

CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
December 1, 2005
7:30 A. M.

The City Council of the City of Lubbock, Texas met in regular session on the 1st day of December, 2005, in the City Council Chambers, first floor, City Hall, 1625 13th Street, Lubbock, Texas at 7:30 A. M.

7:31 A.M. CITY COUNCIL CONVENED
City Council Chambers, 1625 13th Street, Lubbock, Texas

Present: 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: Mayor Marc McDougal

1. CITIZEN COMMENTS PERIOD

- 1.1. Mike Garcia appeared before the City Council to speak about improvements of North West Little League and the need for distribution of available funds to go to North and East Lubbock.**

Mike Garcia with the West Texas Organizing Strategy and Vice-President of North West Little League addressed the issue of the lack of public restrooms at the facilities of North West Little League. He stated that he has been affiliated with this complex for approximately thirty-eight years and there have been no public restrooms. Portable restrooms are being used currently and Garcia stated they are not safe, healthy, or adequate. Since he spoke at the last City Council meeting, City staff has presented proposed plans to construct public restrooms. Mr. Garcia asked Council to consider the proposal that staff will present to them. By having public restrooms at North West Little League complex, All-Star games can be held there. For the last twenty to twenty-five years, there has not been an All-Star game held there because of the fields being inadequate.

Nancy Haney, Executive Director of Community Development, informed Council that an item would be placed on the December 15, 2005 City Council agenda. She also stated that after today's briefings, plans would be presented to Council. Ms. Haney then answered questions from Council.

City Manager Lee Ann Dumbauld informed Council that there would be a budget amendment included, so that the project can go forward.

- 1.2. Davis B. Price appeared before the City Council regarding funding and other matters relating to north and northeast neighborhoods, in particular Northwest Little League, Guadalupe Community Center, amphitheater restrooms, and Patterson Park.**

Davis Price, Pastor of Covenant Presbyterian Church and Clergy with West Texas Organizing Strategy, addressed Council regarding funding for the Guadalupe Community Center. "Healthy Families" is an initiative started by the West Texas Organizing Strategies, and is something that is greatly needed in our communities, which leads to the issues of the much-needed restrooms at North West Little League and MacKenzie Park Amphitheater. Guadalupe Community Center would be an ideal place to provide health screenings, including blood pressure and glucose screenings. There could also be nutritional seminars held to benefit the citizens of that community, if the community center was in place. He stated that Patterson Park is essentially a nonfunctioning and uncared-for park. Safe places are needed for families to be able to go. The health of the citizens is a large part of what a community is. The City of Lubbock could offer some help in terms of infrastructure, to provide a place for citizens to have a healthy future and be more productive citizens in a community.

Council Member Price informed Pastor Price that the Patterson Park was donated about two years ago to the Parkway/Cherry Point Neighborhood Association and is a private entity.

Assistant City Manager Quincy White clarified that the City of Lubbock was never involved in Patterson Park. It was a joint venture between a private contractor and the Lubbock Housing Authority. The private owner of the property turned ownership totally over to the Lubbock Housing Authority and at some point it was turned over to the Cherry Point Neighborhood Association. White informed Pastor Price that he and Nancy Haney, Executive Director of Community Development, would meet with Fulton Berry of the Lubbock Housing Authority to get some further details about Patterson Park.

- 1.3. **Gerald Dolter, Interim President of the Board of Lubbock Moonlight Musicals, and other members of the Board appeared before the City Council to speak about restroom facilities and entertainment for the MacKenzie Park Amphitheater project.**

This item was deleted (Citizen was not present).

2. EXECUTIVE SESSION

Mayor Pro Tem Martin stated: "City Council will hold an Executive Session today for the purpose of consulting with the City Staff with respect to pending or contemplated litigation; the purchase, exchange, lease, or value of real property; personnel matters; 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**

- 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 (Codes, 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 (Airport, Fire 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 551.086, 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 551.087 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).**

**8:40 A.M. CITY COUNCIL REGULAR MEETING RECONVENED
City Council Chambers**

Present: 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 Tommy Combs, Deputy City Secretary

Absent: Mayor Marc McDougal

Mayor Pro Tem Martin reconvened the meeting at 8:40 A. M.

3. PROCLAMATIONS AND PRESENTATIONS were considered following Council reconvening at 9:35 a.m.

4. MINTUES

4.1. Approval of Prior Meeting Minutes: Regular City Council Meeting, November 7, 2005

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

5. CONSENT AGENDA

5.1. International Building Code Ordinance 1st Reading – Building Inspection: Ordinance No. 2005-00140 amending Articles I and II of Chapter 6 of the Code of Ordinances of the City of Lubbock, Texas with regard to adoption of the 2003 International Building Code and providing for certain amendments to meet local conditions; providing a penalty; providing a savings clause; and providing for publication.

