

CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
August 10, 2006
7:30 A. M.

The City Council of the City of Lubbock, Texas met in regular session on the 10th day of August, 2006, in the City Council Chambers, first floor, City Hall, 1625 13th Street, Lubbock, Texas at 7:30 A. M.

7:35 A.M. CITY COUNCIL CONVENED
City Council Chambers, 1625 13th Street, Lubbock, Texas

Present: Mayor David A. Miller, Mayor Pro Tem Jim Gilbreath, Council Member Gary O. Boren, Council Member Linda DeLeon, Council Member Phyllis Jones, Council Member John Leonard, Council Member Floyd Price

Absent: No one

1. CITIZEN COMMENTS

1.1. Sanco Nash, Jr. and Diadria Robinson will appear to discuss building demolition by Code Administration.

These citizens were not present.

- Ron Riley and Elizabeth Linder addressed Council regarding a possible lake project at Yellow House Canyon. The concern is how this might affect property and the property of the residents in the area. Mayor Miller asked Mr. Riley to meet with Tom Adams, Deputy City Manager/Water Utilities Director, to try and get answers to his questions.

2. EXECUTIVE SESSION

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

7:44 A. M. CITY COUNCIL RECESSED TO EXECUTIVE SESSION
City Council Conference Room

All council members were present.

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

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

**9:33 A.M. CITY COUNCIL REGULAR MEETING RECONVENED
City Council Chambers**

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

Absent: No one

Mayor Miller reconvened the meeting at 9:33 A. M.

3. PROCLAMATIONS AND PRESENTATIONS

- 3.1. **Invocation by Pastor Tyrone Dubose, Manhattan Heights Church of Christ**
- 3.2. **Pledge of Allegiance to the Flags.**

Pledge of Allegiance was given in unison by those in the City Council Chambers to both the United States flag and the Texas flag.
- 3.3. **Presentation of a special recognition to Good News Friends Ministry for the mission work performed in Chiapas, Mexico.**

Council Member DeLeon presented special recognition to Vernon and Grace Odom with Good News Friends Ministry for the mission work performed in Chiapas, Mexico. The Odoms founded Good News Friends Ministry in 1996,

upon the opening of the clinic in Chiapas Mexico. The Odoms helped finance and build the clinic, which was opened on September 4, 1996.

3.4. Presentation of a special recognition to Robert Garcia for his dedicated services to improving the lives of the youth.

Council Member Price presented special recognition to Robert Garcia for his dedicated services to improving the lives of other youth in the community and neighborhood. Robert created the Warriors Sports Camp and Year-Around Camp to help underprivileged children learn life skills through sports and physical activity. Mr. Garcia, at the age of 16, willingly volunteered his time to work with children, free of charge, through activities such as football, wrestling, soccer, and track. These children are given new chances in life to make positive decisions and hopefully influence others to do the same. Robert's mom joined him in receiving this special recognition.

3.5. Presentation of a special recognition to Prevent Blindness Texas, a non-profit human service agency focused on preventing blindness, on its 50th Anniversary.

Mayor Miller presented special recognition to Diana Condon and Nancy Smith with Prevent Blindness Texas, who have dedicated their lives to educating children and to helping people see. The Mayor asked everyone in Council Chambers to close their eyes for about ten seconds to help them relate to what it is like being blind. This is the 50th Anniversary of Prevent Blindness Texas. Mayor Miller asked all citizens to join in recognizing these two ladies for what they do.

3.6. Board Appointment Recognitions - City Secretary.

Civic Lubbock, Inc:

Mark Bass (unable to attend)

Zoning Board of Adjustment:

Jose Valenciano (unable to attend)

4. MINUTES

4.1. Approval of Prior Meeting Minutes: Regular City Council Meeting, July 10, 2006; Emergency City Council Meeting, July 19, 2006

Motion was made by Council Member Price, seconded by Council Member Jones to approve the minutes of the Regular City Council Meeting of July 10, 2006 and the Emergency City Council Meeting of July 19, 2006 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5. CONSENT AGENDA (Items 5.1-5.3, 5.5, 5.10-5.13, 5.15-5.16, 5.20)

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to approve Items 5.1-5.3, 5.5, 5.10-5.13, 5.15-5.16, and 5.20 on consent agenda as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.1. Zone Case No. 1193-E (4202 N. I-27) Ordinance 2nd Reading - Planning: Ordinance No. 2006-O0081 Consider request of Rosa M. Olivas for a zoning change from R-1 to IHI Specific Use for a trailer sales and all unconditionally permitted IHC uses on Lots 1-4, Block 5, Edsall Addition.

This parcel of land involves circumstances, beyond the applicant's control, which have created a lack of conformance with requirements for a mobile home sales and refurbishment lot. Through a series of three zone cases, the former owner failed to comply with requirements as outlined by the City Council, and each of three Specific Use Zoning Ordinances lapsed. With the last lapse, the parcel is now zoned R-1 (single family) and the current request must be approved for the new owner to continue a business.

The applicant is attempting, with the help of her family, to open only a mobile home sales lot. The renovation of units, which was originally part of the zone case, does not exist in this request. The front landscape area that was previously required, but not installed until the 11th hour, has begun to mature and the grounds have been cleaned up significantly by the applicant. The staff is approaching the request without regard to the previous ownership, the former lack of compliance that occurred, and legal actions that are now complete.

During the Planning Commission meeting, staff recommended that the case be amended to Interstate Commercial Specific Use, rather than Interstate Industrial, since the rehab of trailers portion of the former operation is not being requested in this case. In IHC, trailer-sales are a permitted use. The Specific Use Permit is requested to defer some of the development standards normally required in IHC (paved surfaces primarily). A paved area exists in the front of the office for customers and the trailers are on a graveled surface similar to many of the mobile home sales lots elsewhere in the City.

The request is to allow the sales of trailers, both new and used. As noted, a series of zone cases previously approved as Specific Use cases have expired and the land is now zoned the R-1 as it was when annexed into the City during the 1950s. The property is platted. As noted, having a rehabilitation aspect on the property is not being requested.

This request is in compliance with the Comprehensive Land Use Plan (the area is noted as IDP as the target land use) and, with the change of ownership and business plan, the request is in substantial compliance with zoning policy.

The Planning Commission approved the request to the City Council with the following conditions:

1. The existing landscape that has been developed along the Interstate shall be maintained in a satisfactory manner and the current amount.
2. The current amount of graveled surface shall suffice for the required paved surface required for the sales lot. As the sales area expands, a layer of gravel at least one stone deep shall be added to the display area.

3. The front 25-foot portion of the parcel, with the exception of the drive, shall be landscaped and shall not be used for display of mobile home units.
4. The current screening fence along Ash Avenue shall be maintained. The gate may remain, but shall be closed unless being used to transport a manufactured home into or out of the sales lot.
5. If display or sales occur on the south east lot, the lot shall be graveled and a screening fence be installed along Ash Avenue.
6. That no screening fence be required on the south border of the property, as it will eventually mature as commercial.

FISCAL IMPACT

No fiscal impact is anticipated.

Staff supports the request as recommended by the Planning Commission.

5.2. Zone Case No. 3063 (south of 122nd Street and east of Slide Road) Ordinance 2nd Reading - Planning: Ordinance No. 2006-O0082 Consider request of Richard Webb (for Victory Life Baptist Church) for a zoning change from T to C-2, GO and A-2 limited to church and church related uses on 60 acres of unplatted land out of Section 23, Block E-2.

The applicant is requesting that the back portion of the 60-acre parcel be zoned to accommodate a church, the frontage along Slide Road be zoned to allow commercial development, and a parcel behind the commercial and south of the Vintage Township half section be zoned for Garden Office.

Adjacent land uses:

N – vacant and commercial

S – Vintage Township, vacant at this point

E – vacant

W – commercial across Slide Road

The request will be consistent with the Comprehensive Land policies that are yet to be formally approved for these two square miles that were annexed. Since commercial already exists on the west and north, the proposed strip commercial will become “policy”. The proposed ordinance will include a “whereas” regarding the Comprehensive Plan establishment of land use in this vicinity. The church tract is a policy request at the half section line with access to the thoroughfare.

The project should have no more impact on traffic on Slide Road than anticipated and the continued increase of vehicles will increase the need for Slide Road to move up the list for replacing the current strip pavement with a seven lane thoroughfare.

