

**CITY OF LUBBOCK**  
**REGULAR CITY COUNCIL MEETING**  
**January 12, 2006**  
**7:30 A. M.**

The City Council of the City of Lubbock, Texas met in regular session on the 12th day of January, 2006, in the City Council Chambers, first floor, City Hall, 1625 13th Street, Lubbock, Texas at 7:30 A. M.

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

**Present:** Mayor 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 COMMENTS PERIOD**

There was one citizen who expressed comments to the Council. Vance Scoggins, 3407 37th Street, addressed Council to share his concerns about Atmos Energy and the rate increase. He stated to Council that the citizens of Lubbock should fire Atmos Energy.

**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."**

**7:35 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, to discuss pending or contemplated litigation or settlement agreement, and hold a consultation with attorney (Electric Utility, Police, Water Utilities).**
- 2.2. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.072, to deliberate the purchase, exchange, lease, or value of real property (Water Utilities).**

- 2.3. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.074(a)(1), to discuss personnel matters (City Attorney, City Manager, City Secretary) and take appropriate action.
- 2.4. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.086, on the following competitive matters (Electric Utilities):
  - 2.4.1. to deliberate, vote and take final action on electric rates of Lubbock Power and Light;
  - 2.4.2. to discuss, vote and take final action on a competitive matter regarding operation, financial and capital statements and budgets, revenue and expense projections, strategic and business plans and studies of Lubbock Power and Light;
  - 2.4.3. to discuss and deliberate a competitive matter regarding the strategies, goals, funding and strategic purpose of the City of Lubbock's relationship with and membership in the West Texas Municipal Power Agency.
- 2.5. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.087 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).

**9:37 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 9:37 A. M.

### **3. PROCLAMATIONS AND PRESENTATIONS**

- 3.1. Invocation by Steve Doles, Pray Lubbock.
- 3.2. Pledge of Allegiance to the Flags.

Pledge of Allegiance was given in unison by those in the City Council Chambers to both the United States flag and the Texas flag.
- 3.3. Presentation of an American flag to the Lubbock City Council and a performance of "Welcome Home, Soldier" by Russ Murphy.

Major Reginald Jackson of the 2nd Battalion 142nd Infantry of the Texas Army National Guard joined Mayor McDougal and presented City Council with a framed American flag, while he read the citation that accompanied the flag. Russ Murphy gave comments and then performed “Welcome Home, Soldier” to those in Council Chambers. Murphy presented Council Members with a CD copy of the song.

**3.4. Presentation of a proclamation declaring January 15, 2006 as a Day for Prayer and Fasting in the City of Lubbock.**

Steve Doles of Pray Lubbock, along with Lubbock County Commissioners Bill McCay, Precinct 1; James Kitten, Precinct 2; and, Isidro Gutierrez, Precinct 3, joined the Mayor as he read a proclamation to declare January 15, 2006 as a Day for Prayer and Fasting in the City of Lubbock. Doles then offered a special prayer and Commissioner Kitten gave comments.

**4. MINUTES This item was considered following Item 5.4.**

**5. CONSENT AGENDA (Items 5.1-5.2, 5.5-5.17, 5.19-5.21)**

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Price to approve Items 5.1-5.2, 5.5-5.17, and 5.19-5.21 on consent agenda as recommended by staff. Motion carried: 7 Yeas, 0 Nays.

**5.1. Easements Ordinance 2<sup>nd</sup> Reading: ORDINANCE NO. 2005-00109 —Abandoning and closing two 20-foot alleys, a portion of 56<sup>th</sup> Street, a 100-foot wide drainage easement, four LP&L transformer pad easements, and one 4-foot underground utility easement located in, or adjacent to, Lots 109, 110, 111, 112, 113, 114, 115, Buster Long Addition to the City of Lubbock located at 5602 Slide Road.**

The area between Slide Road and Aberdeen Avenue - south of 54<sup>th</sup> Street and north of 57<sup>th</sup> Street - is being replatted from seven lots to two. In the area being closed is the portion of 56<sup>th</sup> Street from Slide Road to Aberdeen Avenue, the 20-foot north-south alley between 54<sup>th</sup> Street and 56<sup>th</sup> Street, the 20-foot alley south of 56<sup>th</sup> Street and adjacent to Lot 112, the 100-foot wide drainage easement between Slide Road and Aberdeen Avenue, four LP&L transformer pad easements, and one 4-foot LP&L utility easement. A drainage easement will be dedicated in the replat to replace the drainage easement being closed along with any other required easements. The requestor of these closures is Gerald Long for Buslon, Inc., the original dedicator of these street, alley, and easement areas being closed. There will not be a charge for them since Buslon, Inc. was the original dedicator. This ordinance was read for the first time at the September 8, 2005 City Council meeting as a routine consent agenda item.

Staff recommended approval.

**5.2. Drainage Easement Ordinance 2<sup>nd</sup> Reading – Right-of-Way: ORDINANCE NO. 2005-00144—Abandoning and closing a 60-foot wide drainage easement located in Section 25, Block E-2, Lubbock County, located at 5611 104<sup>th</sup> Street.**

This ordinance abandons and closes a 60-foot wide by 300-foot long drainage easement, just east of Elkhart Avenue in what will be 104<sup>th</sup> Street, that was dedicated with the West Lake Estates plat. The area east of this addition is being platted and a street dedicated where this proposed abandoned drainage easement is located and the easement is no longer needed.

Staff recommended approval.

**5.3. This item was moved from consent agenda and considered following Item 5.21.**

**5.4. This item was moved from consent agenda to and considered following Item 5.3.**

**5.5. Water and Sanitary Sewer Improvements Resolution – Water Utilities: Resolution No. 2006-R0001 authorizing acceptance of water and sanitary sewer improvements for Lots 1-119, Springfield Addition to the City of Lubbock, Lubbock County, Texas, bound by 106<sup>th</sup> Street, 107<sup>th</sup> Street, Clinton Avenue, and Frankford Avenue.**

This is a routine acceptance of water and sanitary sewer improvements constructed in accordance with subdivision regulations. The total cost of the improvements is \$342,079.27 that includes the cost of construction totaling \$327,991.10 as determined by the unit prices established by Chapter 28 of the Code of Ordinances of the City of Lubbock.

Cash paid to the City for these improvements is \$14,088.17 that includes \$4,796.77 as adjacent mains and \$9,291.40 in plan review, inspection, and testing fees. The developer, Lubbock Land Company, Ltd., will receive a refund of \$116,807.69 in accordance with Chapter 28 as development utilizes these improvements.

The subdivision is located between 106<sup>th</sup> and 107<sup>th</sup> Streets and Clinton and Frankford Avenues.

#### **FISCAL IMPACT**

This is a routine transfer of ownership of water and sewer lines installed in new subdivisions from the Developer to the City. The value of the system is added to the City and there are no expenditures involved in accepting ownership.

The system, when accepted, will produce revenue to the City through the sale of water and sewer services to the public.

Staff recommended approval.

**5.6. Water and Sanitary Sewer Improvements Resolution – Water Utilities: Resolution No. 2006-R0002 authorizing acceptance of water and sanitary sewer improvements for Lots 66-190, Lynwood Addition to the City of Lubbock, Lubbock County, Texas, bound by Erskine Street, Kemper Street, North Bangor Avenue, and North Chicago Avenue.**

This is a routine acceptance of water and sanitary sewer improvements constructed in accordance with subdivision regulations. The total cost of the improvements is \$317,349.57 that includes the cost of construction totaling \$306,023.25 as determined by the unit prices established by Chapter 28 of the Code of Ordinances of the City of Lubbock.

Cash paid to the City for these improvements is \$11,326.32 that includes \$2,355.85 as adjacent mains and \$8,970.47 in plan review, inspection, and testing fees. The developer, Wisian Properties, Inc., will receive a refund of \$79,036.79 in accordance with Chapter 28 as development utilizes these improvements.