Since 2001 the City of Lubbock has been under a “mixed” set of model construction codes involving documents of various years and from more than one promulgating organization. In addition to the confusion and conflict this creates for designers, contractors, and enforcing officials, this has also negatively impacted our Insurance Services Organization rating, which ultimately determines hazard insurance rates for Lubbock property owners. Revision of all of our codes to reflect 100% use of the International Code “family” has long been a department goal as the nation moves to this concept as a national standard. In its last regular session, the Texas Legislature mandated adoption of the 2003 International Building Code by all Texas municipalities on or before January 1, 2006. The document has undergone intensive scrutiny by the Building Board of Appeals over the past year, which has resulted in the attached ordinance draft adopting the 2003 International Building Code. Please note that the ordinance will also serve to consolidate general administrative provisions common to all eight technical codes into a single location in Article I, and has preserved our local administrative amendments. This should serve to make the documents much easier to use and understand. The Fire Marshall, by separate ordinance, is also seeking approval of the 2003 International Fire Code, which is a companion document to the Building Code. After January 1, the Building Inspection Department will seek adoption of the 2003 editions of the International Residential, Plumbing, Mechanical, Fuel Gas, Energy Conservation, and Existing Buildings Codes, which will finally result in a single, integrated set of model construction codes for our citizens.

FISCAL IMPACT

As proposed, the document contains provisions for an increase in plan review fees from 15% to 25% of total permit fees, applicable to commercial reviews only; and provides fees for subsequent post-permitting reviews of change orders and other amendments to construction documents.

The Building Board of Appeals and the Building Inspection Department both recommended approval.

Steven O'Neal, Building Official, gave comments and answered questions from Council.

Motion was made by Council Member Gilbreath, seconded by Council Member Boren to pass on first reading Ordinance No. 2005-O0140 with an amendment to exclude the language that refers to registration of subcontractors. Motion carried: 6 Ayes, 0 Nays.

5.2. International Fire Code Ordinance 1st Reading – Fire Department: Ordinance No. 2005-O0141 adopting the 2003 Edition of the International Fire Code providing for certain amendments to such code and amend certain sections of Chapter 11 of the local ordinance in order to meet local conditions; providing a penalty; and providing for publication.

The current adopted Fire Code is the 1991 edition. The most current published Fire Code is the 2003 International Fire Code. This new code is the companion document to the 2003 International Building Code. The provisions of this ordinance will not affect the International Residential Code that is currently adopted. The Fire Department has worked several years through several different code cycles attempting to get a current fire code adopted. Code of Ordinances Chapter 11 was analyzed by the Ordinance Review Committee and all amendments and changes to Chapter 11 and the adoption of the 2003 International Fire Code were recommended to City Council by the Committee. Meetings and reviews by the Building Official and Fire Marshal's Office were held with the Building Code Review Committee and areas of concern were discussed and addressed.

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-O0141 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

5.3. Contract Resolution – Fire Department: Resolution No. 2005-R0553 to repair a fire pumper truck.

This item authorizes original equipment manufacturer trained service technicians to perform exterior bodywork and repairs to all affected internal engine and structural cab components of a fire pumper truck for the Fire Department.

This fire apparatus sustained significant collision damage to the left front corner of the cab and repairs need to be performed by the E-One manufacturer located in Ocala, Florida to maintain 10-year warranty coverage against corrosion and perforation. Repairs by the manufacturer also ensures the structural integrity of this equipment.

FISCAL IMPACT

A total of \$100,000 was appropriated and \$100,000 is available in fund 308.8507.09673 -Property Insurance Deductible. The cost for transport to and from the manufacturer is estimated to be approximately \$7,000. Required repairs and all tests to ensure safe operation is estimated to be approximately \$27,888.

Staff recommended City Council authorize E-One of Ocala, Florida to complete necessary repairs.

Fire Chief Steve Haley gave comments and answered questions from Council.

Motion was made by Council Member Gilbreath, seconded by Council Member Price to pass Resolution No. 2005-R0553 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

5.4. Contract Resolution – Libraries: Resolution No. 2005-R0554 authorizing the Mayor to execute the necessary State Fiscal Year 2006 contract and subsequent amendments with the Texas State Library and Archives Commission to support the Lubbock Public Library Loan Star Libraries Direct Aid Program.

The 79th Texas State Legislature appropriated \$2.7 million in each year of the 2006-2007 biennium for the Loan Star Libraries Program of direct state aid to Texas public libraries. This grant provides direct grants-in-aid to public libraries that are members of the Texas State Library System. Under this program, the Lubbock Public Library will receive \$20,891 in State Fiscal Year 2006.

The purpose of the Loan Star Libraries direct aid program, 13 TAC Sec. 2.160, is to provide incentive for local communities to extend public library service without charge to those Texans residing outside each library's local legal service area, to improve library services statewide, and to improve access to public library resources for all Texans.

Primarily because of geographical factors, the Lubbock Public Library has never instituted a non-resident fee. Also, it has historically provided reciprocal borrowing status to anyone living in the 29-county area of the West Texas Library System. With these provisions already in place, the Lubbock library is eligible to receive full funding under the Direct Aid program.

The Lubbock Public Library will use the Loan Star funds to supplement the local library support for library materials in order to support the grant purpose of equal access for all Texans at the local level. The Library will purchase books on tape and CD, videos, DVDs, and other audio-visual materials for

adults and children. The Library will also fund a part time Librarian I, at ten hours per week.

FISCAL IMPACT

A total of \$20,891 from the Texas State Library and Archives Commission was appropriated for the purchase of library multimedia materials and for a part time Librarian I. Personnel costs are \$9,152 and \$11,739 will be spent on materials.

Staff recommended approval of this resolution.

Motion was made by Council Member Gilbreath, seconded by Council Member Jones to pass Resolution No. 2005-R0554 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

5.5. Contract Resolution – City Secretary: Resolution No. 2005-R0555 for a professional services agreement for Code of Ordinances supplementation services with Franklin Legal Publishing, Inc. of Lubbock, and any associated documents, for Lubbock Code of Ordinances supplementation services.