The Planning Commission recommended approval with the following conditions:

1. The A-2 is limited to church and church related uses.
2. Access to Slide Road is governed by TxDOT. If the City is asked for a recommendation, the Planning Commission approved three curb returns – one for each of the north and south commercial tracts and a main entry in the center that may serve both the commercial and the church (at the discretion of the church).
3. If a street does not abut the Garden Office tract, an easement from the north commercial tract shall be granted to allow access to Slide Road.

FISCAL IMPACT

No fiscal impact is anticipated.

Staff supports the recommendation by the Planning Commission subject to the three conditions.

5.3. Zone Case No. 3064 (5412 19th Street) Ordinance 2nd Reading - Planning: Ordinance No. 2006-O0083 Consider request of Hugo Reed and Associates, Inc. (for Bingstone Investments, Ltd.) for a zoning change from R-1 to GO on Lot 1, Bumpass Addition.

The applicant is requesting that a large lot residential parcel, approximately two acres, at the corner of 19th Street and Chicago Avenue be rezoned as Garden Office.

Adjacent land uses:

N – residential

S – residential

E – residential

W –child care center

The corner is a little awkward in that to the west, a strip of land is developed with a child care center on the corner and a public library. The subdivision to the east is a combination of a number of the old large lots along 19th Street replatted and developed as Brentwood, a walled upscale housing development. The development to the north also represents what is a retrofit to a former large lot or lots, with a cul de sac street entering from Chicago Avenue and providing access to nine lots.

With regard to the Comprehensive Land Use Plan, the proposed Garden Office is considered a buffer district and would be technically within policy for approval. The greatest single aspect of both the Comprehensive Land Use Plan and zoning policy is the support, or lack of support, of the adjacent single family residents that already have made an investment in their property.

Many of the adjacent neighbors (including Brentwood) met with the applicant and expressed their sentiments at the Planning Commission meeting. The report presented during the meeting was that the gathering had a generally positive atmosphere.

Several of the adjacent residents do not support the project, a majority have expressed support subject to the conditions approved by the Commission. The applicant has provided the basics of a site plan.

The Planning Commission recommended the request with the following conditions:

1. The building setback shall be as required by the City of Lubbock Zoning Code.
2. The style and construction of the offices shall be subject to review by the Planning Commission prior to a construction permit. Notice shall be provided to the 200-foot notice perimeter.
3. A 7-foot screening fence shall be constructed on a portion of the west, all of the north and the entire east with a 15-foot step down for 19th Street.
4. Fifteen percent (15%) landscaping is required.
5. Hours of operation shall not extend later than 10:00 p.m.
6. The style of the structure shall be "residential" in appearance and the exterior walls shall be 100% masonry.
7. The development will have not more than one curb cut on 19th Street and one on Chicago Avenue, each located as far from the intersection as feasible. On 19th Street, TxDOT makes the final determination if curb cuts will be allowed and how they are spaced.
8. The development shall commence within two years – meaning a construction permit will be issued within two years of the effective date of this ordinance. Should that not occur, the zoning will lapse to R-1 (single family).

FISCAL IMPACT

No fiscal impact is anticipated.

Staff supports the recommendation of the Planning Commission with the proposed conditions.

- 5.4. This item was moved from consent agenda to regular agenda and considered following Item 5.20.**
- 5.5. Zone Case No. 2522-B Ordinance 2nd Reading - Planning: Ordinance No. 2006-O0085 Consider request of Jack Kastman for a zoning change from C-3 to IHC on Lots 1 and 61, Friendship Estates Addition (7318 and 7402 4th Street).**

The request is to rezone the parcels along 4th Street in the vicinity of Venita from the existing zoning of C-3 and C-2 to Interstate Commercial.

Adjacent land uses:

N – mobile home, it is nonconforming, the parcel is zoned C-3
S – vacant commercial and a mobile home park
E – vacant
W – vacant, a playa lake

The property is already zoned with a C-3 commercial district, making the discussion regarding the Comprehensive Land Use Plan a moot issue except for the confirmation by the Commission that the change is not either a detriment to or objectionable to the owners of adjacent property.

A zone case was recently approved on the land across the street (the former apartment and commercial portion, not the mobile home park) as Interstate Commercial on the front half and C-4 Specific Use on the back half to allow for mini-warehouse or contractor type offices with no outside stack.

As a State of Texas controlled street, 4th Street is eligible for heavier commercial zoning. The strongest asset of IHC is that new development has a requirement for a better looking structure facing the thoroughfare. The existing heavy uses in the area differentiate the intersection from many of the other intersections within the City, and the relative lack of development may be changed with this request. The staff would not be normally supportive of IHC at a standard intersection of two thoroughfares.

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

1. Security lighting shall be shielded as to not reflect to the north where the existing mobile home is located.
2. A screening fence shall be installed on the north line of the IHC parcel for the area that is developed. If the C-3 property to the north (that is occupied by a nonconforming mobile home) is developed as commercial, the fence may be removed.

FISCAL IMPACT

No fiscal impact is anticipated.

Staff supports the recommendation of the Planning Commission.

- 5.6. This item was moved from consent agenda to regular agenda and considered following Item 5.4.**
- 5.7. This item was moved from consent agenda to regular agenda and considered following Item 5.6.**
- 5.8. This item was moved from consent agenda to regular agenda and considered following Item 5.7.**
- 5.9. This item was moved from consent agenda to regular agenda and considered following Item 5.8.**

- 5.10. Street and Alley-Use License Resolution - Right-of-Way: Resolution No. 2006-R0374 authorizing the Mayor to execute a Street and Alley Use License with O'Shea and Associates, L.P. for the construction of apartment balconies in the right-of-way of 13th Street and the adjacent alleys to Block 133, Original Town Addition, property located at 1020 13th Street.**

Kim Morris is representing O'Shea and Associates, L.P., who own the Green Building at 1215 Avenue J and the former Hester's Office Supply building at 1219 Avenue J. They have building plans to completely renovate both buildings into apartments. As part of the building plans, they are requesting a Street and Alley Use License to construct eight five-foot by nine-foot balcony areas on the outside of these apartment units that will overhang the street and alley rights-of-way in Block 133 of the Original Town Addition.

Along 13th Street, there will be four balconies located on the second floor. In the north-south alley just north of 13th Street, there will be one balcony area on the second floor. In the east-west alley along the north side of the Green Building, there will be three balcony areas located on the second, third, fourth, fifth and sixth floors. The total right-of-way area to be used is 360 square feet for the eight balcony areas. Using a value of \$4 per square foot times the street-use license formula (360 square feet x \$4 = \$1,440 X 75% X 10%), an annual license charge to the licensee will be \$108, or \$540 for the first five-year term of the 20-year license.

FISCAL IMPACT

The use license will generate \$108 each year to the General Fund.

Staff recommended approval of this resolution.

- 5.11. Grant Agreement Resolution - Citibus: Resolution No. 2006-R0375 authorizing the Mayor to execute a Public Transportation Master Grant Agreement, 517XXF7054, with the State of Texas, acting through the Texas Department of Transportation.**

In an effort to streamline the grant application process, the Texas Department of Transportation (TxDOT) has developed a Public Transportation Master Grant Agreement that will be used for all TxDOT grants that are executed each year. This agreement will be included with all grant applications that are submitted to TxDOT during the upcoming fiscal year.

FISCAL IMPACT

No fiscal impact anticipated.

Citibus and staff recommended approval of this resolution.

- 5.12. Contract Amendment Resolution - Public Works : Resolution No. 2006-R0376 authorizing the Mayor to execute Change Order No. 6 to contract with Granite Construction Company for the Milwaukee Avenue Paving Improvements from 34th Street to 92nd Street Project.**

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Change Order No. 6 to a contract with Granite Construction Company will add work for the paving of Milwaukee Avenue from 34th Street to 92nd Street.

Original Contract	\$17,316,933
Change Order No. 1 (7/14/05)	(212,840)
Change Order No. 2 (10/27/05)	416,200
Change Order No. 3 (12/15/05)	147,269
Change Order No. 4 (3/8/06)	74,367
Change Order No. 5 (3/23/06)	492,736
This Change Order No. 6	88,339

New Contract Price	<hr/> \$18,323,003
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Change Order No. 1 was a deductive Change Order deleting some items from the construction contract in cooperation with Granite Construction Company.

Change Order No. 2 was adding utility ditch backfill remediation in Milwaukee from 92nd Street south to 98th Street, and on 98th Street from Milwaukee Avenue east to Juneau Avenue.