The subdivision is located between Erskine and Kemper Streets and North Bangor and North Chicago Avenues.

**FISCAL IMPACT**

This is a routine transfer of ownership of water and sewer lines installed in new subdivisions from the Developer to the City. The value of the system is added to the City and there are no expenditures involved in accepting ownership.

The system, when accepted, will produce revenue to the City through the sale of water and sewer services to the public.

Staff recommended approval.

**5.7. Water and Sanitary Sewer Improvements Resolution – Water Utilities: Resolution No. 2006-R0003 authorizing acceptance of water and sanitary sewer improvements for Lots 1-81, South Brook Addition to the City of Lubbock, Lubbock County, Texas, bound by 86<sup>th</sup> Street, 90<sup>th</sup> Street, Sherman Avenue, and Avenue U.**

This is a routine acceptance of water and sanitary sewer improvements constructed in accordance with subdivision regulations. The total cost of the improvements is \$253,889.85 that includes the cost of construction totaling \$206,629.30 as determined by the unit prices established by Chapter 28 of the Code of Ordinances of the City of Lubbock.

Cash paid to the City of Lubbock for these improvements is \$47,260.55 that includes \$41,305.02 as adjacent mains and \$5,955.53 in plan review, inspection, and testing fees. The developer, Carl Mortensen, will receive a refund of \$69,940.10 in accordance with Chapter 28 as development utilizes these improvements.

The subdivision is located between 86<sup>th</sup> and 90<sup>th</sup> Streets and Sherman Avenue and Avenue U.

**FISCAL IMPACT**

This is a routine transfer of ownership of water and sewer lines installed in new subdivisions from the Developer to the City. The value of the system is

added to the City and there are no expenditures involved in accepting ownership.

The system, when accepted, will produce revenue to the City through the sale of water and sewer services to the public.

Staff recommended approval.

**5.8. Water and Sanitary Sewer Improvements Resolution – Water Utilities: Resolution No. 2006-R0004 authorizing acceptance of water and sanitary sewer improvements for Lots 388-475, Meadows South Addition to the City of Lubbock, Lubbock County, Texas, bound by 104<sup>th</sup> Street, 105<sup>th</sup> Street, Chicago Avenue, and Durham Avenue.**

This is a routine acceptance of water and sanitary sewer improvements constructed in accordance with subdivision regulations. The total cost of the improvements is \$211,243.66 that includes the cost of construction totaling \$160,756.50 as determined by the unit prices established by Chapter 28 of the Code of Ordinances of the City of Lubbock.

Cash paid to the City for these improvements is \$3,207.03 that includes \$0.00 as adjacent mains and \$3,207.03 in plan review, inspection, and testing fees. The developer, Lubbock South Meadows Development, Inc., will receive a refund of \$21,992.30 in accordance with Chapter 28 as development utilizes these improvements.

The subdivision is located between 104<sup>th</sup> and 105<sup>th</sup> Streets and Chicago and Durham Avenues.

**FISCAL IMPACT**

This is a routine transfer of ownership of water and sewer lines installed in new subdivisions from the Developer to the City. The value of the system is added to the City and there are no expenditures involved in accepting ownership.

The system, when accepted, will produce revenue to the City through the sale of water and sewer services to the public.

Staff recommended approval.

**5.9. Water and Sanitary Sewer Improvements Resolution – Water Utilities: Resolution No. 2006-R0005 authorizing acceptance of water and sanitary sewer improvements for Lots 476-523, Meadows South Addition to the City of Lubbock, Lubbock County, Texas, bound by 98<sup>th</sup> Street, 100<sup>th</sup> Street, Durham Avenue, and Elkhart Avenue.**

This is a routine acceptance of water and sanitary sewer improvements constructed in accordance with subdivision regulations. The total cost of the improvements is \$103,775.54 that includes the cost of construction totaling \$76,027.00 as determined by the unit prices established by Chapter 28 of the Code of Ordinances of the City of Lubbock.

Cash paid to the City for these improvements is \$1,529.59 that includes \$0.00 as adjacent mains and \$1,529.59 in plan review, inspection, and testing fees. The developer, Lubbock South Meadows Development, Inc., will receive a refund of \$11,982.90 in accordance with Chapter 28 as development utilizes these improvements.

The subdivision is located between 98<sup>th</sup> and 100<sup>th</sup> Streets and Durham and Elkhart Avenues.

#### **FISCAL IMPACT**

This is a routine transfer of ownership of water and sewer lines installed in new subdivisions from the Developer to the City. The value of the system is added to the City and there are no expenditures involved in accepting ownership.

The system, when accepted, will produce revenue to the City through the sale of water and sewer services to the public.

Staff recommended approval.

**5.10. Grant Application Resolution – Solid Waste: Resolution No. 2006-R0006 authorizing the filing of a \$39,300 grant application in response to a request for proposal from South Plains Association of Governments and the Texas Commission on Environmental Quality for FY 2005-06 solid waste grant programs, for funding to purchase equipment for the City’s recycling programs.**

HB 3072 mandates that the Texas Commission on Environmental Quality return to local governments a portion of the state surcharge (\$1.25 per ton) collected on landfill tipping fees. The funds are apportioned to the Council of Governments based on a formula that includes, but is not limited to, population, need, and number of counties in the Council area. The Councils then conduct a competitive grant application process to address the needs of their specific region. This year, South Plains Association of Governments (SPAG) has \$175,000 available for pass-through implementation projects. The contribution from the City’s portion of the state surcharge was approximately \$250,000 during FY 2005.

The City of Lubbock Solid Waste Department's \$39,300 grant application is for the purchase of equipment that will be used at the recycling drop-off centers and for other recycling programs. The specific pieces of equipment include:

- 12 x 14 foot prefabricated metal building to be used as a reuse building where materials like paint, which are considered a household hazardous waste, can be pulled from the disposal waste stream and stored in the building until an approved reuse alternative is identified.
- Skid loader to be used in plastic recycling operation and other recycling activities. Estimated cost is \$22,500.

- Three 400 gallon used oil collection/storage containers to replace existing containers. Estimated cost is \$9,300.

**FISCAL IMPACT**

The only impact on the operating budget will be the operating and maintenance cost of the equipment, which will be minimal.

Staff recommended approval.

- 5.11. Contract Resolution – Legislation: Resolution No. 2006-R0007 authorizing the Mayor to execute a contract between the City and Meyers & Associates for legislative counseling services.**

Meyers & Associates specializes in providing governmental relations services in federal legislative and administrative matters. The City currently has a contract with them that expired December 31, 2005. Under the terms of the current contract this agreement can be renewed for an additional year and the retainer may be raised from \$7,000 per month plus expenses not to exceed \$1,000 to \$8,000 per month plus expenses not to exceed \$1,000.

**FISCAL IMPACT**

This agreement represents an annual increase of \$12,000. A budget amendment is submitted as a separate item on this agenda.

Staff recommended the renewal of this contract.

- 5.12. Contract Resolution – Legislation: Resolution No. 2006-R0008 authorizing the Mayor to execute a contract between the City and Hance Scarborough Wright Woodward & Weisbart for legislative counseling services.**

Hance Scarborough Wright Woodward & Weisbart specializes in providing governmental relations services in federal legislative and administrative matters. The City currently has a contract with them that expired December 31, 2005. Under the terms of this contract the City agrees to pay \$7,500 per month from January through December 2006, \$12,500 per month from January 2007 through June 2007, and \$7,500 per month from July 2007 through December 2007.

**FISCAL IMPACT**

This agreement represents a two-year contract. A budget amendment is submitted as a separate item on this agenda.

Staff recommended the renewal of this contract.