This contract involves ordinance codification and code supplementation services. The City of Lubbock currently has codification and supplementation services with Municipal Code Corporation of Tallahassee, Florida. Franklin Legal Services of Lubbock, Texas will replace the services that Municipal Code is currently providing.

Franklin Legal is the only Texas-based publishing firm that offers complete ordinance codification, recodification, and code supplementation services. President and Attorney-at-Law R. Kirk Franklin has specialized in the municipal ordinance codification industry for well over a decade and has a team of staff members that have many years of experience in the ordinance codification field.

The Internet version of the Code of Ordinances to be provided by Franklin Legal Services will be easier to use. It provides cross-references and the links to other sections of the code and is more user-friendly than the one staff currently have with Municipal Code.

FISCAL IMPACT

No direct impact on the FY 2005-06 budget. Codification and code supplementation services cost the City less than \$10,000 annually. This cost is distributed annually among various user departments. The cost and process will remain the same with Franklin Legal Publishing, Inc.

Staff recommended approval of this resolution

Kirk Franklin, founder and owner of Franklin Legal Publishing, Inc., gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Jones to pass Resolution No. 2005-R0555 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

5.6. Property Offer Resolution – Right-of-Way: Resolution No. 2005-R0556 authorizing the Right-of-Way Department to make an offer to the estate of C. G. Newsom and Annie A. Newsom for a 1.69 acre tract of land located at the southwest corner of 104th Street and Milwaukee Avenue for a future Southwest Lubbock fire station site located at 10410 Milwaukee Avenue.

The Right-of-Way Department is in the process of acquiring future fire station sites in the newly annexed areas of South and West Lubbock. One site needed is in the vicinity of 98th Street south to 114th Street, adjacent to Milwaukee Avenue. Several owners were contacted and a few responded. An adjacent landowner to the property being placed on the City Council agenda offered to sell a one-acre tract of land for \$1 per square foot for a total of \$43,540. Mrs. Newsom, who owns the land at the southwest corner of 104th Street and Milwaukee Avenue, has agreed to sell this 1.69-acre tract of land for \$00.27 per square foot for a total of \$20,000, which is the offer to her.

FISCAL IMPACT

Cost to the City of \$20,000 from account #000-000-0000-0000 - a Capital Projects account.

Staff recommended approval of this resolution.

Fire Chief Steve Haley gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass Resolution No. 2005-R0556 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

5.7. Sole Source Purchase Resolution – Police Department: Resolution No. 2005-R0557 for police electronic immobilization weapons.

This item involves the sole source purchase of 36 police electronic immobilization weapons for Police Academy Recruit Class 2005B. TASER™ International of Scottsdale, Arizona is the sole source manufacturer of the less-lethal Advanced TASER X26E model and G.T. Distributors of Austin, Texas is their sole authorized distributor in the State of Texas.

The Advanced TASER meets the specialized needs of the Police Department by having unique features that are not found with other TASERS. It is the only less lethal-weapon that 1) can stop an aggressive and focused combat attacker, 2) directly stimulates motor, nerve, and muscle tissue causing incapacitation regardless of mental focus, training, size, or drug induced dementia, 3) comes with an on-board memory chip to download 2000 past firings based on the time and date the unit was fired to protect officers from unfounded charges of misuse of force, 4) has over 99.9% field effectiveness rating, and 5) has same hand motions and muscle memory as standard 9 mm

semi-automatic pistols, reducing the amount of time required to train a police officer.

TASERS have been proven to reduce officer and resistant subject injuries during confrontations that turn physical or which have the propensity to turn physical. The Lubbock Police Department wishes to supply Recruit Class 2005B officers with TASERS to help protect themselves and others during such incidents. All other police officers are currently equipped with the TASER and this acquisition will provide Recruit Class 2005B with an equal level of protection.

Texas Local Government Code Chapter 252.022(7)(A) exempts municipalities from soliciting competitive bids for a procurement of items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies.

FISCAL IMPACT

A total of \$31,385.88 was appropriated with \$31,385.88 available in account 5735.8163 - Equipment Supplies.

Staff recommended contract award to G.T. Distributors, Inc. of Austin, Texas for \$31,385.88.

Police Chief Claude Jones gave comments and answered questions from Council.

Motion was made by Council Member Gilbreath, seconded by Council Member DeLeon to pass Resolution No. 2005-R0557 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

5.8. Contract Resolution – Public Works Engineering: Resolution No. 2005-R0558 for East 48th Street Strip Paving – BID #05-126/BM.

This project involves strip paving East 48th Street from Ute Avenue to Southeast Drive. The paving is to address a request from an abutting property owner caring for a child using a wheelchair. The child must ride the bus to school and the bus will not operate on the unpaved street when it is wet and muddy. A paved surface will be constructed on a caliche base.

Price Construction of Big Spring, Texas is the low bidder at \$120,172 and formally withdrew their bid. They priced their bid based on using a local source for the specified hot mix rock. This contractor can no longer obtain the specified rock from the local source and would need to bring specified rock in by rail from out of state at double the material cost. Consequently, Price Construction is unable to perform the work at the bid price. West Texas Paving of Lubbock, Texas is the second low bidder at \$128,800 with sufficient quantity of specified hot mix rock in stock for this project.

Twenty-four local companies were notified of this Invitation to Bid and one local company responded.