Change Order No. 3 was the change in the contract for five different items of work:

- (1) A change to use anti-corrosive material for the risers on 72" diameter manholes. This change was requested by the City Water Utilities Division. The change results in a deduction of the existing contract bid item of \$7,920, and an increase in cost of the new bid item for the anti-corrosive material of \$12,420, for a net contract increase of \$4,500 for this work.
- (2) The addition of work zone pavement markings that was not included in the original contract. These temporary pavement markings will be needed from 34th Street to 43rd Street where traffic will be maintained on Milwaukee Avenue for the school at 43rd Street. These pavement markings are estimated to be \$1,409.
- (3) Irrigation sleeves installed in the median between Brownfield Highway and Spur 327. In cooperation and coordination with Texas Parks and Wildlife Department and the City Parks Department, it was determined to have a median constructed in this portion of Milwaukee Avenue crossing McAlister Park that would have an area for live planting material. These sleeves were added to the contractor's work to provide water lines for irrigation to these planting areas in the median. This cost is estimated at \$5,840.
- (4) Lowering the water line below planned elevation immediately north of 82nd Street. After the original design of the water line was completed, it was discovered there were some three or four utilities in direct conflict with the proposed water line to be constructed in Milwaukee Avenue. Included in the utility conflicts were a high pressure gas line and fiber

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optic cables. It was determined to lower the water line in order to miss all the existing utilities. The additional work required to achieve the depth needed will cost \$28,519.

- (5) Asphalt stabilized base (black base) between the bottom of the concrete paving, and the top of culverts with less than two feet of cover. There was design concern of stability and waterproofing of dirt backfill in this shallow depth area of the cover over the culverts. There are six culverts and all six culverts have shallow cover. This asphalt stabilized base over the culverts is estimated to cost \$107,000.

Change Order No. 4 was a change for five different items of work:

- (1) Remove loop detectors from contract resulting in a decrease of \$24,000.
- (2) Add advance detection cameras for traffic signal timing and detection of traffic at an increased cost of \$12,000.
- (3) Reduced cost due to a change in the testing requirements consistent with what was approved in Change Order No. 2. Reduction of \$19,647.
- (4) Add concrete paving for two right-turn flares for driveways into the new Wal-Mart store located at the southeast corner of 82nd Street and Milwaukee Avenue. Wal-Mart will reimburse the City the cost to construct these two right-turn lanes. This paving will increase the cost of the contract by \$38,161.
- (5) Add additional paving to provide dual left- turn lanes on US 62/82 for east and west bound traffic to make left turns onto Milwaukee Avenue. This additional work will increase the contract by \$67,853.

Change Order No. 5 was for constructing additional paving – extending the concrete paving of Milwaukee Avenue south from 92nd Street to 94th Street including the extension of a 20-inch water line ahead of the paving at a cost of \$494,995.

Change Order No. 6 is a change in the contract for the following items of work:

- (1) Increase the contract to seed additional areas of the right-of-way at a cost of \$6,959.
- (2) Add seeding in the drainage channels and McAlister Park area disturbed by construction that were not in the original contract at a cost of \$71,440.
- (3) Remove silt and clean out the culvert under 82nd Street west of Milwaukee at a cost of \$6,370.
- (4) Repair four residential sprinkler systems encountered during construction on the west side of Milwaukee south of 82nd Street at a cost of \$3,570.

The seeding is necessary to comply with Texas Commission on Environmental Quality (TCEQ) storm water requirements to establish vegetative cover in disturbed areas due to construction activities. Cleaning the culvert and repair of the residential sprinkler systems were at the request of the City.

FISCAL IMPACT

\$20.5 million is budgeted in the FY 2005-06 Capital Projects Budget for this project.

Construction Contract (including this Change Order)	\$18,323,002
Engineering Agreements to Date:	1,663,708
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Total Estimated Project Cost To Date	19,986,710
Less: Wal-Mart Participation (CO #4)	(38,161)*
Less: Betenbough Prepaid & Additional Participation	(41,688)
Less: Day Estates Participation	(44,234)
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Total Estimated Project Funding Need to Date	19,862,628
Remaining Available Funding	20,500,000
	(19,862,628)
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	\$ 637,372

* Wal-Mart's \$44,185 check to the City included additional costs for engineering for Parkhill, Smith & Cooper.

Staff recommended approval of this resolution.

5.13. Contract Amendment Resolution - Parks and Recreation: Resolution No. 2006-R0377 authorizing the Mayor to execute an amendment to the agreement with Wells Fargo Bank Texas for naming rights to the Mackenzie Amphitheatre.

An agreement was approved in March 2003 with Wells Fargo Bank for the naming rights of the amphitheatre in Mackenzie Park. The original agreement refers to an historical drama that would be produced in the Amphitheatre by 2009. According to the agreement, Wells Fargo was not required to pay the naming sponsor fee until the drama was produced. The original agreement also stated the City would ensure that the Amphitheatre and drama would be marketed on a local, regional, statewide, and national level. This amendment to the agreement removes the requirement to produce an historical drama as well as the marketing requirement. The amendment also designates the first naming sponsor fee to be due on or before January 31, 2007.

The three-year term of the agreement remains the same with successive automatic three-year renewals. Either party may elect to not renew the agreement after the first or subsequent three-year terms.

FISCAL IMPACT

\$16,000 will be paid to the City annually.

Staff recommended approval of this resolution.

- 5.14. This item was moved from consent agenda to regular agenda and considered following Item 5.9.**
- 5.15. Contract Resolution - Wastewater Utilities: Resolution No. 2006-R0378 authorizing the Mayor to execute a contract with HDR Engineering, Inc. for value engineering associated with the Southeast Water Reclamation Plant improvements, RFP 06-703-BM.**

The City is currently in the design phase for proposed improvements to the Southeast Water Reclamation Plant (SEWRP). The improvements will treat effluent water to stream quality discharge. The City previously engaged Black & Veatch Engineering for the design of these improvements.

This value engineering contract will require the selected firm to review and evaluate the current design plans and propose improvements at the SEWRP. In addition, the selected firm will propose recommendations that will enable the City to reduce capital and operation costs, improve the efficiency of operations for the proposed improved facilities, and improve the effectiveness of treatment through the proposed facilities. Life cycle costing and energy use modeling will be the primary beneficial impact to this project.

The following engineering firms submitted Statements of Qualifications and were ranked as follows:

HDR Engineering of Austin, TX
Freese & Nichols Engineering of Austin, TX
CDM Engineering of Dallas, TX
Sunland Group Engineering of Houston, TX

The evaluation committee recommended HDR Engineering of Austin, Texas as the most qualified firm to provide the necessary engineering services.

FISCAL IMPACT

A total of \$7,135,000 was appropriated with \$6,147,036 available in Capital Improvement Project 8505, Waste Water Resources Master Plan, for this purpose.

Staff recommended contract award to HDR Engineering, Inc. of Austin, Texas for \$89,500.

- 5.16. Contract Resolution - Health: Resolution No. 2006-R0379 authorizing the Mayor to execute a contract for vital statistics services (DSHS Document No. 537537537D*2008H-01) with State Department of State Health Services.**

This contract provides on-line computer services for vital records programs. The Lubbock Health Department will be allowed to search Department of

State Health Services (DSHS) databases, locate date, and issue Certifications of Vital Records to authorized individuals requesting such data. The certifications will be in a format formally approved by DSHS. The Health Department is required to purchase the necessary data processing equipment, communications, hardware or software, and bank note paper as specified by DSHS. The Health Department has already met all these requirements. The Health Department is also required to maintain an inventory and account for each document produced on bank note paper, including voided documents.

The City agrees to reimburse DSHS \$1.83 for each Certification of Vital Record printed as a result of searches of the database. The contract calls for the Lubbock Health Department to charge the same base search fee for a birth certificate as does the Department of State Health Services with additional fees only being charged as authorized by Texas Health and Safety Code 191. The search fee for the Health Department is currently set at \$9.00 per record search.

The term of this agreement is to begin September 1, 2006, and shall remain in effect until August 31, 2008.

FISCAL IMPACT

No fiscal impact is anticipated.

Staff recommended approval of this resolution.