- 5.13. Contract Resolution – Community Development: Resolution No. 2006-R0009 authorizing the Mayor to execute a Community Development funding contract from the HOME Partnership grant, and all related documents, between the City and the Community Housing Resource Board to be used for operations/administration of programs.**

Grantee: Community Housing Resource Board (CHRB)

Program: CHDO Operations

Funding Source: 2005-2006 Home Partnership Grant

Fiscal Impact: There is no fiscal impact on the General Fund involved with this project or contract. The funds used are federal funds from the Community Development Block Grant. The maximum to be allocated to this project is \$50,000. If the project runs over budget neither federal funds nor funds from the General Fund will be impacted.

Use of Funds: The funds will be used to partially pay for operations associated with the administration of programs currently being offered by the Community Housing Resource Board.

Amount: \$50,000

Match: Not required for CHDO Operations.

Return of Investment: Not required for CHDO Operations.

Term: January 12, 2006 through September 30, 2007

Comments: Funding for this contract was approved by City Council at the June 23, 2005 City Council meeting. The contract is available for review in the City Secretary's Office.

Staff recommended approval.

- 5.14. Contract Resolution – Community Development: Resolution No. 2006-R0010 authorizing the Mayor to execute a Community Development funding contract from the HOME Partnership grant, and all related documents, between the City and the Community Housing Resource Board to be used for the purchase and rehab of homes for the lease purchase program.**

Grantee: Community Housing Resource Board (CHRB)

Program: Lease/Purchase XI Program

Funding Source: 2005-2006 HOME Partnership Grant

Fiscal Impact: There is no fiscal impact on the General Fund involved with this project or contract. The funds used are federal funds from the Community Development Block Grant. The maximum to be allocated to this project is \$188,094. If the project runs over budget neither federal funds nor funds from the General Fund will be impacted.

Use of Funds: These funds will be used to purchase houses to be made available for lease purchase to low-to-moderate income families

Amount: \$188,094

Match: Not required for CHDO projects.

Return of Investment: Grantee has the option of reinvesting program funds back into the Lease Purchase Program or can repay 25% of the grant amount used for the completion of the project as outlined in the Citizens' Guide.

Term: January 12, 2006 through September 30, 2007

Comments: Funding for this contract was approved by City Council at the June 23, 2005 City Council meeting. The contract is available for review in the City Secretary's Office.

Staff recommended approval.

**5.15. Contract Resolution – Community Development: Resolution No. 2006-R0011 authorizing the Mayor to execute a Community Development funding contract from the HOME Partnership grant, and all related documents, between the City and the Community Housing Resource Board to be used for the new construction of handicapped accessible rental units.**

Grantee: Community Housing Resource Board (CHRB)

Program: Handicapped Accessible Rental Project

Funding Source: 2005-2006 HOME Partnership Grant

Fiscal Impact: There is no fiscal impact on the General Fund involved with this project or contract. The funds used are federal funds from the Community Development Block Grant. The maximum to be allocated to this project is \$178,697. If the project runs over budget neither federal funds nor funds from the General Fund will be impacted.

Use of Funds: These funds will be used to for the new construction of handicapped accessible rental units made available for low-to-moderate handicapped individuals.

**Amount: \$178,697**

Match: Not required for CHDO projects.

Return of Investment: Grantee has the option of reinvesting program funds back into the Handicapped Accessible Rental Program or can repay 25% of the grant amount used for the completion of the project as outlined in the Citizens' Guide.

Term: January 12, 2006 through September 30, 2007

Comments: Funding for this contract was approved by City Council at the June 23, 2005 City Council meeting. The contract is available for review in the City Secretary's Office.

Staff recommended approval.

**5.16. Contract Resolution – Community Development: Resolution No. 2006-R0012 authorizing the Mayor to execute a Community Development funding contract from the Community Development Block grant, and all related documents, between the City and McDonald Transit Associates, Inc. d/b/a Citibus.**

Grantee: McDonald Transit Associates, Inc. d/b/a Citibus

Program: Citibus Shelter Project

Funding Source: 2004-2005 Community Development Block Grant

Fiscal Impact: There is no fiscal impact on the General Fund involved with this project or contract. The funds used are federal funds from the Community Development Block Grant. The maximum to be allocated to this project is \$85,000. If the project runs over budget neither federal funds nor funds from the General Fund will be impacted.

Use of Funds: The funds for this program will be used for the construction of shelters and benches that will provide a safe environment for Citibus clients as they wait for bus service.

Amount: \$85,000

Match: 25%

Return of Investment: Not required for this project since improvements will revert back to the possession of the City if Citibus stops providing services to the community.

Term: January 12, 2006 through September 30, 2006

Comments: Funding for this contract was approved by City Council at the June 9, 2004 City Council meeting. The contract is available for review in the City Secretary's Office.

Staff recommended approval.

**5.17. Reappointments Declaration – City Secretary: Declare two reappointments to the Lubbock Housing Authority.**

Lubbock Housing Authority has seven members. All are appointed directly by the Mayor, per Texas Housing Authority Law (Texas Local Government Code 392.0331) without confirmation from City Council. The Mayor has reappointed two members.

Housing Authority:

Stephanie Hill, reappointment

Dr. Juan Munoz, reappointment

**5.18. This item was moved from consent agenda and considered following Item 4.1.**

**5.19. Purchase Resolution – Police Department: Resolution No. 2006-R0013 for eyewitness video systems and Eagle radar systems.**

This item is for the purchase of 69 eyewitness video systems and radar systems through the Houston-Galveston Area Council (H-GAC) Cooperative Purchasing Program. This equipment will be installed in replacement police vehicles and new recruit vehicles. H-GAC is a regional planning commission created under Acts of the 59<sup>th</sup> Legislature, Regular Session, 1965, re-codified as Texas Local Government Code, Chapter 391.

**FISCAL IMPACT**

A total of \$285,246 was appropriated with \$285,246 available in account number 100.9220 – Police Car Upgrade.

Staff recommended contract award to Kustom Signals, Inc. of Rockwall, Texas for \$285,246.

**5.20. Purchase Resolution – Fleet Services: Resolution No. 2006-R0014 for well pulling pump rig body – BID #05-139/MA.**

This bid is for the purchase of one water well pulling unit that is used in the maintenance of the City owned well fields. The City operates a number of well fields including the water supply well field in Bailey County and park wells in Lubbock.

The equipment is used to pull out well pumps and related equipment for repair, replacement, and rehab work. It can also be used as a heavy-duty wench to lift and move heavy items and as a general repair or service rig. Water utility staff use the equipment 3 to 4 days a week for well maintenance activities. If a unit is not available, the City will have to contract for well pulling services. By owning and operating the equipment the City is able to respond quickly to keep wells operating to meet water demands throughout the year and especially through the summer months when water demand is greatest.

The recommended purchase will replace 1993 equipment that is now almost 13 years old. The life cycle of this equipment is approximately 12 to 20 years. The cab and chassis for the unit were purchased separately and the well pulling unit will be installed on the cab and chassis.

There are no local manufacturers of this type of specialized equipment. A total of 13 vendors viewed the specifications. After three attempts to obtain pricing for this item, the City only received one bid from Smeal Manufacturing located in Snyder, Nebraska.

**FISCAL IMPACT**

\$70,000 is available in account number 221.2606. The original approved budget in this account is \$3,350,695.

Staff recommended award of the contract to Smeal Manufacturing Company of Snyder, Nebraska for \$66,110.

**5.21. Purchase Resolution – Street Department: Resolution No. 2006-R0015 for roll-off containers – BID #05-128/BM.**

This bid is for the purchase of seven 20-cubic yard and three 30-cubic yard roll-off containers for the Street Cleaning Department. These containers will provide additional dumping capacity and reduce the number of required trips to the landfill.

