, which have already been allocated.

Council Member DeLeon asked if Community Development could make sure there was money set aside for Habitat for Humanity, since they are having a difficult time finding funding for sidewalks. Families will not be able to move into the houses until the houses have paved sidewalks and driveways. Mayor Pro Tem Martin suggested putting this in the reallocation program. Consensus from Council was to add Habitat for Humanity to the reallocation list.

Bill Howerton, Community Development Contract Coordinator, explained the process of reallocation and having to go through end-of-year close out with Accounting to know exactly how much funding is available. Consensus from

Council was to bring back figures on completing the Habitat for Humanity sidewalks/driveways as soon as possible.

City Attorney Anita Burgess answered questions from Council.

11:16 A. M. CITY COUNCIL RECESSED TO EXECUTIVE SESSION

1:07 P. M. CITY COUNCIL RECONVENED IN WORK SESSION

7.1. Presentation and Discussion: Presentation and discussion of traffic, speeding, parking, and code enforcement issues in Tech Terrace and around Monterey High School and other Lubbock neighborhoods.

Gary Boren, Council Member District 3, pointed out that he requested this item be discussed because of phone calls he received regarding issues dealing with parking, traffic, speeding, and codes enforcement in Tech Terrace, around Monterey High School, and other Lubbock neighborhoods. He then introduced Claude Jones, Police Chief, who brought Council up to date on these issues and what has taken place since Codes Department became part of the Police Department. Chief Jones also gave a presentation on topics such as Traffic Control Solutions, Texas Tech Commuter Parking, Parking Fines, Tech Terrace Citations, Monterey and Lubbock High Schools Citations, Tech Terrace and City Wide Codes Sweeps, Codes Enforcement Citations, and the number of Calls Dispatched City Wide and in Tech Terrace. Tools and ideas that are being used across the state that will help Lubbock limit the amount of vehicular disruption that takes place, primarily in the Tech Terrace area and around Monterey, Coronado, and Lubbock High Schools were also discussed. Jones invited those watching on TV and those present to visit www.trafficcalming.org, a website dedicated to assisting with measures or structures that various cities or states have used to try and calm traffic in particular neighborhoods. Regarding parking issues in the Tech Terrace neighborhood, Jones stated that some of the solutions that would be considered would be getting Council to change the ordinance to extend permitted parking. If 60% of the residents on any specific block would want the block changed to permitted parking, for a fee they could apply for it. This means that no one could park on the street in front of his or her house between certain hours of the day unless you had a permit. Mayor Pro Tem Martin suggested working out a partnership with different churches to rent their parking lot and run a bus route from that parking lot to Texas Tech campus.

Regarding the party bus issues, Mayor Pro Tem Martin asked City Manager Lee Ann Dumbauld to put an item on the next agenda to change the ordinance that permits party buses.

Both Claude Jones, Police Chief, and Jere Hart, City Engineer, answered questions from Council.

2:23 P. M. COUNCIL ADJOURNED

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