

**CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
September 28, 2006
7:30 A. M.**

The City Council of the City of Lubbock, Texas met in regular session on the 28th day of September, 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 David A. Miller, Mayor Pro Tem Jim Gilbreath, Council Member Linda DeLeon, Council Member Phyllis Jones, Council Member John Leonard, Council Member Floyd Price

Absent: Council Member Gary O. Boren

1. CITIZEN COMMENTS

1.1. Robert Moore will appear to discuss the City budget, City spending, and traffic problems vs. Police Department.

Mr. Moore was not present.

1.2. Norma Jean Morris will appear to discuss things that the law enforcement community does including certain experiences of living in Lubbock.

Ms. Morris was not present.

- Scott Stephenson addressed Council regarding the proposed noise ordinance. He is the owner of the amphitheater located on East 19th Street, and is concerned that this ordinance might pose a problem for his business. He requested a copy of the ordinance.

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."

7:35 A. M. CITY COUNCIL RECESSED TO EXECUTIVE SESSION
City Council Conference Room

All council members were present, except Gary O. Boren.

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- 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 (Finance, Fire Department, Solid Waste, Stormwater Utilities, 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 (Business Development, Right-of-Way, Visitors Center, Water Utilities).
- 2.3. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.074 (a)(1), to discuss personnel matters (City Attorney, City Manager, City Secretary) and take appropriate action.
- 2.4. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.074(a)(1), to discuss personnel matters regarding duties, responsibilities, and/or appointments to the Electric Utility Board, the Health/Educational Facilities Board of Directors, and the Urban Design/Historic Preservation Commission.
- 2.5. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.086, on the following competitive matters (Electric Utilities):
 - 2.5.1 to deliberate, vote and take final action on electric rates of Lubbock Power and Light;
 - 2.5.2 to discuss, vote and take final action on a competitive matter regarding operation, financial and capital statements and budgets, revenue and expense projections, strategic and business plans and studies of Lubbock Power and Light;
 - 2.5.3 to discuss and deliberate a competitive matter regarding the strategies, goals, funding and strategic purpose of the City of Lubbock's relationship with and membership in the West Texas Municipal Power Agency.

9:38 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 9:38 a. m.

3. PROCLAMATIONS AND PRESENTATIONS

3.1. Invocation by Pastor Bill Hendricks, Lubbockview Christian Church

3.2. Pledge of Allegiance to the Flags.

Pledge of Allegiance was given in unison by those in the City Council Chambers to both the United States flag and the Texas flag.

3.3. Special recognition to recognize Courtney Sneed and her work in the Solid Waste Department.

Mayor Miller presented special recognition to Courtney Sneed of the Solid Waste Department for a job well done and going the extra mile to serve the citizens of Lubbock.

3.4. Special recognition to recognize Professional Sanitarian and Environmental Health Specialist Week.

Mayor Miller presented special recognition to the Professional Sanitarians and Environmental Health Specialists of the City of Lubbock for their role in our health and well-being of our citizens. They are responsible for safe water supplies, excellent air quality, proper waste disposal, and emergency preparedness at a moment's notice. Tommy Camden, Health Director, gave comments.

4. MINUTES

4.1. Approval of Prior Meeting Minutes: Regular City Council Meeting, August 24, 2006; Special City Council Meeting, August 31, 2006.

Motion was made by Council Member Leonard, seconded by Council Member Price to approve the minutes of the Regular city Council Meeting of August 24, 2006 and the Special City Council Meeting of August 31, 2006 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5. CONSENT AGENDA (Items 5.1, 5.3, 5.6-5.8, 5.12-5.13, 5.23)

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to approve Items 5.1, 5.3, 5.6-5.8, 5.12-5.13, and 5.23 on consent agenda as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.1. Right-of-Way Ordinance 2nd Reading - Right-of-Way: Ordinance No. 2006-O0100 Consider an ordinance abandoning and closing a 17.5-foot wide alley located in Block 1 McLarty Circle View Addition to the City of Lubbock, located at 6510 I-27.

This ordinance was read for the first time at the September 13, 2006, City Council meeting as a consent agenda item.