- 5.17. This item was moved from consent agenda to regular agenda and considered following Item 5.14.**
- 5.18. This item was moved from consent agenda to regular agenda and considered following Item 5.17.**
- 5.19. This item was moved from consent agenda to regular agenda and considered following Item 5.18.**
- 5.20. Contract Resolution - Solid Waste: Resolution No. 2006-R0380 authorizing the Mayor to execute a purchase order contract with Heil of Texas of Irving, Texas for the purchase of high compaction trash compactor bodies.**

This purchase order contract is for the purchase of one 25-cubic yard and ten 32-cubic yard high compaction trash compactor bodies for the Solid Waste Residential Collection Department. The bodies are scheduled for installation on one 46,000 pound right-hand drive cab and chassis purchased from Roberts Truck Center of Lubbock, Texas and on ten 56,000 pound left-hand drive cab and chassis purchased from Lubbock Truck Sales of Lubbock, Texas. This equipment will be used to pick up residential trash.

The trash compactor bodies will be purchased through the Houston-Galveston Area Council (H-GAC) purchasing cooperative, Contract RC 08-04. H-GAC is a regional planning commission created under the Acts of the 59th Legislature, Regular Session, 1965, re-codified as a Texas Local Government Code, Chapter 391.

FISCAL IMPACT

\$1,554,000 was appropriated for fleet replacement vehicles and equipment as part of the FY 2005-06 Master Lease Program.

Staff recommended purchase order contract award to Heil of Texas of Irving, Texas for \$835,619.75.

5.21. This item was moved from consent agenda to regular agenda and considered following Item 5.19.

6. REGULAR AGENDA

5.4. Zone Case No. 1615-J Ordinance 2nd Reading - Planning: Ordinance No. 2006-O0084 Consider request of Shay Manney (for Liquid Ink) for a zoning change from C-3 to C-4 Limited to a tattoo and piercing shop and all C-3 permitted uses on a portion of Tracts A and B, South Plains Additions (6005 Slide Road, Suite M-41).

The applicant is in contract with South Plains Mall to install a tattoo parlor. As an interior use to the Mall, the individual use will have no visual impact on the general public.

Adjacent land use in all directions is commercial.

South Plains Mall is zoned commercial, so there is no Comprehensive Land Use Plan policy issue. With regard to zoning policy, if the mall operators feel the use is a viable part of the tenant mix within the mall, the change will not create an issue with any adjacent landowner. The facility is not visible from the exterior of the building. As C-4 limited to the one use, when or if the use is discontinued, the zoning will revert to the original and current zoning.

The project will have no impact on the thoroughfare system.

The Planning Commission recommended approval with the following conditions:

1. The C-4 is limited to a tattoo shop and all permitted C-3 uses.
2. Should the use be abandoned for a period of one year, the zoning will revert to the current zoning for the mall parcel.

FISCAL IMPACT

No fiscal impact is anticipated.

Staff supports the recommendation of the Planning Commission.

Randy Henson, Director of Planning; Anita Burgess, City Attorney; and Bridget Faulkenberry, Environmental Specialist, gave comments and answered questions from Council.

Motion was made by Council Member Price, seconded by Mayor Pro Tem Gilbreath to pass on second and final reading Ordinance No. 2006-O0084 as recommended by staff. Motion carried: 5 Ayes, 2 Nays. Council Members Boren and Leonard voted Nay.

5.6. Lease Agreement Resolution - Community Development: Resolution No. 2006-R0381 authorizing the Mayor to execute a lease agreement with Guadalupe/Parkway Neighborhood Centers for the property located at 123 North Avenue N.

The City is purchasing the building located at 123 North Avenue N from the Roman Catholic Diocese.

In December 2005, the City Council voted to reappropriate \$1.1 million in unspent bond funds coming from the closing of Canyon Lakes Dam #4 capital improvement project. Of this amount, \$140,000 was dedicated to a capital project for the purchase of the Catholic Family Services building.

The closing on the property is scheduled on August 10, 2006. The subject lease will not go into effect if the closing does not take place by August 25, 2006.

Once the building is purchased by the City and the lease is in effect, the building will be used as a neighborhood center. The Roman Catholic Diocese has been allowing the neighborhood to use the building as a neighborhood center for several months.

The initial lease term of the lease is five years and may be terminated by either party. Guadalupe/Parkway Neighborhood Centers may choose to extend this lease for up to five additional five-year periods by providing the City written notice of their intent to extend the lease. The agency will be required to pay the City one dollar per month during the first year of this lease for using and occupying the premises. The monthly rent will continue to be one dollar per month during any lease extensions.

FISCAL IMPACT

No fiscal impact is anticipated.

Staff recommended approval of this resolution.

Dela Esqueda, Executive Director of the Guadalupe/Parkway Neighborhood Centers, gave comments.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to pass Resolution No. 2006-R0381 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.7. Lease Agreement Resolution - Facilities Management: Consider a resolution authorizing the Mayor to execute a lease with SemMaterials, L.P. an Oklahoma limited partnership for property situated at 1619 Marshall Street (Lot 2 tract 3 Marnels Industrial Addition, 4.58 acres).

This item was continued to the next meeting.

The original lease on this property was with Koch Industries, who was recently purchased by SemMaterials in 2006, for an initial five-year term with the option to renew for up to three additional five-year terms.

This lease provides for SemMaterials to lease property at 1619 Marshall Street (Lot 2 tract 3 Marnels Industrial Addition, 4.58 acres) from the City for an initial term of 15 years with an option to renew for up to two additional five-year terms. This lease will also approve the construction of two 3-million gallon storage tanks. SemMaterials will remove the storage tanks and any other additional improvements within 180 days of the termination of lease.

SemGroup, L.P., the parent company, is a midstream service company providing the energy industry with means to move products from the wellhead to the wholesale marketplace. SemGroup provides diversified services for end users and consumers of crude oil, natural gas, natural gas liquids, refined products, and asphalt. Services include purchasing, selling, processing, transporting, terminaling, and storing energy. SemGroup serves customers in the United States, Canada, Mexico, and the United Kingdom. This location specifically will be used to store asphalt materials.

FISCAL IMPACT

The initial \$381.20 monthly lease amount will be adjusted annually based on the Consumer Price Index. This amount was derived from the historical lease data accumulated since the lease agreement with Koch Industries in 1995.

Staff recommended approval of this resolution.

Mark Yearwood, Chief Information Officer, gave comments and requested that Council hold this item until the August 24, 2006 Regular City Council Meeting. Consensus from Council was to hold this item until then.

5.8. Interlocal Agreement Resolution - Health: Resolution No. 2006-R0382 authorizing the Mayor to execute an Interlocal Cooperation Contract for public health emergency planning within the City of Lubbock with Lubbock Independent School District.

Under the Metropolitan Medical Response System (MMRS) contract administered by the Governor's Division of Emergency Management, the Health Department is required to plan and prepare for public health emergencies, which may result from natural or man-made causes. During such emergencies, it may be necessary to immunize or shelter large numbers of people in the area served by Lubbock Independent School District (LISD). An interlocal agreement exists between LISD and the City allowing the use of LISD facilities during the period of an emergency.

The City and LISD are committed to the health and safety of citizens, employees, and others who use their facilities. In support of this commitment, LISD and the City of Lubbock Health Department will provide an Automated External Defibrillator (AED) at identified locations throughout the LISD system to make early defibrillation accessible to individuals who experience sudden cardiac arrest. The key to significantly improving cardiac arrest survival rates in adults lies in increasing the availability of AEDs. The AED units will be installed in LISD buildings identified for use as immunization clinics or shelters during emergencies declared by the Commissioner of

Health or the local health authority. Portable AED units will also be provided to designated school personnel and will be available during the emergency.

Obligations of the Health Department include:

1. Responsible for identifying locations for the wall-mounted AED units in conjunction with LISD personnel.
2. Responsible for purchasing the AED units, wall-mounted cabinets with alarms, and carrying cases for the portable units.
3. Responsible for first aid and AED training of City personnel deployed during an emergency to LISD sites utilized as clinics or shelters.

Obligations of Lubbock Independent School District include:

1. Responsible for the installation, care, and maintenance of the AED units, as proscribed by the manufacturer.
2. Responsible for initial and on-going training for LISD personnel on AED usage.
3. Responsible for the future replacement of AED units, batteries, electrodes and other related accessories.

This agreement becomes effective after approval by the governing bodies of LISD and the City. LISD signed the agreement during their July 2006 Board meeting.

FISCAL IMPACT

The purchase of the AEDS will be through the previously approved Metropolitan Medical Response System contract and funding for emergency preparedness. The purchase will not impact the General Fund.