FISCAL IMPACT

A total of \$450,000 was appropriated with \$450,000 available in account 91189 - Strip Paving Unpaved Streets.

Staff recommended contract award to West Texas Paving, Inc. of Lubbock, Texas for \$128,800.

Victor Kilman, Purchasing Manager, gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass Resolution No. 2005-R0558 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

5.9. Homelessness Resolution – Community Development: Resolution No. 2005-R0559 authorizing the Mayor to consider and approve the City of Lubbock’s 10-Year Plan to End Chronic Homelessness.

In March 2004 the City joined with many communities across the nation in committing to develop a plan to address the specific needs related to chronic homelessness. The Mayor asked the City’s Community Development and Services Board (CDSB) to research and prepare a plan to end chronic homelessness in Lubbock within ten years. The Board accepted the challenge from the Mayor and began to plan a strategy for developing the ten-year plan. A Homeless Plan Subcommittee of the CDSB was appointed in July 2004.

The Subcommittee met at least monthly to accomplish this task. They toured several shelters and transitional housing facilities. They visited homeless service providers at their place of business. They met individually with some service providers, and they met as a group with the South Plains Homeless Consortium. They met with people experiencing homelessness and conducted a needs assessment that included visits with 125 adults at a local soup kitchen and 48 responses to a prepared list of questions. The Subcommittee used the Internet to research chronic homelessness and to review solutions being proposed in other cities and communities.

Finally, the Subcommittee prepared a draft plan to end chronic homelessness, which included goals and strategies for meeting them. This plan was presented to the Board for review in August 2005. After revising the goals and strategies based on that review, the final plan was submitted to the Board and adopted on October 12, 2005.

The 10-Year Plan to End Chronic Homelessness is attached for your review.

FISCAL IMPACT

The proposed strategies do not require any additional funds from the City at this point in time. Eventually, there could be a need for increasing Community Development staff hours to implement the strategies. Homeless Service Providers also could use these strategies to justify future requests for Community Development funding.

Community Development staff supports the Community Development and Services Board's recommendation for approval of this resolution and adoption of the plan.

Nancy Haney, Executive Director of Community Development, gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Jones to pass Resolution No. 2005-R0559 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

5.10. Purchase Resolution – Telecommunications Department: Resolution No. 2005-R0560 for voice mail system.

This item involves the purchase of a Call Pilot Voice Mail System through the Department of Information Resources (DIR) IT Commodity Purchasing Program using State Contract #DIR-VPC-03-029. The current Octel System is at its end of life and therefore will soon need to be supported by a manufacturer or maintenance vendor. A Nortel Networks promotional campaign will allow the City to purchase this system off the DIR State Contract at approximately a 50% savings. The new maintenance price for the call pilot voice mail system is \$4,445.64 and is included in the annual maintenance contract for the telephone system that was adopted by City Council on September 28, 2004.

DIR's IT Commodity Purchasing Program is one of several special purchasing programs authorized by Texas statute. Texas Local Government Code Chapter 271.083 authorizes local governments to acquire hardware, software, and other Information Technology products through the DIR program. Pursuant to Texas Government Code Chapter 791.025, DIR has met the competitive bid requirements.

FISCAL IMPACT

A total of \$90,000 was appropriated with \$90,000 available in account 3409.9223 - Communications Equipment.

Staff recommended contract award to SBC of Austin, Texas for \$86,607.73.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass Resolution No. 2005-R0560 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

6. REGULAR AGENDA

- 6.1. This item was considered following Item 6.2.**
- 6.2. This item was considered following Item 6.4.**
- 6.3. This Item was considered following Item 3.3.6.**
- 6.4. This Item was considered following Item 6.3.**
- 6.5. This item was considered following Item 6.1.**
- 6.6. This item was considered following Item 6.5.**

- 6.7. This item was considered following Item 6.6.**
- 6.8. Annual Report Resolution – Business Development: Resolution No. 2005-R0561 authorizing the Mayor to execute the Central Business District Tax Increment Financing Reinvestment Zone Annual Report.**

The City Council created the Central Business District Tax Increment Finance Reinvestment Zone (TIRZ) and appointed the TIRZ Board on December 3, 2001. According to the Texas Tax Increment Finance Act Section 311.016, the City must submit an annual report to the Chief Executive Officer of each taxing unit that levies taxes on property within a tax increment finance zone. Therefore, staff has prepared the fourth annual report of the Central Business District Tax Increment Financing Reinvestment Zone's activities. The report must be provided within 90 days of the end of the City's fiscal year and a copy must also be sent to the Office of the Attorney General and the Comptrollers Office.

The Texas Tax Increment Finance Act specifies that the report must include:

- Amount and source of revenue in the tax increment fund established for the zone
- Amount and purpose of expenditures from the fund
- Amount of principal and interest due on outstanding bonded indebtedness
- Tax increment base and current captured appraised value retained by the zone
- Captured appraised value shared by the City and other taxing units
- Total amount of tax increments received
- Any additional information necessary to demonstrate compliance with the tax increment financing plan adopted by the City.

The Central Business District Tax Increment Financing Reinvestment Zone Board of Directors approved the report at their November 15, 2005 meeting and submits it to the City Council for approval.

FISCAL IMPACT

Staff time is required to coordinate, but all expenses are paid out of the Central Business District Tax Increment Financing Reinvestment Zone Fund.

Staff recommended that City Council approve distribution of the 2005 Central Business District Tax Increment Financing Reinvestment Zone Annual Report as recommended by the Central Business District Tax Increment Financing Reinvestment Zone Board of Directors on November 15, 2005.