The ordinance abandons and closes a portion of a 17.5-foot wide alley located in Block 1 McLarty Circle View Addition, which is east of Avenue J between 65th Street and 66th Street.

The requested closure is necessary to accommodate motel construction. Due to the dedication of similar easements, there will be no charge to the requestor

for this closure. The total area of the alley being closed is 5,165.5 square feet and will remain as an underground utility easement. The requestor is dedicating 4,868.75 square feet of new alley in the re-plat. The Right-of-Way Department has calculated a value of two dollars per square foot from adjacent property land values for the alley area being closed for a value of \$10,331 x 50% easement valuation for a total amount due the City of \$5,166. The requestor is dedicating two separate alley areas in the re-plat for a total of 4,868.75 square feet which will be valued as a credit of \$9,738 (4,868.75 square feet x \$2 per square feet = \$9,738). Therefore, there will be no charge to the requestor for this alley closure. All utility companies are in agreement with this alley closure.

FISCAL IMPACT

No fiscal impact is anticipated.

Staff recommended approval of the second reading of this ordinance.

- 5.2. This item was moved from consent agenda to regular agenda and considered following Item 5.23.**
- 5.3. Deed Without Warranty Resolution - Police: Resolution No. 2006-R0446 authorizing the Mayor to accept a conveyance "deed without warranty" from the United States Air Force for a 1.36 acre tract of land in Section 25, Block D-6, Abstract 403, Lubbock County, Texas, a portion of Former Reese Air Force Base and currently used by Police Department Training Academy at Reese Center.**

This deed without warranty involves the transfer of a 1.36 acre tract of land in Section 25, Block D-6, Abstract 403, Lubbock County, Texas. The building and property are used for the Police Training Academy at Reese Center.

Resolution 2006-R0395 was passed at the August 24, 2006, City Council meeting for the transfer of the property.

FISCAL IMPACT

No fiscal impact is anticipated.

Staff recommended approval of this resolution.

- 5.4. This item was moved from consent agenda to regular agenda and considered following Item 5.2.**
- 5.5. This item was moved from consent agenda to regular agenda and considered following Item 5.4.**
- 5.6. Repeal of Ordinance - City Manager's Office: Ordinance No. 2006-O0102 amending Chapter 2 of the Code of Ordinances by repealing Section 2-259(d) and Ordinance 9965 regarding in-kind services for special and community events.**

At the January 9, 1997, City Council meeting, City Council approved Ordinance 9965, which amended Chapter 2 of the Code of Ordinances of the

City of Lubbock expanding the duties of the Parks and Recreation Advisory Board to include review of requests for in-kind services for special community events. The Special Events Policy was developed to track special event support and to monitor the increase of requests received from non-profit organizations for special events. The policy allocates up to \$200,000 annually for in-kind services and 90% (\$180,000) is earmarked for existing events, while the remaining 10% (\$20,000) is targeted for new events.

This ordinance amendment reassigns the duties of making recommendations on in-kind services from the Parks and Recreation Board to the City Manager and staff of the department providing the in-kind services. The new policy regarding in-kind services is provided.

FISCAL IMPACT

In-kind services will be provided within the existing budget authority.

The total dollar amount of in-kind services provided annually to special and community event organizers will be determined by executive management and departments providing services and will be reported to City Council monthly by the City Manager.

Staff recommended approval of the first reading of this ordinance.

5.7. Repeal of Resolution - Public Works: Resolution No. 2006-R0447 to repealing Resolution No. 2005-R0131 which provided for abutting property owner assessments for paving improvements to portions of 98th Street from FM 1730 (Slide Road) to Frankford Avenue.

An assessment process was previously initiated related to the properties abutting 98th Street from FM 1730 (Slide Road) to Frankford Avenue. The assessment was continued through the first reading of the assessment ordinance, and an intent to pave resolution placed liens on the assessable properties.

Prior to completion of the ordinance, City Council revised the paving policy to eliminate the prepaid paving requirement and other property owner participation in the cost of thoroughfare paving improvements.