Staff recommended approval of this resolution.

City Attorney Anita Burgess gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass Resolution No. 2006-R0382 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.9. Contract Resolution - Health: Resolution No. 2006-R0383 authorizing the Mayor to execute a purchase order contract with Emergency Medical Consultants of Connecticut, LLC for automated external defibrillator equipment, cabinets, and carrying cases, BID 06-048-RW.

Under the Metropolitan Medical Response System (MMRS) contract administered by the Governor's Division of Emergency Management, the Emergency Management Department is required to plan and prepare for public health emergencies, which may result from natural or man-made causes. During such an emergency, it may be necessary to immunize or to shelter large numbers of people in the area served by the Lubbock Independent School District (LISD). An Interlocal Agreement exists between

LISD and the City allowing the use of LISD facilities during the period of an emergency.

The City of Lubbock and LISD are committed to the health and safety of citizens, employees, and others who use their facilities. In support of this commitment, LISD and the City of Lubbock Health Department will provide an Automated External Defibrillator (AED) at identified locations throughout the LISD system to make early defibrillation accessible to individuals who experience sudden cardiac arrest. The key to significantly improving cardiac arrest survival rates in adults lies in increasing the availability of AEDs. The AED units will be installed in LISD buildings identified for use as immunization clinics or shelters during emergencies declared by the Commissioner of Health or the local health authority. Portable AED units will also be provided to designated school personnel and be available during the emergency.

An Interlocal Cooperation Contract for public health emergency planning has already been signed by LISD and is ready for Council approval at the August 10, 2006, Council meeting. This agreement becomes effective after approval by the governing bodies of LISD and the City. The purchase of AEDs for LISD is a key component of the Interlocal Cooperation Contract.

FISCAL IMPACT

Funding will be through the Federal Metropolitan Medical Response System contract and funding for emergency preparedness. The purchase will not impact the General Fund.

Staff recommended bid award to Emergency Medical Consultants of Connecticut, LLC of Bethel Connecticut for \$36,244.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass Resolution No. 2006-R0383 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.14. Contract Amendment Resolution - Water Utilities: Resolution No. 2006-R0384 authorizing the Mayor to execute Change Order No. 1 to the contract with A-1 American Fence, Inc. for improvements at Pump Station #10 located at 82nd Street and Memphis Avenue.

This project involves constructing a brick security fence and associated landscaping for the recently constructed ground storage tank at Pump Station #10 located at 82nd Street and Memphis Avenue.

TCEQ requires a minimum eight-foot high security fence surrounding any water distribution center. A neighborhood and citizens committee was formed to recommend the appropriate fencing type and material. This plan meets the requests from the neighborhood committee while providing the appropriate security infrastructure for the pump station and ground storage tank.

Change Order No. 1 involves increasing the size of the security wall footing to better accommodate local wind loads and to provide a more stable footing for the wall. The cost for additional materials and labor for this change order is \$38,400, or a 5.9 percent increase in the total contract amount.

FISCAL IMPACT

This change order will increase the contract amount from \$654,612 to \$693,012. A total of \$750,000 was appropriated in Capital Improvement Project 91031, Pump Station 10 Fencing, for this purpose.

Staff recommended approval of this resolution.

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

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Jones to pass Resolution No. 2006-R0379 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

Mayor Miller abstained from voting on this item, because he was on the Citizen Advisory Committee working on this project before he was elected.

5.17. Contract Resolution - Police: Resolution No. 2006-R0385 authorizing the Mayor to execute an agreement with Texas Tech University Health Sciences Center for medical examinations of children who are alleged victims of sexual assault.

Allegations involving the sexual assault of children require medical examinations by either a physician or a sexual assault nurse examiner. The Texas Code of Criminal Procedures mandates that the requesting law enforcement agency pay all costs of the examination. Child Advocacy Research and Education (CARE) Center at Texas Tech University Health Sciences Center is the locally recognized provider for these services.

FISCAL IMPACT

The agreement requires the City to pay \$450 per referred case. The Texas Attorney General's Office currently reimburses the City for these expenditures, estimated to be \$49,500 in FY 2006-07.

Staff recommended approval of this resolution.

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

Motion was made by Council Member Leonard, seconded by Council Member Jones to pass Resolution No. 2006-R0385 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.18. Contract Resolution - Solid Waste: Resolution No. 2006-R0386 authorizing the Mayor to execute a contract with L.D. Kemp Excavating, Inc. for the excavation of Cell Three at the West Texas Regional Disposal Landfill, BID 06-707-BM.

West Texas Regional Disposal Landfill disposal Cell 2 opened in April 2004 with a life expectancy of about four years of life. This project involves the excavation of approximately 1.6 million cubic yards of soil to construct disposal Cell 3. After Cell 3 is excavated, it will be lined and will be placed in service sometime next year.

This project will result in a state approved landfill cell to allow the City to lawfully dispose of refuse in the most economical and efficient way possible. The life expectancy of this cell is approximately five years.

Time for completion is 200 calendar days and liquidated damages is \$200 per day.

FISCAL IMPACT

\$3,627,000 is budgeted in Capital Improvement Project 91016 Cell 3 Excavation for this project.

Staff recommended contract award to L.D. Kemp Excavating of Ft. Worth, Texas for \$3,244,283.84.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to pass Resolution No. 2006-R0386 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.19. Contract Resolution - Solid Waste: Consider a resolution authorizing the Mayor to execute a contract with SCS Field Services for gas extraction system pipeline improvements, RFP 06-706-BM.

This item was continued to the next meeting.

This contract involves two capital improvement projects that require similar expertise and equipment to complete each project. Both projects involve the replacement and improvement of existing gas extraction systems. The 78th Street and Quaker Avenue Project, CIP #241-91136, involves replacement of the existing gas pipeline. The Realignment of Gas Pipeline at #69 Project, CIP #241-8517, involves the replacement of gas pipeline well heads to improve the existing system. This construction contract will improve efficiency of both systems and reduce the amount of labor used to maintain these systems.

Texas Local Government Code Section 252.043(d-1) provides that a contract for certain types of construction projects that require an expenditure of \$1.5 million or less may be awarded using the competitive sealed proposal procedure prescribed by Section 271.116 of the Texas Local Government Code. Using the competitive sealed proposal procedure is intended to help local governments attract contractors who otherwise may not have an interest in participating on the basis of low bid and gives us the ability to bring the project in within budget with the contractor who offers the best value. This is compared to an ITB that limits us to basing contract award on the lowest bid, which may be over budget requiring us either to search for additional funds or start the bid process all over.

Selection criteria used in this RFP includes price 75%; construction time 10%, resume and references of proposed job superintendent 5%, list of potential items that could reduce the cost of work and result in same end product 3%, insurance claims and litigation during last three years 2%, list of subcontractors 2%, and contracting phasing options which may shorten construction time without increasing proposed contract amount 3%. The following general contractors submitted proposals and were evaluated and ranked in relation to the published selection criteria as follows:

SCS Field Services of Reston, Virginia proposed a project cost of \$540,645 with time for completion of 60 calendar days and scored 455 points.

Shaw Environmental, Inc. of Baton Rouge, Louisiana proposed a project cost of \$529,978 with a time for completion of 195 calendar days and scored 445 points.

L. Howard Construction, Inc. of Abernathy, Texas proposed a project cost of \$551,891 with time for completion of 180 calendar days and scored 420 points.

Deerwood Construction, Inc. of Lubbock, Texas proposed a project cost of \$657,915 with a time for completion of 172 calendar days and scored 352 points.

A-1 American Fence, Inc. of Orange, Texas proposed a project cost of \$673,025 with a time for completion of 195 calendar days and scored 328 points.

Texas Local Government Code Section 271.116(f) requires the City to select the offeror that offers the best value based on the published selection criteria and on its ranking evaluation. In determining best value, the City is not restricted to considering price alone, but may consider any other factor stated in the selection criteria. The City and its engineer or architect may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification. If the City is unable to negotiate a contract with the selected offeror, the City must, formally and in writing, end negotiations with that offeror and proceed to the next offeror in the order of the selection ranking until a contract is reached or all proposals are rejected.

The proposal from SCS Field Services included a list of potential cost reductions and recommended changes. One item proposes to utilize field fabricated well bore seals in lieu of the specified factory fabricated seals at a cost savings of \$12,168. Parkhill, Smith & Cooper has determined that the alternative well bore seal is acceptable and recommended the modification.