Fifteen local companies were notified of this Invitation to Bid and none responded.

**FISCAL IMPACT**

A total of \$366,008 was appropriated with \$366,008 available in account number 6512.8704 - Street Cleaning-rent/lease machine.

Staff recommended contract award to Roll-Offs, USA, Inc. of Durant, Oklahoma for \$37,847.

**5.3. School Zones Ordinance 1<sup>st</sup> Reading – Traffic Engineering: Ordinance No. 2006-O0001 amending section 16-175.2 of the Code of Ordinances of the City of Lubbock regarding reduced speed limits for school zones, adding a new school zone on 108<sup>th</sup> Street, 350 feet either side of Gary Avenue in front of Cooper North Elementary School.**

This ordinance includes the following: adding a new school zone on 108<sup>th</sup> Street at Gary Avenue for the Cooper North Elementary School. The Citizens Traffic Commission has recommended approval of this school zone upon request by Lubbock Cooper I.S.D.

**FISCAL IMPACT**

This addition will cost approximately \$500 annually in maintenance with no utility cost anticipated due to the use of solar powered L.E.D. lights. The initial installation cost will be approximately \$15,000 and will be funded by capital project 90378 - Traffic Signals New Locations 2 with \$177,000 available.

The Traffic Engineering Department, Citizens Traffic Commission, and the Legal Department recommended approval.

Council Member DeLeon expressed her concerns with the speed limits in school zones, in particular at O.L. Slaton Junior High School on Avenue Q. Jere Hart, Traffic Engineer, gave comments and answered questions from Council. Hart will e-mail Council Members information on the punishment phase of those who speed through school zones.

Motion was made by Council Member DeLeon, seconded by Council Member Boren to pass on first reading Ordinance No. 2006-O0001 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**5.4. Street Use License Resolution – Right-of-Way: Resolution No. 2006-R0016 authorizing the Mayor to execute a street use license with MarkWest Power Tex, LP for an underground pipeline in the street right-of-way of Erskine Street from just west of North Milwaukee Avenue to just east of North Utica Avenue.**

In 1985 a franchise was given to Power-Tex Joint Venture by the City Council through Ordinance No. 8810 for the installation of a natural gas pipeline that was installed in the north right-of-way of Erskine Street from just west of Milwaukee Avenue to just east of North Utica. From that point the pipeline turned south to serve the Texas Tech/LP&L electrical plant at Indiana Avenue and Brownfield Highway. The franchise has expired and this street-use license

will replace it for a term of 20 years. The City will receive \$596.61 per year or \$2,983.05 for the first five-year term.

**FISCAL IMPACT**

Yearly revenue of \$596.61 to the City.

Staff recommended approval of this resolution.

Ed Bucy, Right-of-Way Agent, and Larry Hertel, City Engineer, gave comments and answered questions from Council. City Attorney Anita Burgess also gave comments and answered questions from Council.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Price to pass Resolution No. 2006-R0016 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**4.1. Approval of Prior Meeting Minutes: Regular City Council Meeting, December 1, 2005**

Motion was made by Council Member Gilbreath, seconded by Council Member Jones to approve the minutes of the Regular City Council Meeting of December 1, 2005 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**5.18. Purchase Resolution – Fire Department: Resolution No. 2006-R0017 for laptop computers, mounting hardware, and accessories for all front line engines, command, and Chiefs’ vehicles.**

This item involves the purchase of laptop computers, mounting hardware, and accessories through a 70/30 matching Homeland Security Grant for all front line engines, command and Chiefs’ vehicles through the Catalog Information Systems Vendor (CISV) Purchasing Program. These computers will free up local emergency radio traffic, provide First Responders the ability to receive emergency information concurrent with EMS, and share emergency incident information with local public safety agencies.

The CISV Purchasing Program allows state agencies to purchase automated information systems products and services in an efficient, cost effective, and competitive procurement method under Texas Administrative Code 113.19 and Texas Government Code, Title 10, Subtitle D, Chapter 2157.

**FISCAL IMPACT**

A total of \$166,320 was appropriated with \$166,320 available in account number 87020.9146 - Miscellaneous Computer Equipment.

Staff recommended contract award to Insight of Tempe, Arizona for \$123,741.01.

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

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Gilbreath to pass Resolution No. 2006-R0017 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**5.22. Contract Resolution – Facilities Management: Resolution No. 2006-R0018 for Municipal Building parking structure repair – BID #05-147/MA.**

This project involves the repair of the south portion of the parking canopy at the Municipal Building. The first interior columns from the south end of the canopy are supported on shallow concrete footings located next to the drainage channel that carries all water runoff from American State Bank. This condition has resulted in settlement of the footings of approximately four inches. The settling has caused excessive water ponding on the roof and elements of the overhead structure to break apart. Repair design was prepared by RTR Engineers, Inc. Repairs require shoring of the supporting beam above the columns, removal of the settling columns and footings, drilling and pouring new supporting piers, replacing the columns, and repairing all broken or damaged components of the covered parking structure.

Time for completion of this project is 30 consecutive calendar days and liquidated damages are \$250 per day.

Forty-two local companies were notified of this Invitation to Bid and two responded.

The bids ranged from \$41,683 to \$47,000. The company providing the low bid was Minnix Commercial Partners, Ltd. Minnix Commercial has successfully completed many projects of similar size for the City.

Also obtained was an alternate bid for the total demolition of the parking canopy and repair of the newly exposed marble crete wall area of the Municipal Building. Bids ranging from \$24,777 to \$39,000 were received from the same two companies. Minnix Commercial Partners, Ltd. provided the low bid. This alternate for demolition is 60% of repair costs.

**FISCAL IMPACT**

A total of \$340,000 was appropriated with \$50,000 available in account 90394 - City Hall Renovations.

Staff recommended contract award to Minnix Commercial Partners, Ltd. of Lubbock, Texas for \$41,683 to repair the covered parking structure.

Assistant City Manager Quincy White gave comments and answered questions from Council.

Motion was made by Council Member Gilbreath, seconded by Council Member Boren to pass Resolution No. 2006-R0018 with an amendment to remove the parking canopy. Motion carried: 5 Ayes, 2 Nays. Council Members DeLeon and Price voted Nay.

**5.23. Contract Resolution – Street Department: Resolution No. 2006-R0019 for 2006 secondary streets maintenance program – BID #05-141/BM.**

This project will provide patching, single course preventative maintenance, and two course rehabilitative maintenance seal coating on selected streets

throughout the City. Various patching items will be used to repair failed areas on the selected streets or to install new valley gutters to smooth some dip areas. Patching is scheduled to begin February 2006 on the streets to be sealed and the seal coating is scheduled to begin May 2006 with completion by September 2006.

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

**FISCAL IMPACT**

A total not to exceed \$900,000 was appropriated with \$900,000 available in account numbers 4531.9240 and 241.8302 - FY2005-06 Seal Coat. This is a unit price contract and the City's obligation for performance of this contract is subject to the availability of appropriated funds. This contract spans fiscal years 2005-06 and 2006-07. The contract amount over the FY 2005-06 amount will be subject to FY 2006-07 appropriation.

Staff recommended contract award to Lone Star Dirt & Paving Contracting of Lubbock, Texas for \$938,121.

City Engineer Larry Hertel, City Manager Lee Ann Dumbauld, and Construction Inspector John Summers gave comments and answered questions from Council.

Motion was made by Council Member Gilbreath, seconded by Mayor Pro Tem Martin to pass Resolution No. 2006-R0019 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**5.24. Contract Resolution – Street Department: Resolution No. 2006-R0020 for 2006 primary streets maintenance program – BID #05-140/BM.**

This project will provide for patching, single course preventative maintenance, and two course rehabilitative maintenance seal coating on selected primary streets throughout the City. The various patching items will be used to repair failed areas on the selected streets or to install new valley gutters to smooth some dip areas. The patching is scheduled to begin February 2006 on streets to be sealed and the seal coating is scheduled to begin May 2006 with completion by August 2006.