Since the assessment ordinance was only completed through one of the required three readings, no assessment was officially levied. This resolution will repeal the intent to pave resolution and will release the liens.

FISCAL IMPACT

Based on the new paving policy no fiscal impact is anticipated.

Staff recommended approval of this resolution.

- 5.8. Development Agreement Resolution - Business Development: Resolution No. 2006-R0448 authorizing the Mayor to execute an agreement with Lubbock Shopping Center, Ltd. regarding the funding of public improvements in Phase One, Bond Issue Three, Project 206 of the Project Plan for the North Overton Tax Increment Finance Reinvestment Zone, as amended.**

Under this agreement with Lubbock Shopping Center, Ltd., the City agrees to dedicate and pledge the use of revenue in the Tax Increment Fund to directly participate in the cost of the public improvements for Phase One, Bond Issue Three, Project 206 of the Project Plan as recommended by the Board of Directors of the North Overton Tax Increment Finance (TIF) Reinvestment Zone. This Agreement delineates the division of funding for the public improvements as represented in Exhibit D (TIF participation) and Exhibit E (Developer participation). The total amount of tax increment financing for public improvements shown in Exhibit D is \$1,300,416.

The Project Plan "Exhibit C" is provided in supplemental agenda backup available in the City Secretary's Office.

FISCAL IMPACT

The City has issued bonds to fund this commitment.

Staff recommended approval of this resolution.

- 5.9. This item was moved from consent agenda to regular agenda and considered following Item 5.5.**
- 5.10. This item was moved from consent agenda to regular agenda and considered following item 5.9.**
- 5.11. This item was moved from consent agenda to regular agenda and considered following Item 5.10.**
- 5.12. Contract Resolution - Aviation: Resolution No. 2006-R0449 authorizing the Mayor to execute a contract with Johnson Controls, Inc. for security access control improvements at Lubbock Preston Smith International Airport, BID #06-714-BM.**

The existing access control system (ACS) and closed circuit TV system (CCTV) at Lubbock Preston Smith International Airport have reached the end of their useful life and are in need of replacement. This contract involves upgrading the existing ACS with new head-end equipment including new computers, monitors, and associated hardware; the upgrade of the existing CCTV monitoring system; replacing existing CCTV and adding additional locations.

FISCAL IMPACT

This project will be paid with Passenger Facility Charge funds. A total of \$650,000 has been appropriated in Capital Improvement Project 90400,

Upgrade Access Control/CCTV. The additional \$517,000 is being considered by the City Council on this agenda (Item 5.2).

Staff recommended bid award to Johnson Controls Inc. of Lubbock, Texas for \$965,403.

5.13. Contract Resolution - Community Development: Resolution No. 2006-R0450 authorizing the Mayor to execute a Community Development funding contract with Young Women's Christian Association of Lubbock to fund the facility renovation of YWCA Downtown.

The Community Development and Services Board (CDSB) voted to recommend funding for this project on January 11, 2006, at their regularly scheduled meeting. Funding for this contract was approved by City Council at the March 9, 2006, City Council meeting during their annual reallocation of Community Development Block Grant (CDBG) funds. The first reading of a budget amendment for this contract was approved by Council on September 13, 2006.

The YWCA is the recipient of these funds and will use the funds for renovation of its downtown facility located at 14th Street and Ave N. The funds are from the 2004-05 CDBG reallocated funds. Funds will only be used to install a fire sprinkler system in approved child care areas.

Pursuant to the contract the city agrees to provide YWCA of Lubbock (Grantee) assistance from Department of Housing and Urban Development funds in an amount not to exceed \$96,952. The Grantee must provide a 25% match to the project. At the completion of the project, the Grantee will be subject to the 25% payback requirement. Grantee will have the option of paying back the \$24,238 in one lump sum 30 days after completion of the project or in equal payments for up to ten years at zero percent interest.

The term of the contract is September 28, 2006, through September 30, 2007.

The Community Development Funding Agreement between the City and the YWCA is provided in supplemental agenda backup available in the City Secretary's Office.

FISCAL IMPACT

The funds used are from the Community Development Block Grant. The maximum to be allocated to this project is \$96,952.