FISCAL IMPACT

\$250,000 was budgeted in Capital Improvement Project 91136, 78th Street and Quaker Avenue and \$668,400 was budgeted in Capital Improvement Project 8517, Realignment of Gas Pipelines for this project.

Staff recommended contract award to SCS Field Services of Reston, Virginia for \$528,477.

Mayor Pro Tem Gilbreath suggested that, because of a zoning case on the next agenda that could possibly impact the property at 78th Street and Quaker, this item be continued until the August 24, 2006 Regular City Council Meeting. Council consensus was to continue to next meeting.

5.21. Contract Resolution - Traffic: Resolution No. 2006-R0387 authorizing the Mayor to execute a purchase order with Consolidated Traffic Controls, Inc. for the purchase and installation of an emergency pre-emption system.

The City's emergency pre-emption system is utilized on approximately 50 percent of approaches at signalized intersections. This acquisition will expand the pre-emption system and will include the installation of equipment in emergency vehicles.

City emergency services use the system to receive green lights when they proceed through intersections.

This acquisition will be made through the Houston-Galveston Area Council (H-GAC) purchasing cooperative, Contract PE05-05. H-GAC is a regional planning commission created under the Acts of the 59th Legislature, Regular Session, 1965, re-codified as a Texas Local Government Code, Chapter 391.

FISCAL IMPACT

The emergency pre-emption system will be funded through the Master Lease Program, as approved in Resolution No. 2005-R0460 (amended by Resolution No. 2006-R0082) and Resolution No. 2005-R0579.

Staff recommended purchase order to Consolidated Traffic Controls, Inc. of Arlington, Texas for \$499,970.22.

Traffic Engineer Jere Hart, City Manager Lee Ann Dumbauld, and Chief Financial Officer Jeff Yates gave comments and answered questions from Council.

Motion was made by Council Member Leonard, seconded by Council Member Price to pass Resolution No. 2006-R0387 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.1. Board Establishment Ordinance 2nd Reading - City Council: Ordinance No. 2006-O0080 Consider and ordinance amending Chapter 2 of the Code of Ordinances, City of Lubbock Texas, to add Article XVI, entitled "Model Codes and Construction Advisory Board"; providing a savings clause and providing for publication.

Early in 2006, staff proposed the creation of a committee composed of various area stakeholders and technical representatives to review the technical provisions of the National Model Construction Codes when proposed for periodic adoption. The codes are nationally-promulgated minimum standards

for construction and remodeling of all building systems, including residential, fire and life safety, structural, mechanical (HVAC), plumbing, electrical, fuel gas, energy conservation, and rehabilitation that are intended for adoption by units of government as local law, and are increasingly mandated by state legislatures, including Texas.

Amendments to the national standards should be carefully considered and requires the City to thoroughly and carefully evaluate potential amendments. The proposed make-up of this Board is carefully considered and balanced to include general representation of the affected community and specific technical input where needed. This is accomplished with a board of 12 standing members, all of whom have a general knowledge of the provisions within their purview, and one "technical alternate" that will vary depending upon the code provisions under consideration. The ordinance provides for balanced Board membership and a comprehensive review process which ensures that recommendations to the City Council clearly communicate impacts on health and or/life safety levels. In addition, the Board will be charged with the responsibility to review and recommended proposed fee schedules impacting the construction industry.

The draft ordinance has been extensively reviewed by both staff and the Liaison Committee of the West Texas Homebuilder's Association, with a consensus reached. Both groups believe that the draft, as presented, addresses all concerns.

FISCAL IMPACT

In addition to the non-quantifiable costs to the City for staff time in serving an additional board, the following fiscal impact is anticipated:

- 1) A full set of model codes for each Board member is estimated to cost \$450 per member every third year beginning in FY 2006-07.
- 2) A set of annual supplements for each Board member is estimated to cost \$20 per member every first and second year beginning in FY 2007-08.
- 3) Recommended annual training for staff and Board members is estimated to cost \$3,500.

Rob Allison, Executive Director of Business Development, and Randy McGuire with the West Texas Home Builders Association, gave comments and answered questions from Council.

Motion was made by Council Member Price, seconded by Mayor Pro Tem Gilbreath to pass on second and final reading Ordinance No. 2006-O0080 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

- 6.2. Waiver of Payment in Lieu of Taxes Resolution - Community Development: Resolution No. 2006-R0388 approving a waiver of the "Payment in Lieu of Taxes" for 2006, due pursuant to the Cooperation Agreement for Lubbock Housing Authority.**

On August 24, 1995, the City of Lubbock entered into a cooperative agreement with Lubbock Housing Authority (LHA) requiring that the Payment In Lieu of Taxes (PILOT) be made to the City on an annual basis.

On April 24, 2003, City Council approved an amendment to the original agreement that would allow Council to approve the waiver following an annual review. Approval of the waiver shall be based upon LHA's use of the previous year's waived PILOT funds on an affordable housing project. If the waived amount is shown not to have been used for an affordable housing project, the City will not waive the payment, unless the waiver is otherwise approved by the Council.

On February 17, 2005, LHA brought a request to City Council to waive the PILOT for both 2004 and 2005. The request was approved by Council.

The current request is to waive the PILOT for 2006. The Accounting Department staff has identified the amount to be waived as being \$42,197. LHA has provided Community Development staff with back-up documentation showing that the Lubbock Housing Authority has spent over \$100,000 to rehabilitate affordable housing units in Lubbock, meeting the conditions of the amendment to the cooperative agreement.

FISCAL IMPACT

The \$42,197 waiver is lost revenue to the General Fund.

Staff recommended approval of this resolution.

Nancy Haney, Executive Director of Community Services, and Quincy White, Executive Director of Lubbock Housing Authority, gave comments and answered questions from Council.

Motion was made by Council Member Price, seconded by Mayor Pro Tem Gilbreath to pass Resolution No. 2006-R0388 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.3. Ordinance Amendment 1st Reading - Health: Ordinance No. 2006-O0086 amending Chapter 12 of the Code of Ordinances of the City of Lubbock, Texas, with regard to the adoption of food establishment rules; certification of food managers; providing a savings clause; providing a penalty; and providing for publication.

Section 1 of the ordinance adopts the Texas Food Establishment Rules as adopted by the Texas Department of State Health Services on March 15, 2006. Section 2 provides the framework to require a certified food safety manager at each establishment. Section 3 provides for a penalty deemed a misdemeanor with a fine not to exceed \$2,000 for violations of any provision of this ordinance. Section 4 allows for continuance of the remainder of the ordinance should any paragraph, section, clause, phrase, or work of this ordinance be declared unconstitutional or invalid for any reason. Section 5 provides for publication of the descriptive caption of this ordinance.

Staff recommended adoption of these rules in order to be consistent with state and federal regulations. These activities are directly related to protection of public health and safety.

The last update to the ordinance adopting the Texas Food Establishment Rules occurred in 2000. Since then, the Texas Legislature has agreed to review and update the rules every four years to reflect advances in technology and industry innovations. The 2006 rule changes include:

- The inclusion of Norovirus as a disease that an infected employee must report to a food manager. The food employee will then be excluded from food service work until a physician approves the employee's return to work.
- Guidelines based on the FDA National Retail Food Program Regulatory Standards for the competency of food safety inspectors. These guidelines include Registered Sanitarian certification, continuing education requirements, and recommendations for staff development.
- Hot-hold temperatures have been lowered from 140 degrees Fahrenheit to 135 degrees Fahrenheit. This was a recommendation of the Conference for Food Protection.
- All food establishments must have at least one Certified Food Manager on staff. This is currently required by law outside the Lubbock city limits. Staff will offer educational opportunities during the first year after adoption and before enforcing this requirement.
- The standard inspection form will prompt a more thorough inspection by obliging inspectors to note whether a violation is in compliance, out of compliance, not applicable to that establishment, or not observed at time of inspection.

The Board of Health adopted these food rules at their July 14, 2006, meeting.

FISCAL IMPACT

The impact to the General Fund will be minimal. However, staff can expect an increase in frequency and attendance of our in-house food safety course due to the Certified Food Manager requirement, which increase revenues slightly. Environmental Health currently charges a fee for this course to offset related expenditures.

The Board of Health and staff recommended approval of the first reading of this ordinance.