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

**FISCAL IMPACT**

A total not to exceed \$950,000 was appropriated with \$950,000 available in account number 4531.9240 and 241.8302 - 05-06 Seal Coat. A total not to exceed \$900,000 was appropriated with \$900,000 available in account numbers 4531.9240 and 241.8302 - FY2005-06 Seal Coat. This is a unit price contract and the City's obligation for performance of this contract is subject to the availability of appropriated funds. This contract spans fiscal years 2005-06 and 2006-07. The contract amount over the FY 2005-06 amount will be subject to FY 2006-07 appropriation.

Staff recommended contract award to Lone Star Dirt & Paving Contracting of Lubbock, Texas for \$1,000,045.60.

Motion was made by Council Member Gilbreath, seconded by Mayor Pro Tem Martin to pass Resolution No. 2006-R0020 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

## **6. REGULAR AGENDA**

### **6.1. Public Hearing – 10:00 AM – Zoning: Ordinance No. 2006-O0002 ZONE CASE NO. 1643-B (7302 Indiana Avenue) – Ordinance 1<sup>st</sup> Reading: Hold a public hearing to consider the request of Benny Nixon (for 357 Street Properties L.P.) for a zoning change from C-2 to C-3 for a quick oil change facility on Tract P, Melonie Park South Addition.**

Mayor McDougal opened the public hearing at 10:14 a. m. No one appeared on behalf of 357 Street Properties L.P. No one appeared in opposition. Mayor McDougal closed the hearing at 10:15 a. m.

The request will allow the conversion of a former convenience store location to a quick-change oil facility.

Adjacent land use:

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

The corner at Loop 289 and Indiana Avenue would normally be eligible for C-3 zoning. The bay doors are projected to be facing west, which will reduce any impact on the residential to the south. The use will be far less intrusive than the 24-hour convenience store that is being removed.

The property owner to the west supports the request with one condition that is addressed below (repair of the existing fence).

The Planning Commission recommended the request with three conditions:

1. The use of the land shall be limited to one permitted C-3 use (quick tune or quick oil change facility) and all permitted C-2 uses.
2. Replace the wood pickets in the existing fence on the west line.
3. Tied generally to Site Plan 1643-B presented during the meeting. It is an initial plan and the structure may need to move slightly one direction or another.

Staff supports the recommendation with the conditions as proposed by the Commission.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Price to pass on first reading Ordinance No. 2006-O0002 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

- 6.2. Public Hearing – 10:00 AM – Zoning: Ordinance No. 2006-O0003 ZONE CASE NO. 3054 (Indiana Avenue and 122<sup>nd</sup> Street) – Ordinance 1<sup>st</sup> Reading: Hold a public hearing to consider the request of Nolan Greak for a zoning change from T to IHC on Lots 1-7, 10, 12, the west 225 feet of Lots 8, 9, and 14, the west 35 feet of Lots 11 and 13, and the west 660 feet of Tract A, Huntington Business Park Addition.**

Mayor McDougal opened the public hearing at 10:14 a. m. No one appeared on behalf of Nolan Greak. No one appeared in opposition. Mayor McDougal closed the hearing at 10:15 a. m.

The request is property located within the newly annexed area between Indiana Avenue/Slide Road/114<sup>th</sup> Street/FM 1585. Staff has yet to complete the proposed Comprehensive Land Use Plan amendment for the two square mile area, but during the annexation, staff and City Council made a commitment to the developer of this subdivision that a follow-up Interstate Commercial zone case would be supported to compliment the current deed restrictions and level of commercial development that has occurred in the area.

Adjacent land uses are substantially vacant in all directions with the exception of the rest of this commercial subdivision to the east.

Staff is supportive of the request in that it will be illustrated on the forthcoming Comprehensive Land Use Plan as committed during the annexation. Future development will be consistent with the Interstate Commercial District and the current deed restrictions were modeled from the district when the subdivision was platted in the County.

The Planning Commission recommended approval of 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. 2006-O0003 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

- 6.3. This item was considered following Item 6.4.**

- 6.4. Public Hearing – 10:00 AM – Zoning: Ordinance No. 2006-O0004 ZONE CASE NO. 3008-A (5735 19<sup>th</sup> Street) – Ordinance 1<sup>st</sup> Reading: Hold a public hearing to consider the request of Bradley J. Butcher & Associates (for Mudhen Espresso) for a zoning change from C-3 to C-4 limited to a drive-through restaurant and all unconditionally permitted C-3 uses on a 3,200 square foot portion of Tract U-1-A, Greenlawn Addition.**

Mayor McDougal opened the public hearing at 10:14 a. m. Scott Bagwell appeared on behalf of Mudhen Espresso. No one appeared in opposition. Mayor McDougal closed the hearing at 10:15 a. m.

The applicant is requesting a kiosk style building on the shopping center parcel at 19<sup>th</sup> Street and Frankford Avenue. Due to the fact that the product is

food (coffee or other pick-up drinks) with no inside seating, the zoning ordinance requires that the zoning be C-4 as a drive through restaurant.

Adjacent land uses are commercial in all directions.

The proposal is structured to accommodate only the kiosk from the C-4 District and will allow all the permitted uses currently available in the C-3 zoning if the business is removed or replaced by another tenant. The proposal is consistent with the Comprehensive Land Use Plan in that 19<sup>th</sup> Street is a regional thoroughfare, and is acceptable particularly since only one use on one small spot is being proposed for zoning as C-4. As noted, if the kiosk ceases to be used for drive through food service, the zoning will remain the current designation of C-3. The proposal should have no effect on parking in the center, particularly since this center is under-utilized. The request meets zoning policy.

The project should have no effect on the thoroughfare plan.

The Planning Commission recommended the request with the following condition:

The single permitted C-4 use is a drive through coffee or other beverage facility. Otherwise the land shall be used for uses permitted within the C-3 District.

Staff supports the recommendation.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Price to pass on first reading Ordinance No. 2006-O0004 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.3. Public Hearing – 10:00 AM – Zoning: Ordinance No. 2006-O0005 ZONE CASE NO. 2939-C (17<sup>th</sup> Street and Inler Avenue) – Ordinance 1<sup>st</sup> Reading: Hold a public hearing to consider the request of Hugo Reed and Associates, Inc. (for Cactus Pointe, Ltd.) for a zoning change from R-1 Specific Use to R-1 Specific Use for 15 foot front setbacks, 5 foot front setbacks for cul-de-sac lots, 5 foot side setbacks on corner lots, 5 foot side setback for fences on corner lots, and 20 foot setback for garages.**

Mayor Pro Tem Martin opened the public hearing at 10:16 a. m. No one appeared on behalf of Cactus Pointe, Ltd. No one appeared in opposition. Mayor Pro Tem Martin closed the hearing at 10:16 a. m.

The request follows the recent trend to reduce front setback in residential subdivisions. Traditional setback has been twenty-five feet; the latest request in residential has been twenty feet. The request in this case is for fifteen feet for the non-garage portion of the homes. The fifteen is standard in town home and garden home developments, so there is a precedent and there should be no effect on public safety and welfare. The front yards will simply be smaller. If the setback creates a sales issue, that is not a public issue but a developer issue.

Adjacent land uses:

Adjacent land uses and zoning in all directions is single family with the exception of some inherited non-conforming commercial east of Inler Avenue.

The request is limited to the row of short cul-de-sac lots adjacent to Inler Avenue where the State of Texas, through the Texas Department of Transportation, has restricted the number of streets intersecting with FM 179 (Inler Avenue). The length of the blocks with the reduced setback will only be 344 feet.