Staff recommended approval of this resolution.

5.14 – 5.22 These items were moved from consent agenda to regular agenda and considered following Item 5.11.

5.23. Contract Resolution - Parks: Resolution No. 2006-R0451 authorizing the Mayor to execute a contract with Danny Klein Construction, Inc. for post tension concrete slabs at McAlister Park, RFP #06-715-DD.

This project involves the installation of post tension concrete slabs for a skate park and a Challenger League basketball court at McAlister Park. The project

will also provide accessible sidewalks, parking improvements, and irrigation improvements.

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 cost (35%), resume and references of proposed job superintendent (15%), list of items that could reduce cost of work (5%), insurance claims and litigation (5%), construction time (25%), subcontractors (10%), and phasing options (5%). The following general contractors submitted proposals and were evaluated and ranked in relation to the published selection criteria:

Danny Klein Construction, Inc of Lubbock, Texas proposed a project cost of \$259,602 for the Base Bid plus Additive Option 1; with the time for completion of 60 days and scored 274.

M & S Concrete Company of Levelland, Texas proposed a project cost of \$198,630 for the Base Bid plus Additive Option 1; with the time for completion of 60 days and scored 163.

The Base Bid for the project includes two post tensioned concrete slabs, accessible sidewalks, and parking lot striping. Additive Option #1 includes curb and gutter, additional sidewalks, and irrigation.

Texas Local Government Code Section 271.116(f) requires the City to select the proposal 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 options including scope of work, duration of contract, and cost changes. If the City is unable to negotiate a contract with the selected Contractor, the City must formally, and in writing, end negotiations with that Contractor and proceed to the next Contractor, based on selection ranking until either a contract is accepted or all proposals are rejected.

An evaluation committee determined that the proposal from Danny Klein Construction of Lubbock, Texas offered the best value based on the published selection criteria. The following scope-of-work options were discussed with this contractor:

1. Correction of duplicate cost for concrete included in original proposal.
2. Elimination of one accessible ramp.
3. Addition of one accessible sidewalk at the skate park.

Time for completion of this project is 60 consecutive calendar days and liquidated damages are \$25 per day.

FISCAL IMPACT

Funding in the amount of \$1,300,000 was appropriated for this project and \$130,000 is available in Capital Improvement Project 91203, McAlister Park Improvements. Lubbock Challenger Little League is providing an additional \$45,000, bringing the total funding to \$175,000.

Staff recommended contract award to Danny Klein Construction Company, Inc. of Lubbock, Texas for \$169,409.

5.24. This item was moved from consent agenda to regular agenda and considered following Item 5.22.

6. REGULAR AGENDA

5.2. Budget Amendment Ordinance 2nd Reading - Finance: Ordinance No. 2006-O0101 Consider budget ordinance amendment #21 amending the FY 2005-06 budget respecting the Community Development Fund, Grant Fund, General Fund, LP&L Fund, Water Fund, Airport Fund, Donations Fund, and Capital Improvement Program.

1. Re-appropriate \$96,952 of FY 2004-05 Community Development Block Grant reallocation funds from United States Department of Housing and Urban Development for the renovation of YWCA downtown child care facility.
2. Re-appropriate \$45,000 of FY 2004-05 Community Development Block Grant reallocation funds from United States Department of Housing and Urban Development for the renovation of the Inside Out Ministry facility.
3. Accept and appropriate \$368,342 from the Texas State Library and Archives Commission for Library System Operations. This funding provides for personnel, travel, and supplies for the West Texas Library System.
4. Accept and appropriate \$96,741 from the Texas State Library and Archives Commission for the Interlibrary Loan Center. This funding provides for personnel, equipment, and supplies to operate the interlibrary loan center. For State FY 2007, funding has been approved to increase the current part-time office assistant position to full-time status.
5. Authorize one additional position at the Library Department to be funded from the Interlibrary Loan Center Grant from the Texas State

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Library and Archives Commission (Item #4). The total payroll and benefits for this position is approximately \$28,213.