Bridget Faulkenberry, Environmental Specialist, gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass on first reading Ordinance No. 2006-O0086 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.4. Ordinance Amendment 1st Reading - Water and Waste Water Utilities: Ordinance No. 2006-O0087 amending Chapter 28 of the Code of Ordinances of the City of Lubbock, Texas, with regard to acceptance of water and/or sewer improvements; providing a penalty; providing a savings clause; and providing for publication.

Upon completion of water and/or sewer facilities in accordance with the design approved by the City by private contractor and acceptance by the City, or upon completion by the City, the facilities so constructed become and remain the property of the City and are maintained as a part of its water and/or sewer system.

The City Engineer now accepts routine street and related improvements, and it is proposed that the City Manager, or her designee, accept routine water and sewer related improvements in new developments.

This ordinance amendment will provide that, after final inspection and approval of the water and/or sewer improvements required by Chapter 25 of the Code of Ordinances, the City Manager, or her designee, will accept the improvements, except where City costs are related to the acceptance. In such case, the Water Utility Chief Engineer, or his or her designee, shall submit the said improvements to the City Council for their consideration for approval and acceptance.

All water and/or sewer development improvements will be presented to the Lubbock Water Advisory Commission as part of their review of Water Utility operations.

FISCAL IMPACT

No fiscal impact is anticipated.

Staff recommended approval of the first reading of this ordinance.

City Attorney Anita Burgess answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass on first reading Ordinance No. 2006-O0087 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

This item was reconsidered following Item 6.5.

At this time, motion was made by Council Member Jones, seconded by Council Member DeLeon to reconsider Item 6.4. Motion carried: 7 Ayes, 0 Nays.

Item 6.4 was reconsidered and discussion was had. First Assistant City Attorney Richard Casner and City Manager Lee Ann Dumbauld gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Mayor Pro Tem Gilbreath to pass Ordinance 2006-O0087 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.5. Contract Resolution - Water Utilities: Resolution No. 2006-R-0389 authorizing the Mayor to execute a contract with Craig Wallace Construction for Parks Irrigation System Groundwater Conversion, Phase I Development.

This project involves converting irrigation systems in 11 City parks from the municipal water supply to a groundwater source with 21 irrigation wells in an effort to conserve potable water. City potable water will be used in the event of a well failure, or necessary water pressure, to ensure system performance. This project affects the following parks with the corresponding number of wells shown for each park:

Duran - 2
Elmore - 3
Hoel - 2
Kastman - 2
Lopez - 1
Mahon - 2
Remington - 2
Ribble - 2
Rogers - 2
Smith - 1
Stevens - 2

Texas Local Government Code Section 252.043(d-1) provides that a contract for certain types of construction projects that require an expenditure of \$1.5 million or less may be awarded using the competitive sealed proposal procedure prescribed by Section 271.116 of the Texas Local Government Code. Using the competitive sealed proposal procedure is intended to help local governments attract contractors who otherwise may not have an interest in participating on the basis of low bid and gives municipalities the ability to bring their projects in within budget with the contractor who offers the best value. This is compared to an ITB that limits us to basing contract award on the lowest bid, which could be over budget requiring us either to search for additional funds or start the bid process over.

Selection criteria used in this RFP includes price 60%; construction time 15%, resume and references of proposed job superintendent 5%, list of potential items that could reduce the cost of work and result in same end product 5%, insurance claims and litigation during last three years 5%, list of subcontractors 5%, and contracting phasing options which may shorten construction time without increasing proposed contract amount 5%. The following general contractors submitted proposals and were evaluated and ranked in relation to the published selection criteria as follows:

Craig Wallace Construction of Lubbock, Texas proposed a project cost of \$1,636,868 with time for completion of 180 days and scored 210 points.

High Plains Drilling of Abernathy, Texas proposed a project cost of \$1,714,008 with time for completion of 210 days and scored 175 points.

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Texas Local Government Code Section 271.116(f) requires the City to select the offeror that offers the best value based on the published selection criteria and on its ranking evaluation. In determining best value, the City is not restricted to considering price alone, but may consider any other factor stated in the selection criteria. The City and its engineer or architect may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification. If the City is unable to negotiate a contract with the selected offeror, the City must, formally and in writing, end negotiations with that offeror and proceed to the next offeror in the order of the selection ranking until a contract is reached or all proposals are rejected.

In order to bring the contract amount within the statutory limit, staff is discussing with the selected offeror the following scope or time modifications and any price change associated with the modifications:

1. No separate ditching shall be required for the conduit. Contractor will be allowed to use the water line trench to install conduits from well heads to pump buildings.
2. Feeder wire size shall be reduced from #3W to #8W.
3. Step down transformer size shall be reduced from 15kVA to 7.5kVA.
4. Transformer shall be installed in the control building. Consequently, no stand-alone rack will be required.
5. All electrical enclosures shall be reduced from 8-foot double wide to 4-foot single wide.
6. Enclosures may have open bottom if that results in cost savings.
7. Concrete pads for electrical enclosures shall be reduced according to enclosure sizes.
8. One disconnect assembly shall be eliminated as the combo pump panel includes disconnect function.
9. Exterior light for control building shall be removed.
10. Reduce panel box capacity and size. Eliminate or combine several 20-amp circuits in the building.
11. T-footing may be simplified if it results in cost savings.
12. Water line trench width may be reduced from 16-inch if it results in cost savings.

All of the above items are currently being discussed. Approval of the resolution and contract award is conditioned on a combination of one or more of the abovementioned scope or time modifications and any price change associated with the modifications resulting in a contract amount of \$1.5 million or less. This information was presented at the August 10, 2006, City Council meeting.

FISCAL IMPACT

\$2.2 million is appropriated with \$1,762,465 available in Capital Improvement Project 90357, Parks Conversion to Groundwater, for this purpose.

Staff recommended contract award to Craig Wallace Construction of Lubbock, Texas.

Tom Adams, Deputy City Manager/Water Utilities Director; Victor Kilman, Director of General Services; and Wood Franklin, Interim Chief Engineer for Water Utilities, gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass Resolution No. 2006-R0389 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

Item 6.4 was reconsidered following the above item.

6.6. Budget Ordinance 1st Reading - Finance: Ordinance No. 2006-O0088 amendment #20 amending the FY 2005-06 budget respecting the Abandoned Vehicle Special Fund and Grant Fund.

1. Appropriate additional estimated revenue of \$450,000 in the Abandoned Vehicle Special Fund from monies received from the auction proceeds of abandoned vehicles for wrecker, tow truck, and vehicle storage services. This budget amendment will increase total appropriated revenues to \$750,000 and estimated expenses of \$450,000 for a projected year-end addition to fund balance of \$300,000. The accumulated fund balance is used to provide funding for specialized equipment and technology needs of the Police Department.
2. Accept and appropriate a \$33,750 grant from the Texas State Library and Archives Commission for the Gates Foundation Access Computer Hardware Upgrade Grant Program (PAC HUG). This funding will replace PACs still utilizing Windows NT operating systems originally granted by the Foundation and computer lab PACs.
3. Accept and appropriate a \$205,159 grant from the United States Department of Justice for the Local Law Enforcement Block Grant Program (LLEBG) for the Public Safety Computer System.
4. Accept and appropriate a \$511,653 grant from the United States Department of Justice, Office of Community Oriented Policing Services, for the purchase of mobile data computer hardware.
5. Accept and appropriate a \$96,133 grant from the United States Department of Justice for the Local Law Enforcement Block Grant Program (LLEBG) for the Public Safety Computer System.
6. Accept and appropriate a \$738,982 grant from the United States Department of Justice, Office of Community Oriented Policing Services, for a wireless data communications network project.

7. Accept and appropriate a \$291,738 grant from the United States Department of Justice for an Edward Byrne Memorial Justice Assistance grant to fund radio/data communication infrastructure upgrades, mobile transmitters, and software.
8. Accept and appropriate a \$168,534 grant from the United States Department of Justice for an Edward Byrne Memorial Justice Assistance grant to fund radio/data communication infrastructure upgrades, software, and Lubbock County technology purchases.

FISCAL IMPACT

Included in Item Summary.

Staff recommended approval of the first reading of this ordinance.

Chief Financial Officer Jeff Yates and City Manager Lee Ann Dumbauld gave comments and answered questions from Council. Mayor Miller asked Mr. Yates to make sure that the grants (that we are certain of) are indeed rolled into the City's revenue sources for the coming budget year.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Jones to pass on first reading Ordinance No. 2006-O0088 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.7. Board Appointments - City Secretary: Consider 15 appointments to Lubbock Centennial Committee; consider thirty-five appointments to Citizen Advisory Committee.