The project, as residential, does not rise to the level of a Comprehensive Land Use Plan issue, and is relatively consistent with zoning policy so long as any garage or front yard parking has a twenty-foot setback.

The Planning Commission recommended the request with one condition regarding setback:

The minimum front setback for non cul-de-sac lots shall be fifteen feet, with the exception that any parking pad or garage entering from the street shall be twenty feet. The minimum side setback for corner lots and front setback for cul-de-sac lots shall be five feet (subject to the same twenty foot rule for garage and parking pads).

Staff supports the Planning Commission recommendation.

Motion was made by Council Member Boren, seconded by Council Member Jones to pass on first reading Ordinance No. 2006-O0005 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

Mayor McDougal recused himself.

**6.5. Group/Personal Care Homes Ordinance 1<sup>st</sup> Reading - Planning: Ordinance No. 2006-O0006 amending the requirements for group/personal care homes in the single and duplex-zoned areas of Lubbock for construction and life/safety issues for all group/personal homes in Lubbock.**

During the last year, staff worked with several state and local agencies, as well as reviewed a recently enacted legislative act to incorporate both changes deemed desirable by a number of neighborhood groups, as well as 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 that 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 have been 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 Commission recommendation to amend the new numbers required by State Law and 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 follow the State of Texas standards.

Linda Middleton, Chairman of the Planning and Zoning Commission, stated that after a meeting and a public hearing, the Commission voted unanimously 9-0 to make the changes suggested in the ordinance submitted to Council today.

Gary Rothwell and Jerry Bell, both members of the Planning and Zoning Commission, gave comments.

Randy Henson, Senior Planner, gave comments and answered questions from Council. Henson explained the difference in the roles of the Planning and Zoning Commission and the Zoning Board of Appeals.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Boren to pass on first reading Ordinance No. 2006-O0006 with the alternative language prepared that requires these proceedings of group homes of seven or

more to be done as a zoning hearing and a special use permit, moving the decision from the Zoning Board of Adjustment to the Planning and Zoning Commission. Motion failed: 2 Ayes, 5 Nays. Mayor McDougal and Council Members DeLeon, Gilbreath, Jones, and Price voted Nay.

Motion was made by Council Member Gilbreath, seconded by Council Member Jones to pass on first reading Ordinance No. 2006-O0006, using the Zoning Board of Appeals as the decision-making body. Motion carried: 5 Ayes, 2 Nays. Mayor Pro Tem Martin and Council Member Boren voted Nay.

**6.6. Budget Amendment #7A Ordinance 2<sup>nd</sup> Reading - Finance: ORDINANCE NO. 2005-O0146—Amendment #7A amending the FY 2005-06 budget respecting the 1) Central Business District TIF Fund, 2) General Fund, 3) Donations Fund, 4) Airport Fund, 5) LP&L Fund, 6) Grant Fund, and 7) Police Department Forfeited Funds.**

1. Appropriate \$100,000 from the Central Business District Tax Increment Finance Fund to participate in the Downtown Revitalization Study.
2. Appropriate \$30,000 from General Fund Balance to the Donations Fund for the Parks and Recreation Senior Games.
3. Appropriate \$248,000 in the General Fund for the remediation of two underground storage tank sites. Last fiscal year the City Council approved the closure of the Environmental Compliance Internal Service Fund. This fund balance was closed to the General Fund. \$248,000 is now available in the General Fund Balance.
4. Appropriate \$66,612 of Airport Fund Retained Earnings to pay money owed to LP&L for underground lines previously installed.
5. Revise capital projects in the LP&L Fund Budget. Specific information regarding this project is competitive information protected under Chapter 552.133 of the Texas Government Code.
6. Accept and appropriate a \$10,000 grant from Pizza Ventures of West Texas, a franchise ownership group of Papa John's Pizza, to support the Lubbock Fire Department's community fire education programming. No matching funds are required.
7. Appropriate \$326,947 of Police Forfeited Funds for law enforcement purposes. Prior to the expenditure of forfeited funds, the Texas Code of Criminal Procedure requires the law enforcement agency to submit a budget for these funds to the City Council.

The funds are the result of special police investigations in which the Lubbock Police Department has seized assets during an investigation. The appropriate court then awards these assets to the Lubbock Police Department to be used for law enforcement activities pursuant to Texas Code of Criminal Procedure Article 59.06 (d).

The funds are appropriated as follows:

Special Investigative Fund	\$ 94,525
Confidential Informant Fund	50,927
Department of Treasury Asset Sharing	595
Department of Justice Asset Sharing	<u>171,995</u>

Total Forfeited Funds Budget \$318,042

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

Jeff Yates, Chief Financial Officer; Dan Dennison, Environmental Compliance Manager; and, Steve Hailey, Fire Chief, gave comments and answered questions from Council.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Gilbreath to pass on second and final reading Ordinance No. 2006-O0146 with an amendment to appropriate \$112,000 of General Fund Balance to the FY 2005-06 Operating Budget for federal legislative counseling services. Motion carried: 7 Ayes, 0 Nays.

**6.7. Third Amended North Overton District Tax Increment Finance Reinvestment Zone Project Plan and Finance Plan Ordinance 2<sup>nd</sup> Reading – Business Development: ORDINANCE NO. 2005-O0149 —Approving the third amended North Overton District Tax Increment Finance Reinvestment Zone Project Plan and Finance Plan as adopted by the North Overton Tax Increment Financing Reinvestment Zone Board of Directors.**

City Council created the North Overton Tax Increment Finance Reinvestment Zone (TIF) and appointed the TIF Board on March 14, 2002. Based on current sales and construction activity in Overton Park, the McDougal Companies have increased their projections of the scope of the new construction projects. With this new information, at their November 16, 2005 meeting, the members of the North Overton TIF Board approved the Third Amended Project Plan and the Third Amended Finance Plan and submit it to City Council for approval. The Finance Plan shows an estimated captured value of \$445 million. The Project Plan shows public improvements totaling \$28.9 million.

**FISCAL IMPACT**

These public improvements will be paid from bonds issued and revenues collected by the North Overton Tax Increment Finance Reinvestment Zone.

The TIF Board and City staff recommended approval.

Motion was made by Council Member Gilbreath, seconded by Council Member Price to pass on second and final reading Ordinance No. 2006-O0149 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

Mayor McDougal recused himself.

- 6.8. This item was considered following Item 6.12 and after Council reconvened at 11:08 a.m.**
- 6.9. This item was considered following Item 6.8.**
- 6.11. Property Offer Resolution – Right-of-Way: Resolution No. 2006-R0021 authorizing the Right-of-Way Department to make an offer to Rosa T. Ramon for the north 25 feet of Lot 1, Block 29, Overton Addition to the City of Lubbock for the Glenna Goodacre Boulevard (8<sup>th</sup> Street) Widening Project from University Avenue to Avenue Q and to consider the commencement of eminent domain proceedings in the event such offer is not accepted for the property located at 802 Avenue S.**

The City is in the process of widening 8<sup>th</sup> Street from University Avenue to Avenue Q as part of the North Overton Redevelopment Project. Located at 802 Avenue S, Lot 1, Block 29, Overton Addition, is a residential property owned by Rosa T. Ramon. The north 25 feet of the property is needed for this street-widening project. The overall lot size before the taking is 50 feet in width by 127.50 feet (north-south) in length. Presently, Glenna Goodacre Boulevard is 60 feet in width and the approved plans call for a 110-foot wide street, which involves a taking of 25 feet from each side of the existing right-of-way. Included in this 25-foot acquisition of Mrs. Ramon's property (1,250 square feet) is a single-family residence that is in substandard condition. Merle Blosser, M.A.I., appraised this property at \$7 per square foot for a total of \$8,750, which is the offer to Rosa T. Ramon.