Merle Blosser, Chairman of the Central Business District Tax Increment Financing Reinvestment Zone gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass Resolution No. 2005-R0561 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

6.9. Annual Report Resolution – Business Development: Resolution No. 2005-R0562 authorizing the Mayor Pro Tem to execute the North Overton Tax Increment Financing Reinvestment Zone Annual Report.

The City Council created the North Overton Tax Increment Finance Reinvestment Zone (TIRZ) and appointed the TIRZ Board on March 14, 2002. According to the Texas Tax Increment Finance Act Section 311.016, the city must submit an annual report to the chief executive officer of each taxing unit that levies taxes on property within a tax increment finance zone. Therefore, staff has prepared the third annual report of the North Overton Tax Increment Financing Reinvestment Zone's activities. The report must be provided within 90 days of the end of the city's fiscal year and a copy must also be sent to the Office of the Attorney General and the Comptrollers Office.

The Texas Tax Increment Finance Act specifies that the report must include:

- Amount and source of revenue in the tax increment fund established for the zone
- Amount and purpose of expenditures from the fund
- Amount of principal and interest due on outstanding bonded indebtedness
- Tax increment base and current captured appraised value retained by the zone
- Captured appraised value shared by the City and other taxing units
- Total amount of tax increments received
- Any additional information necessary to demonstrate compliance with the tax increment financing plan adopted by the City.

The North Overton Tax Increment Financing Reinvestment Zone Board of Directors approved the report at their November 16, 2005 meeting and submits it to the City Council for approval.

FISCAL IMPACT

Staff time is required to coordinate, but all expenses are paid out of the North Overton Tax Increment Financing Reinvestment Zone Fund.

Staff recommended that the City Council approve distribution of the 2005 North Overton Tax Increment Financing Reinvestment Zone Annual Report as recommended by the North Overton Tax Increment Financing Reinvestment Zone Board of Directors on November 16, 2005.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass Resolution No. 2005-R0562 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

- 6.10. This item was considered following Item 6.12.**
- 6.11. Budget Amendment #6 Ordinance 1st Reading – Finance: Ordinance No. 2005-O0142 amendment #6 amending the FY 2005-06 budget respecting the 1) General Fund and 2) Grant Fund.**

1. Accept and appropriate a \$207,900 grant from the United States Office for Domestic Preparedness to procure computer front-line equipment and supplies for the Fire Department. The grant requires a 30% local match. Matching funds in the amount of \$62,370 are needed from the General Fund balance.
2. Add \$25,000 from the General Fund balance to purchase land for a future Fire Station. Funding will be added to the Fire Division budget in the General Fund for this purchase.
3. Add \$60,000 from the General Fund balance to purchase Automated External Defibrillator (AED) replacements. This will fund 20 new units; one unit has already failed to operate and all units are the same age. Funding will be added to the Fire Division budget in the General Fund for this purchase.

Staff recommended approval.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass on first reading Ordinance No. 2005-O0143 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

- 6.12. Board Appointment – City Secretary: Consider one appointment to the Museum & Art Standing Sub-Committee.**

Motion was made by Council Member Jones, seconded by Council Member Gilbreath to appoint Dr. John Buessler to the Museum & Arts Standing Sub-Committee. Motion carried: 6 Ayes, 0 Nays.

- 6.10. Contract Resolution – Water Utilities: Resolution No. 2005-R0563 authorizing the Mayor to execute an amendment to the agreement with Black & Veatch Corporation for the design and preparation of contract documents for the construction of improvements to the Southeast Water Recycling Plant.**

This resolution amends the existing agreement with Black & Veatch so they may design improvements to the Southeast Water Recycling Plant (SEWRP). It authorizes Black & Veatch to proceed with the design phase of the improvements that will upgrade the effluent to a quality suitable for stream discharge. The design parameters for the plant effluent are 5 mg/l BOD₅, 5 mg/l TSS, 8 mg/l Total N, and 1 mg/l Total P at an average annual flow of 31.5 million gallons per day (mgd).

Plants 3 and 4 will be upgraded to treat the 31.5 mgd to the design effluent parameters. Plant 2 will be abandoned or put to other uses ancillary to the treatment process. A permit amendment will be sought to allow discharge of the full flow as near as possible to the existing wastewater plant.

Value Engineering (VE) is one component of the design contract. VE is an evaluation of the design by an independent group of experts to identify potential cost savings in construction, operation, maintenance, chemical use, energy use, and other areas. Typically, VE identifies savings from 1 to 15 percent of the construction cost.

FISCAL IMPACT

The cost for the design phase is \$6,200,000. This does not include the estimated VE evaluation fee of \$100,000 nor \$50,000 allocated in the contract for permit assistance. The source of these funds is capital project 8505 - Water Resources Master Plan. There is \$6,800,000 available in this CIP.

On November 8, 2005 the Lubbock Water Advisory Commission recommended that the City Council approve the agreement with Black & Veatch for the design of the SEWRP improvements.

Staff recommended approval of the resolution.

Ches Carthel, Chief Engineer of Water Utilities, gave comments and answered questions from Council.

After further discussion, motion made by Council Member Gilbreath and seconded by Council Member Price was withdrawn so that this item could be voted on later in the session.

This item was considered again after reconvening at 1:00 p.m.