Motion was made by Council Member Price, seconded by Council Member Leonard to appoint Morris Wilkes, Lonnie Hollingsworth, Beverly McBeath, Mark Flenniken, Dr. Idris Traylor, Monte Monroe, Randy Christian, Marie Hanza, Linda Gaither (Chair), Sandy Henry, Paul R. Bean, Peter Laverty, Alice Lozada, R.J. Givens, and Katie Parks to the Lubbock Centennial Committee. Motion carried: 7 Ayes, 0 Nays.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Jones to appoint Paul Stell, Kevin Atkins, Mike Stevens, Burle Pettit, Dr. Greg Johnson, Becky Yates, Tracy Bacon, Steve Locke, Jerry Bell, Linda Greenstreet, David Wilkerson, Zach Brady, Walt Huffman, Regina Johnston, Carla Moran, Dana Craig, Don Graf, Les Hatch, Bill Miller, Dr. Peter Ho, Paul Dannevik, Laura James, Donya Snead, Andy Cates, Ysidro Gutierrez, Jimmy Castillo, Annette Castellano-Chavez, Rudy Rosales, Veronica Lujan, Rev. Jackie Johnson, George Love, Chris Moore, Paul Frazier, and Felecisima Betts to the Citizen Advisory Committee. Motion carried: 7 Ayes, 0 Nays.

10:55 A.M. CITY COUNCIL RECESSED TO EXECUTIVE SESSION

1:00 P.M. CITY COUNCIL RECONVENED

6.8. Property Tax Rate Proposal Resolution - Finance: Resolution No. 2006-R0390 authorizing a proposal to adopt a property tax rate that will result in additional revenue as outlined in Section 26.05(d) of the Tax Code of the State of Texas, schedule public hearings, and discuss effective and rollback tax rates.

The approval of this resolution is required by state law, as amended by Senate Bill (S.B.) 18 and S.B. 567, and is not the adoption of the tax rate. This action is necessary for the publication of a proposed tax rate and the scheduling of public hearings to discuss the proposed tax rate. The rate that is finally adopted by the City Council in September will follow two public hearings, two readings of the tax ordinance, and public discussion.

The Texas Constitution and Property Tax Code embody the concept of truth-in-taxation to require taxing units to comply with certain steps in adopting their tax rates. The truth-in-taxation laws have two purposes:

To make taxpayers aware of tax rate proposals and;

To allow taxpayers, in certain cases, to roll back or limit a tax increase.

The truth-in-taxation requirements are contained in the Texas Constitution, Chapter 26, Property Tax Code, Article VIII, Section 21 and in S.B. 18 of the 79th Texas Legislature and S.B. 567 of the 80th Texas Legislature.

Beginning in early August, the City took the first step toward adopting a tax rate by calculating and publishing the effective and rollback tax rates in coordination with the Lubbock Central Appraisal District.

Effective tax rate.

The effective tax rate is a calculated rate that will provide the City with about the same amount of revenue it received during the prior year, on properties taxed in both years. If property values rise, the effective tax rate will go down and vice versa. The calculated effective rate for FY 2006-07 is \$0.43485 per \$100 valuation.

Rollback tax rate.

The rollback rate is a calculated maximum rate allowed by law without voter approval. The rollback rate provides the City with about the same amount of tax revenue it spent the previous year for day-to-day operations, plus an extra 8 percent increase for those operations plus sufficient funds to pay debts in the coming year. If the City adopts a tax rate that is higher than the rollback rate, 10% of the registered voters in the City (12,993 voters as of 08/04/06) can circulate a petition calling for an election to limit the size of the tax increase. The calculated rollback tax rate for FY 2006-07 is \$0.49030 per \$100 valuation.

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The City Council must follow new legislative guidelines for proposing and adopting a tax rate. If the tax rate proposed by the governing body exceeds the effective tax rate or rollback rate, whichever is lower, the City must publish the new hearing notice, post a new Internet Web site notice, and hold two public hearings.

If the proposed rate exceeds the rollback rate or the effective rate, whichever is lower, the City Council must vote to place a proposal to adopt the rate on the agenda of a future meeting as an action item. This vote must be recorded. The proposal must specify the desired rate. The City cannot vote to adopt a proposal to increase taxes by an unspecified amount. If the motion passes, the governing body must schedule two public hearings on the proposal. The City Council is not legally bound to adopt the proposal and may adopt some other tax rate in the ordinance on the final passage of the tax levy ordinance.

After proposing a tax increase and scheduling the two public hearings, the City Council must notify the public of the dates, times and place or places for these hearings and provide information about the proposed tax rate at least seven days before the public hearings.

After publishing the first required notice, the City must hold two public hearings. Taxpayers must have the opportunity to express their views on the increase at each hearing. The City Council may not adopt the tax rate at either of these hearings. At each hearing, the governing body must announce the date, time and place of the meeting at which it will vote on the tax rate.

After the public hearings and before the meeting scheduled for the vote, the City Council must publish a second quarter-page notice titled Notice of Vote on Tax Rate.

The Tax Code requires that the City Council adopt the tax rate no less than three days but no more than 14 days after the second public hearing. If the City does not adopt during this time period, then it must republish the second notice of the meeting to adopt the tax rate, with the new date, time and location to adopt the rate.

The Local Government Code, Chapter 102 also requires a budget public hearing prior to the passage of a tax levy ordinance. The budget ordinance must be passed before the tax levy ordinance is passed.

Attached to the resolution is the actual copy of the Notice of Public Hearing on Tax Rate, the calculation of the effective and rollback tax rates and a calendar of future Council meetings and public hearings related to the budget and tax rate.

FISCAL IMPACT

Dependent upon proposed tax rate.

Staff recommended approval of this resolution.

Mayor Miller explained the process of adopting a tax rate.

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Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to pass Resolution No. 2006-R0390 and propose a tax rate of .43485 plus the additional debt service (already incurred) of .01035 for a total proposed tax rate of .4452 as recommended by staff.

Discussion occurred.

Andy Burcham, Director of Fiscal Policy and Strategic Planning, and Chief Financial Officer Jeff Yates gave a presentation on some of the steps that the State of Texas requires before finally adopting a tax rate. They both answered questions from Council.

According to Mr. Yates, the budget and tax rate hearing schedule that meets all legal obligation and advertising requirements is:

- August 14, 2006 – Publish the first notice of the tax rate hearing
- August 15 & 17, 2006 – 1:30 p.m. Budget Work Session
- August 22, 2006 – Publish the second notice of the tax rate hearing
- August 24, 2006 – Regular City Council Meeting & 7:30 a.m. First Public Hearing on the tax rate
- August 31, 2006 – Special City Council Meeting with a Public Hearing for the budget, and second tax rate hearing from 3:00 p.m. – 9:00 p.m.
- September 1-9, 2006 – Publish the notices
- September 13, 2006 – 7:30 a.m. Regular City Council Meeting & second reading of Budget Ordinance & Tax Levy Ordinance

The budget will be adopted well ahead of the September 29, 2006 deadline.

Council Member Boren stated that he recalls that the last two years the national CPI adjusted tax rate was used and this year the local CPI adjusted tax rate is being used. Because the City has always used the lower of the two, he asked Yates to check it out.

After further discussion, motion was made by Council Member Leonard, seconded by Council Member Boren to call for the question. Vote was taken, which failed: 3 Ayes, 4 Nays. Mayor Miller and Council Members Price, DeLeon, and Jones voted Nay. Discussion continued.

Vote was taken on the motion on the table made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to pass Resolution No. 2006-R0390 and propose a tax rate of .43485 plus the additional debt service (already incurred) of .01035 for a total proposed tax rate of .4452 as recommended by staff. Motion carried: 5 Ayes, 2 Nays. Council Members Jones and Price voted Nay.

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7. WORK SESSION

7.1. Update on 2006 Music Festival - Entertainment Lubbock Committee:

Jim Bertram, Don Caldwell (Chairman), and Jim Douglas of the Entertainment Lubbock Committee gave an update on the 2006 Music Festival and ticket sales. They also answered questions from Council. Mayor Miller asked that the Committee submit a finance report (check-by-check, full account) to the City Manager at the end of the festival.

Nancy Haney, Executive Director of Community Development, and City Manager Lee Ann Dumbauld gave comments and answered questions from Council.

2:50 P. M. COUNCIL ADJOURNED

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