6. Accept and appropriate \$80,000 for Technical Assistance Negotiated Grant from the Texas State Library and Archives Commission. This grant funds personnel and travel to provide technological assistance to West Texas Library System member libraries.
7. Accept and appropriate a \$108,204 grant from the Department of State Health Services for improving and strengthening local public health infrastructure and support the delivery of essential public health services.
8. Accept and appropriate an additional \$174,659 to the existing Bioterrorism grant contract from the Department of State Health Services, increasing the total contract funding to \$642,605 for bioterrorism preparedness activities.
9. Accept and appropriate an additional \$250,000 to the existing Lab Bioterrorism grant contract from the Department of State Health Services, increasing the contract total to \$549,950 for laboratory specific bioterrorism preparedness activities.
10. Accept and appropriate a \$50,251 grant from the Department of State Health Services for preventative care, health promotion, and direct services in the area of HIV/AIDS surveillance.
11. Accept and appropriate a \$138,264 grant from the Department of State Health Services to provide immunization services.
12. Accept and appropriate a \$199,630 grant with the Texas Department of Transportation for the Speed Selective Traffic Enforcement Program and the Driving While Intoxicated Selective Traffic Enforcement Program. The City's \$99,815 portion is budgeted in the Police Department operating budget.
- 13a. Accept and appropriate a \$769,800 grant from the United States Environmental Protection Agency for a Canyon Lakes Reuse System Study.
- 13b. Establish a \$1,419,000 Capital Improvement Project for the Canyon Lakes Reuse System Study, and appropriate \$650,000 from 2007 Water Utility Revenue Certificate of Obligation Bonds plus matching funds for the previously approved \$769,800 EPA grant.
14. Amend the operating budget, revise one capital project, and add one capital project in the LP&L Fund. Specific information regarding these projects is competitive information protected under Chapter 552.133 of the Texas Government Code.
15. Accept and appropriate an \$8,000 grant from Civic Lubbock, Inc. for Buddy's 70th Birthday Bash, held September 7-9, 2006. A match of \$7,763 is required by the City (in-kind dollars may be used). The

matching funds will come from the FY 2005-06 Buddy Holly Museum operating budget.

16. Transfer \$25,000 from Capital Improvement Project 90372, New Fire Station #8 to Capital Improvement Project 91044, HazMat Storage Station #4. The current amount available in Capital Improvement Project 91044 is \$64,000. The current bid proposal is \$86,231. The additional \$25,000 is necessary to award this bid and to complete construction.
17. Establish a new Capital Improvement Project, Major Repairs at Fire Stations and transfer \$125,000 from Capital Improvement Project 90372, New Fire Station #8 to the new project.
18. Add \$517,000 from Passenger Facility Charges to Capital Improvement Project 90400, Upgrade Access Control/CCTV Systems.
19. Accept and appropriate \$20,709 to Donations Fund for improvements and operations at the animal shelter.

FISCAL IMPACT

Included in Item Summary.

Staff recommended approval of the second reading of this ordinance.

Nancy Haney, Executive Director of Community Development; Jeff Yates, Chief Financial Officer; Claude Jones, Police Chief; and Mark Yearwood, Assistant City Manager of Internal Services, gave comments and answered questions from Council. Regarding filtering of the computers at the libraries, Mayor Miller asked City Attorney Anita Burgess to find out if users of the library computers can be asked if they are registered sex offenders. Council Member Leonard inquired about training for the library staff.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to pass on second and final reading Ordinance No. 2006-O0101 as recommended by staff. Motion carried: 6 Ayes, 1 Nay. Council Member Boren voted Nay.

5.4. Ordinance Amendment - Police: Ordinance No. 2006-O0103 amending Chapter 18, Article I of the Code of Ordinances by repealing Sections 18-4 and 18-4.1, adopting new Sections 18-4 through 18-4.7 establishing comprehensive regulations regarding noise in the City of Lubbock.

The Police Department requests that City Council consider an ordinance of the City Of Lubbock, amending Chapter 18, Article I of the Code Of Ordinances. This amended ordinance repeals sections 18-4 and 18-4.1, and adopts new sections 18-4 through 18-4.7. These new sections establish comprehensive regulations regarding noise in the City, adopt a savings clause, adopt a penalty clause, and provide for publication.