Motion was made by Council Member Gilbreath, seconded by Council Member Price to pass Resolution No. 2005-R0563 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

9:25 A.M. CITY COUNCIL RECESSED

9:35 A.M. CITY COUNCIL RECONVENED

3. PROCLAMATIONS AND PRESENTATIONS

3.1. Invocation by Bishop Leonard Chatham, Full Armor Ministries.

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. Board Appointment Recognition:

6.7.1. Market Lubbock, Inc. & Lubbock Economic Development Authority – Van May

3.3.2. Housing Finance Corporation Board of Directors – Andy Cates (unable to attend), Carolyn Crowson

3.3.3. Reese Redevelopment Authority Board of Directors – Dr. Dean Smith, Suzanne Arkle Wilson

3.3.4. Structural Standards Commission – Mike Arnold, Michael Martin, L. V. Andrews (unable to attend), and John Heagy (unable to attend)

3.3.5. Urban Renewal Board/Neighborhood Redevelopment – Pepe Lucio

3.3.6. Water Board of Appeals – Bo Jackson

9:45 A.M. CITY COUNCIL RECESSED

9:56 A.M. CITY COUNCIL RECONVENED

- 6.3. Willow Bend Public Improvement District Ordinance 1st Reading – Business Development: Ordinance No. 2005-00143 establishing classifications for apportionment of costs and the methods of assessing special benefits for the services to property in the Willow Bend 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 to be provided in the District during 2006.**

This ordinance to levy assessments is the last activity in the Public Improvement District establishment process. This item is preceded by a public hearing, which allows property owners in the District 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 2012, decreasing to \$0.14 per \$100 of valuation in 2013.

FISCAL IMPACT

The funds raised by the assessment will be used to maintain the common areas on each side of the railroad, maintain the entry stations into the development, maintain the area around the playa lake, and the neighborhood park.

Staff recommended approval.

Motion was made by Council Member Gilbreath, seconded by Council Member Jones to pass on first reading Ordinance No. 2005-O0144 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

- 6.4. Budget Amendment #5 Ordinance 2nd Reading – Finance: ORDINANCE NO. 2005-00136—Amendment #5 amending the FY 2005-06 budget respecting the 1) Information Technology Fund, 2) General Fund, and 3) Grant Funds (Councilwoman Jones absent).**

1. Add \$90,000 to Information Technology Fund to upgrade voice mail system. The \$90,000 will be funded from the Information Technology Fund balance. An AS400 Server is to be purchased through the Master Lease Program at a cost of \$250,000.
2. Building Inspection Software is to be purchased through the General Fund Master Lease Program at a cost of \$115,000.

3. Accept and appropriate a \$20,891 grant from the Texas State Library and Archives Commission to support the Lubbock Public Library “Loan Star Libraries” Direct Aid Program. The program will purchase library multimedia materials and pay for a part-time Librarian. No City matching funds are required.
4. Accept and appropriate a \$15,000 grant from the American Society for the Prevention of Cruelty to Animals (ASPCA). The grant will fund staff training, equipment, and overtime associated with the Hurricane Katrina disaster. No City matching funds are required.
5. Accept and appropriate a \$784,451 grant from the U.S. Department of Homeland Security, Office of Domestic Preparedness for Homeland Security with the Texas Governor’s Division of Emergency Management as the State Administrative Agency. The grant is made up of three parts: Homeland Security, Law Enforcement Terrorism Prevention, and Metropolitan Medical Response System. The \$408,363 Homeland Security Grant Program will purchase equipment that will enhance the City’s response capability for all hazards. The \$148,496 Law Enforcement Terrorism Prevention Program will purchase equipment to enhance local law enforcement agencies’ ability to mitigate and respond to potential acts of terrorism. The \$227,592 Metropolitan Medical Response System program will further enhance and maintain integrated, systematic preparedness for local response to weapons of mass destruction high-casualty events. No matching City funds are required.

Staff recommended approval of the second and final reading of this ordinance.

Motion was made by Council Member Gilbreath, seconded by Council Member Price to pass on second and final reading Ordinance No. 2005-00136 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

6.2. Public Hearing – 10:00 AM – Business Development: Hold a public hearing to consider an ordinance to levy the assessment for 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.

Mayor Pro Tem Martin opened the public hearing at 10:00 a. m. No one appeared on behalf of Willow Bend Public Improvement District. No one appeared in opposition. Mayor Pro Tem Martin closed the hearing at 10:01 a. m.

The purpose of this hearing is to allow the opportunity for property owners in the proposed District to speak in favor of or opposition to the assessment to be levied in the Willow Bend PID. The Willow Bend PID is a defined assessment area providing maintenance of a given area. The Council approved the calling of a Public Hearing at their November 7, 2005 meeting. A notice of Public Hearing was published in the Lubbock Avalanche Journal on Friday,

November 18, 2005 and notices were mailed to the property owners on November 18, 2005 as required by statute.

Staff recommended the public hearing be held at 10:00 A.M. on December 1, 2005.

6.1. Public Hearing – 10:00 AM – Zoning: Hold a public hearing regarding an ordinance to amend the requirements for group/personal care homes in the single and duplex-zoned areas of Lubbock, and to consider an ordinance for amendments for construction and life/safety issues for all group/personal homes in Lubbock.

Mayor Pro Tem opened the public hearing at 10:09. a.m. Nancy Ross appeared on behalf of the ordinance. Teresa Scoggins, Betty Wheeler, and Bill McGlaun appeared in opposition. Mayor Pro Tem Martin closed the hearing at 11:04 a. m.