This resolution also authorizes the City to institute condemnation proceedings to acquire this property if the offer is refused.

#### **FISCAL IMPACT**

The acquisition of this property is consistent with finance and project plans adopted by the Board of Directors of the North Overton Tax Increment Finance Reinvestment Zone and approved by City Council. This will be an expense of \$8,750 from account number 90300.8302.10000.

Staff recommended approval.

Council Member Gilbreath stated that it should be noted if eminent domain has to be used, it would be taking private property for public use and not for private use.

Motion was made by Council Member Jones, seconded by Council Member Price to pass Resolution No. 2006-R0021 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

Mayor McDougal recused himself.

- 6.10. License Agreement Resolution – Water Utilities: Resolution No. 2006-R0022 authorizing the Mayor to execute an agreement with Levi's Terrace, Inc. for the use of public lands for a Western Heritage Project for the purpose of providing recreational and educational activities and**

**opportunities to the residents of the City and to promote tourism in the City and further economic development and entertainment.**

Mr. Mark Luchsinger, acting through Levi's Terrace, Inc., has asked that the City allow him to use City owned canyon lands which are located southeast to the City adjacent to the North Fork of the Double Mountain Fork of the Brazos River and the Lubbock Land Application Site. This use is proposed under a license agreement.

The use of the property will be for various educational, recreational, and tourism activities that are designed to promote our western heritage. The term of the agreement is 25 years. The rate of payment for approximately 255 acres will be \$4 per acre on an annual basis. The City has an option to extend the license agreement for four additional ten-year periods following the completion of the primary term.

The license agreement requires that Levi's Terrace, Inc. comply with all regulations that are now, or may be, imposed by the State of Texas due to the proximity of the property to the Lubbock Land Application Site. Included in this compliance are any and all permit conditions that the City must comply with.

The license agreement also requires that Levi's Terrace, Inc. accommodate any City plans for the further development of the Canyon Lake System for water supply development purposes. The alternative of constructing Lakes #7 and #8 were presented to the City in a 1969 engineering plan by Freese and Nichols, and these lakes could be beneficial as storage facilities for future water supply projects.

**FISCAL IMPACT**

The license agreement will generate about \$1,020 in annual income and this will be considered Sewer Fund revenue.

Use of the property for farm and ranch operations is somewhat limited at present. This license agreement will provide income and beneficial use of the property, as well as a tourism opportunity through the promotion of our western heritage. As long as compliance with regulations can be maintained staff recommended approval.

Tom Adams, Deputy City Manager, gave comments and answered questions from Council.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Boren to pass Resolution No. 2006-R0022 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

- 6.11. This item was considered following Item 6.7.**
- 6.12. Budget Amendment #8 Ordinance 1<sup>st</sup> Reading – Finance: Ordinance No. 2006-O0007 amendment #8 amending the FY 2005-06 budget respecting the 1) Grant Fund and 2) Donations Fund.**

1. Accept and appropriate a \$600,000 grant from Texas Department of Housing and Community Affairs for the Comprehensive Energy Assistance Program (CEAP) to assist low-income households with energy bills and to repair and/or replace inefficient heating/cooling systems, water heaters, and refrigerators. No matching funds are required.
2. Accept and appropriate a \$26,350 grant from Texas Department of Housing and Community Affairs for the SPS Weatherization Assistance Program (WAP) an energy conservation program. The grant will fund programs to assist low-income persons and families with energy conservation and energy efficiency. The grant pays up to \$2,672 per case including program delivery costs. The contract will expire December 31, 2006. No matching funds are required.
3. Accept and appropriate a \$380,000 grant from Texas Department of Housing and Community Affairs for the Community Services Block Grant. The grant will fund programs to assist low-income persons and families with Self-Sufficiency, Information and Referral, and energy assistance support. This is accomplished by funding both sub-recipient programs and City programs that address this issue. The grant pays for both programmatic and administration of the funds. The contract will expire December 31, 2006. No matching funds are required.
4. Accept and appropriate a \$17,000 grant in the Donations Fund from the Ruth Wright Endowment, a component of the Lubbock Area Foundation. This is to fund adoption enhancements, kennel repair, microchip implants and the new feral cat trap, neuter and release program. No matching funds are required.

Staff recommended approval.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Price to pass on first reading Ordinance No. 2006-O0007 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**10:50 A. M. CITY COUNCIL RECESSED**

**11:08 A. M. CITY COUNCIL RECONVENED**

- 6.8. Truth in Texans Gas Bills Resolution – Councilman Boren: Resolution No. 2006-R0023 entitled the “Truth in Texans Gas Bills” advocating the repeal (or alternatively, the amendment) of Section 104.301 of the Texas Utilities Code that currently authorizes gas utilities to implement surcharges without a public hearing or filing a rate case with the local governing body.**

Council Member Boren explained he would like to go forward with this Resolution to send to the legislature, the Governor, the Senate, the House of Representatives, to anyone running for office, and to the Railroad Commission. These individuals should be aware of how the gas utilities operations impact our community. The resolution states there should be local control, local oversight, and is asking for accountability. The “Truth in

Texans Gas Bills” is to change the statute to where we define some terms to allow a company to come back under concept of shared services and try to recoup 100% of their depreciable asset.

Mayor Pro Tem Martin gave comments, and suggested the City of Lubbock start its own gas company. He feels that competition is good and it may mean lower rates. Martin wants to study the possibility of having Lubbock Power and Light to be involved in the retail gas business in Lubbock, Texas.

Motion was made by Council Member Boren, seconded by Mayor Pro Tem Martin to pass Resolution No. 2006-R0023 with an amendment that the Mayor of the City of Lubbock hereby appoint a study committee to look into, and report back within 60 days, of the possibility of entering the retail gas business in Lubbock, Texas. Motion carried: 7 Ayes, 0 Nays.

Mayor McDougal asked Gary Zheng and Carroll McDonald of Lubbock Power and Light to serve on the study committee. McDougal asked McDonald to meet with his Electric Utility Board and have two or three of those members serve on this study committee. Others appointed by the Mayor were City Manager Lee Ann Dumbauld, Mayor Pro Tem Martin, and Council Members Gilbreath and Boren.

**6.9. Ratemaking Proceeding Resolution – Councilman Boren: Resolution No. 2006-R0024 requiring Atmos Energy to submit information to the City of Lubbock pursuant to Chapters 102 and 103 of the Texas Utilities Code, so that the City of Lubbock may make a reasonable determination of the rate base, expenses, investment, and rate of return of Atmos Energy operating within the municipality and whether to institute a ratemaking proceeding.**

Council Member Boren explained that because the City Council has jurisdiction over the gas utility for our community, he is requesting Atmos Energy to deliver to the City of Lubbock all documents necessary to review their rates, their operations, and their service. Boren is also asking for all reasonable financial information including audited statements (electronic form) brought to the City for our staff to evaluate and see if it is fair, just, and reasonable. Based on that information, a determination will be made on a basis for the City to go to the next step. In addition, Boren is asking the West Texas Division of Atmos Energy file with our City an annual report outlining all expenditures for business gifts, entertainment, and any expenditure for advertising or public relations for the years 2003, 2004, 2005, and budget for 2006.

City Manager Lee Ann Dumbauld informed Council that we do not have the expertise “in-house” to review the documents requested from Atmos. She also answered questions from Council.

Mayor Pro Tem Martin feels that once the City of Lubbock receives the requested information from Atmos, Assistant City Attorney Matt Wade can

screen the information and then make recommendations on any expertise needed to look at an investigation.

Matthew Wade, Assistant City Attorney, gave comments and answered questions from Council. He explained that the current resolution gives Atmos Energy thirty days to provide the information requested. February 1, 2006 is the start date for getting the annual report together.

Motion was made by Council Member Boren, seconded by Mayor Pro Tem Martin to pass Resolution No. 2006-R0024. Motion carried: 6 Ayes, 1 Nay. Council Member DeLeon voted Nay.

**11:48 A. M. CITY COUNCIL RECESSED TO EXECUTIVE SESSION**

**1:05 P. M. CITY COUNCIL RECONVENED IN WORK SESSION**

**7. WORK SESSION**

**7.1. Presentation – Building Inspection: Discuss Building Inspection Department issues concerning historical and anticipated growth, current and future resource and staffing needs, service level enhancements, and cost recovery through fees.**

Steve O’Neal, Building Official, presented information to seek City Council’s input on the following:

- 1) Historical growth data and staffing/resource levels;
- 2) Needs identified under the recent Insurance Services Office audit;
- 3) Customer service level enhancements desired by the construction community;
- 4) Recent service level improvements and the five-year strategic improvements plan; and
- 5) Cost recovery through fees.

Fire Chief Steve Hailey gave a presentation on fire prevention needs through the year 2010.

City Manager Dumbauld requested permission from Council to bring a budget amendment to the next meeting or the meeting thereafter to address the staffing needs by adding four positions.

Mayor Pro Tem Martin suggested taking a look at the plans again for Building Inspection and a police substation to have a facility located more southwest to accommodate the “building” community and others needing services from Building Inspection and other City departments.

**7.2. Presentation – Parks and Recreation: Parks Capital Projects Update.**

Randy Truesdell, Director of community Services, presented information to seek City Council’s input on the following:

- 1) Parks capital projects currently funded

- 2) Shortfall in funding for some existing projects
- 3) Potential new projects and required funding

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

Mayor Pro Tem Martin recommended asking City Manager Dumbauld and her staff to find \$5 million in capacity to get some of the Parks Capital Projects done. He also suggested giving the Park and Recreation Board a little more time to put together a more realistic estimate.

Mayor McDougal asked City Manager Dumbauld to contact Wayne Havens with Lubbock Independent School District, regarding the little league field that will be built to the west of the Lubbock High School Westerner baseball field on North University.

Consensus from Council was to give the Park and Recreation Board more time to put together more realistic estimates and bring Council back a list by late spring or the early part of the summer of some realistic things that could be put on a bond election ballot by possibly November of 2006. Also Council would like to give the Citizens Advisory Committee more direction.

**3:05 P. M. CITY COUNCIL RECESSED**

**3:14 P. M. CITY COUNCIL RECONVENED**

After Council reconvened, Truesdell went over the minutes of the Park and Recreation Board from August 23, 2005 to share with the citizens what some of the concerns are. He spoke of the Park and Recreation 2006 proposed budget and how it was reduced by 2.4%. Over the past five years, the maintenance staff has been reduced to about 20%, and 160 acres of new park properties at thirty-one different locations have been acquired. The budget was about \$26,000 less this year than last year. This has affected the ability to upkeep the parks.

City Manager Dumbauld gave comments on the budget issue.

**7.3. Discussion – Storm Water: Discussion of possible revisions to the playa lake ownership policy and ordinance.**

The Playa Lake Development Policy and Ordinance was first adopted by City Council in 1999 with revisions in 2001. The Drainage Criteria Advisory Committee, working with City staff, developed the policy and ordinance based on the recommendation of the Drainage Criteria Advisory Committee and the West Texas Developer's Council that the City have a mechanism for developers to convey playa lakes to the City as part of the storm water infrastructure even if there were no plans for a park.

Since the adoption of the policy and ordinance, two playa lake areas have been conveyed as storm water detention basins: Summerfield Addition and Remington Park Addition. The problems that have arisen from the acceptance of the Remington Park Addition playa, along with the possibility of other

playa lakes coming in the future, has prompted the need to revisit the policy and ordinance to ascertain if City Council wants to continue with the policy as is or to change the acceptance criteria.

Previously the policy had been that all playa lake areas were given to the City as park property and they had been developed into parks. There is public pressure and expectation that this continues. The intent of the Playa Lake Development Policy was to give developers another option of conveying these areas to the City without a great deal of development expense when the Parks Board denied the request for the area to be a city owned park.

City Council was brought up to date on the current policy and given an opportunity to review possible development criteria that could be added to that policy.

#### **FISCAL IMPACT**

The current cost to maintain the storm water detention area is \$160 per acre annually. If the criteria changes to make these areas more “park like” then that cost could increase to \$1,600 to \$2,600 per acre annually. The actual increase would depend on the items required for acceptance. This increase would come from increased transfers from the Storm Water Utility fund and possible rate increases as the playa lake areas come before City Council for approval.

Direct staff to leave current policy and ordinance in place or to make specific changes based on the work session discussion and bring the revised Playa Lake Development Policy and Ordinance as an action item on a future City Council agenda.

Marsha Reed, Storm Water Engineer, gave a presentation to Council and requested input on things such as maintaining the current policy.

Consensus from Council was for staff to confer with the Park’s Board, the Developers Council, and the Water Advisory Commission and bring back a revised policy and place it on the agenda for Council to consider.

#### **7.4. Presentation – Parks and Recreation: Presentation updating City Council on the construction, archeology, and programming of the Wells Fargo Amphitheater.**

This presentation updated City Council on the construction, archeology, and programming of the Wells Fargo Amphitheater. Construction of the amphitheater is nearing completion. Parks and Recreation staff presented information concerning the completion of construction. Gerald Doulter, Director of the Texas Tech University Music Theatre, has developed a proposal to provide musicals in the Wells Fargo Amphitheater. The Lubbock Moonlight Musicals will be a new, non-profit, production company that will offer large-scale musical theatre productions. The musicals will feature local artistic talent, music theatre students and faculty from Texas Tech University’s College of Visual and Performing Arts, high school students from Lubbock ISD, Lubbock Cooper ISD, and Frenship ISD. Lubbock Moonlight Musicals will produce musicals that stress family values. Mr.

Doulter presented the Moonlight Musical information to the Park and Recreation Advisory Board during their November meeting. Dr. Eileen Johnson, Director of the Lubbock Lake Landmark, presented information regarding the archeological testing, permitting, and reporting.

Staff requested direction regarding the following items:

- archeological testing and reporting, and
- support of the Moonlight Musicals program.

Randy Truesdell, Director of Community Services, showed pictures of the almost complete Wells Fargo Amphitheater.

Dr. Johnson explained that she was with the Museum at Texas Tech University and there is a research services agreement between the Museum and the City of the Lubbock. She explained that one of her objectives out in the field is to try and find as many testing sites as possible to inform the City staff so that informed decisions can be made as to whether properties can be avoided or not. Johnson said the research agreement is capped by a certain dollar amount over the five-year period that it is in place. Discussion took place between City staff and the Texas Historical Commission as to what it might take for an extensive investigation at Dam #4. She explained that the fieldwork is complete and a final report has to be done. The permitting process requires three stages of investigation. Each stage requires a separate permit, an interim report, and a final report.

Mayor McDougal expressed concerns regarding expenditures for Dam #4, since there will not be a lake built.

Dr. Johnson stated that, for Dam #4, the budget estimate that she submitted was about \$91,000. She went on to say the City has obligations under the permit to the Texas Historical Commission. The total amount owed by the City for the Wells Fargo Amphitheater for getting the materials processed, analyzed, and the final report done is approximately \$860,000.

Consensus from Council was to have the City's legal staff analyze these figures and put a hold on any monies to be spent until results are in from the legal staff.

Randy Truesdell told Council that he spoke with the Texas Historical Commission and was told that there may be some room for negotiation on completing the permit process.

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

#### **4:41 P. M. COUNCIL ADJOURNED**

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