Nora Copf of 5504 28th Street gave comments to Council on the importance of personal care homes. She shared her testimony of the benefits provided her parents through personal care homes and asked Council to put their hearts into their decisions when amending the ordinance.

During the last year staff has worked with several state and local agencies, and has also reviewed a recently enacted legislative act to incorporate both changes deemed desirable by a number of neighborhood groups and those required by recent legislation and regulation. Linda Chamales has developed a “side by side” comparison, which is part of the back up, of the proposed ordinance versus the current ordinance discussed during a public hearing before the Planning Commission. The Commission recommended against change of some of the proposals as being too prohibitive, and supports several that are mandated by State law or a litigated case. The Legal Department will have to answer the issue created by the Code of Ordinances that requires a measure to be approved by the Planning Commission before it can be considered for change by City Council.

A local representative of a coalition of Personal Care Homes also introduced new terminology that is enforced by the State, but is not addressed in the proposed ordinance. Some of these issues may be discussed and decided in the hearing and subsequent consideration of an ordinance. In addition, the definitions established by the Fire Code, State Codes, and the Building Code differ for different types of establishments and an attempt has been made to reconcile those differences.

The primary local issues that neighborhoods have criticized are the introduction of a “business” into neighborhoods, parking, and other single-family rules. The problem with most of the complaints at the public hearings before the Zoning Board of Adjustment (ZBA) is that the Federal Legislature, during the construction of the Federal Fair Housing Act, indicated that the ability of a disabled person to live in the least restrictive environment is a right

of handicapped Americans in spite of the fact that this might require a business in the neighborhood.

Currently, under state law, a person may establish a personal care home as outlined by the Federal Fair Housing Act and the Americans with Disabilities Act, governed by a barrage of state guidelines, for six or fewer persons, in a single family district. The original Lubbock Ordinance 9489 allowed four or fewer clients to be in a residential neighborhood with no ZBA hearing. Five or more clients required a Zoning Board of Adjustment decision to approve the case and voids the violation of the two or more unrelated persons in one home. That ordinance was litigated in Federal Court, appealed to the Fifth Circuit Court in New Orleans, and the City prevailed. As noted, recent legislation increased the number not requiring a ZBA hearing to six as included in the proposed ordinance. The distance between group homes has been increased to 1000 feet in accordance with recent case law, and a concurrent increase in the notice area is also included.

Staff supports the Planning and Zoning Commission recommendation to amend the new numbers required by state law and by recent litigation. Other parts are not supported for change by the staff because of the complexity of state law. The Lubbock ordinance should address basics and allow the State of Texas.

Linda Chamales, Assistant City Attorney, assisted Randy Henson, Senior Planner, with giving a presentation to Council on details of the amended ordinance for personal care homes. Then, they answered questions from Council. Anita Burgess, City Attorney, and Marlin Hamilton, Fire Captain, also gave comments and answered questions from Council.

After discussion of ideas on changes to the proposed ordinance, Mayor Pro Tem Martin stated that Mayor McDougal would like to be present during the time action is taken on this item. Consensus was to continue this item until the first City Council meeting in January 2006. This would also give time for Assistant City Attorney Linda Chamales to do necessary research to see if it could be required that the caregiver live on the premises of a personal care home. Mayor Pro Tem Martin requested staff to prepare language to change the code, so instead of a Zoning Board of Adjustment (ZBA) hearing, in other words a conditional use permit, to a Planning and Zoning specific use zoning issue. This means that cases that are filed (facilities with six or more clients) as zone cases would go to Planning and Zoning and then to Council to make a final determination.

6.5. ZONE CASE NO. 3053 (221 Redbud Avenue) – Ordinance 2nd Reading: ORDINANCE NO. 2005-00137—Consider the request of Jeffrey F. Lowry (for McKay Properties One LLC) for a zoning change from R-1 to GO on Lot 13, Mackenzie Terrace Addition (Mayor McDougal recused, Councilwoman Jones absent).

A structure located at the corner of Parkway Drive and Redbud Avenue has been used for a number of activities, but the land remains zoned R-1. A

company that runs a large rental management office in the Redbud area is using the building as an office and has been asked to zone the parcel properly. The Garden Office designation will suit their purpose very well.

Adjacent land uses:

- North – residential
- South – Parkway Drive
- East – commercial
- West – residentially zoned

The Garden Office request is consistent with the Comprehensive Land Use Plan Policy for using Garden Office as a buffer to adjacent residential. As noted, the building has been used for a number of commercial type uses for years. Just recently the discrepancy for zoning was discovered when a sign permit was requested.

The project will have no effect on the thoroughfare system.

The Planning Commission recommended the request with one condition:

- If the building should cease being a rental office, both the zoning of the land and the use of the home shall revert to single family (R-1).

Staff supports the Planning Commission recommendation.

Motion was made by Council Member Price, seconded by Council Member Boren to pass on second and final reading Ordinance No. 2005-0137 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

6.6. ZONE CASE NO. 2585-D (southeast corner of Mac Davis Lane and University Avenue) – Ordinance 2nd Reading: ORDINANCE NO. 2005-O0138—Consider the request of Parkhill, Smith & Cooper, Inc. (Chad Davis) (for SCM Property Company, LLC (Wes Butero)) for a zoning change from R-3, C-3, and C-4 to CB-2 Specific Use on Tract 2A, Overton Park Addition (Mayor McDougal recused, Councilwoman Jones absent).

The applicant is proposing development of two buildings as out parcels to the Centre, north of the new City Bank.

Adjacent land use:

- North – commercial
- South – commercial
- East – commercial
- West – Texas Tech University

The applicant is requesting a Specific Use Permit with CB-2 as a base district. This is the district used during the previous zone cases for the commercial redevelopment of the Overton North area.

The request is consistent with the Comprehensive Land Use Plan adopted for the project area and, with the conditions noted below, consistent with zoning

policy with regard to the “new urbanism” concept being used during this process. The south parcel, the Chili’s Restaurant, is the primary target for approval during this discussion. The north building use is yet to be determined. Proposed conditions of this zone case will allow the process to proceed and provide adequate review of that portion at the appropriate time.

The project should have no appreciable impact on the thoroughfare system taking into account the redevelopment of the entire area.

The Planning Commission recommended the request with the following four conditions:

- Tied to the proposed site plan and building elevations for the Chili’s project.
- The Chili’s store shall comply with the sign code, eventually in combination with the yet to be determined use.
- The structure noted as “future building” shall have a site plan and building elevations noting proposed materials in detail by the Planning Commission prior to issuance of a construction permit.
- The parcel shall have a cross access and parking agreement filed of record on the entire tract, whether platted into one or two lots, and the proposed parking on the current site plan plus the spaces noted on the future site plan review shall constitute the required parking for the entire development.

Staff supports the Planning Commission recommendation.

Motion was made by Council Member Price, seconded by Council Member Boren to pass on second and final reading Ordinance No. 2005-00138 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

6.7. ZONE CASE NO. 1154-C (2520 Parkway Drive) – Ordinance 2nd Reading: ORDINANCE NO. 2005-O0139—Consider the request of Gordon Harris (for Louise M. Coleman) for a zoning change from C-2 to C-4 limited to a drive thru restaurant and all unconditionally permitted C-2 uses on 0.3829 acres of unplatted land out of Block A, Section 2 (Mayor McDougal recused, Councilwoman Jones absent).

Mr. Harris would like to install a small drive thru food establishment specializing in chicken. A drive thru is a C-4 use and the area is currently zoned C-2. As the application is structured, only the drive thru would be allowed in addition to the existing C-2 uses.

Adjacent land uses:

- North – Parkway Drive
- South – vacant
- East – commercial
- West – commercial

The request is consistent with the Comprehensive Land Use Policy for C-4 being adjacent to regional thoroughfares since Parkway Drive is part of U.S. 84 East. Mr. Harris wants to provide an additional food service establishment to this part of the community but does not want to have the responsibility for inside service and the gathering place it would represent being so close to Alderson Junior High. The building would meet C-4 development standards.

The project has access to the marginal access street along Parkway Drive west of Zenith Avenue and would not create any disruption of the traffic on Parkway Drive.

The Planning Commission recommended the request subject to one condition:

- That the permitted uses be limited C-4 for a food drive thru restaurant and all permitted C-2 uses.

Staff supports the Planning Commission recommendation.

Motion was made by Council Member Price, seconded by Council Member Boren to pass on second and final reading Ordinance No. 2005-O0139 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

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

1:00 P.M. CITY COUNCIL RECONVENED

6.10. Contract Resolution – Water Utilities: Resolution No. 2005-R0563 authorizing the Mayor to execute an amendment to the agreement with Black & Veatch Corporation for the design and preparation of contract documents for the construction of improvements to the Southeast Water Recycling Plant.

This resolution amends the existing agreement with Black & Veatch so they may design improvements to the Southeast Water Recycling Plant (SEWRP). It authorizes Black & Veatch to proceed with the design phase of the improvements that will upgrade the effluent to a quality suitable for stream discharge. The design parameters for the plant effluent are 5 mg/l BOD₅, 5 mg/l TSS, 8 mg/l Total N, and 1 mg/l Total P at an average annual flow of 31.5 million gallons per day (mgd).

Plants 3 and 4 will be upgraded to treat the 31.5 mgd to the design effluent parameters. Plant 2 will be abandoned or put to other uses ancillary to the treatment process. A permit amendment will be sought to allow discharge of the full flow as near as possible to the existing wastewater plant.

Value Engineering (VE) is one component of the design contract. VE is an evaluation of the design by an independent group of experts to identify potential cost savings in construction, operation, maintenance, chemical use, energy use, and other areas. Typically, VE identifies savings from 1 to 15 percent of the construction cost.

FISCAL IMPACT

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The cost for the design phase is \$6,200,000. This does not include the estimated VE evaluation fee of \$100,000 nor \$50,000 allocated in the contract for permit assistance. The source of these funds is capital project 8505 - Water Resources Master Plan. There is \$6,800,000 available in this CIP.

On November 8, 2005 the Lubbock Water Advisory Commission recommended that the City Council approve the agreement with Black & Veatch for the design of the SEWRP improvements.

Staff recommended approval of the resolution.

Ches Carthel, Chief Engineer of Water Utilities, gave comments and answered questions from Council.

After further discussion, motion made by Council Member Gilbreath and seconded by Council Member Price was withdrawn so that this item could be voted on later in the session.

This item was considered again after reconvening at 1:00 p.m.

Motion was made by Council Member Gilbreath, seconded by Council Member Price to pass Resolution No. 2005-R0563 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

1:01 P. M. COUNCIL ADJOURNED

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