Section 18-4.1 of this amended ordinance states, "It is the policy of the City to minimize the exposure of citizens to excessive noise and to protect, promote and preserve the public health, comfort, convenience, safety and welfare. It is

the express intent of the City to control the level of noise in a manner which promotes commerce; protects the sleep and repose of citizens; promotes the use, value and enjoyment of property; and preserves the quality of the environment.”

The Police Department is charged with duties enforcing such policies. To assist in these duties, the amended ordinance gives updated noise definitions, administration and noise measurements, environmental sound levels and limits, noises prohibited, and exemptions necessary to preserve the public quality of life and property, and peace, in accordance with Section 18-4.1 as quoted above.

FISCAL IMPACT

No fiscal impact is anticipated.

Staff recommended approval of the first reading of this ordinance.

Police Chief Claude Jones and City Attorney Anita Burgess gave comments and answered questions from Council.

Motion was made by Council Member Price, seconded by Council Member Leonard to pass on second and final reading Ordinance No. 2006-00103 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.5. Grant Application Resolution - Emergency Management: Resolution No. 2006-R0452 authorizing City staff to apply for Emergency Disaster Relief Funds for Hurricanes Katrina and Rita, through a Social Services Block Grant resulting from an agreement between the Health and Human Services Commission and South Plains Association of Governments (COG).

The Department of Defense Appropriations Act, 2006, provided approximately \$550 million in Social Services Block Grant (SSBG) to support hurricane recovery in affected states and Texas was allocated \$87,951,690 of the service block grant funds. The SSBG funds provided to the COG in the block grant may not be used for activities reimbursable by or for which funds have been made or will be made available by FEMA, the Army Corps of Engineers, or any other federal funding source unless valid claims for reimbursement were made by the COG to FEMA, the Army Corps of Engineers, or any other valid federal funding source and FEMA, the Army Corps of Engineers, or any other valid federal funding source did not reimburse the claim(s).

The agreements between the Health and Human Services Commission and South Plains Association of Governments for administration of social services block grant for emergency management relief funds for Hurricane Katrina and Hurricane Rita are provided in supplemental agenda backup available in the City Secretary's Office.

FISCAL IMPACT

Receipt of this grant will reimburse the City for expenses related to Hurricanes Katrina and Rita sheltering operations. The total \$165,231 outstanding reimbursement is currently being applied to FEMA.

Staff recommended approval of this resolution.

Jeff Yates, Chief Financial Officer, 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-R0452 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.9. Grant Contract Resolution - Business Development: Resolution No. 2006-R0453 authorizing the Mayor to execute a Grant Management Agreement with the North and East Lubbock Community Development Corporation to oversee and promote economic development in North and East Lubbock.

The City contracted with the North and East Lubbock Community Development Corporation (CDC) for the past three fiscal years to oversee and promote economic development in North and East Lubbock. This will be the fourth and final year of the grant to the CDC. The term of the grant management agreement is for one year and begins October 1, 2006.

FISCAL IMPACT

The grant amount is \$250,000 and is included in the Solid Waste FY 2006-07 operating budget.

Staff recommended approval of this resolution.

Rob Allison, Executive Director of Business Development; Jeff Yates, Chief Financial Officer, and Lee Ann Dumbauld, City Manager, gave comments and answered questions from Council.

Motion was made by Council Member Boren, seconded by Council Member Price to pass Resolution No. 2006-R0453 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.10. Contract Resolution - Civic Centers: Resolution No. 2006-R0454 authorizing the Mayor to execute a contract with Lubbock Heating & Air Conditioning to provide heating, ventilating, and air conditioning maintenance service on equipment at the Civic Center and Lubbock Auditorium/Coliseum, BID #06-065-MA.

Maintenance services for the heating, ventilating and air conditioning equipment at the Lubbock Memorial Civic Center and Auditorium/Coliseum have been performed by mechanical contractors for more than two decades. The term of all contracts has been for three-year periods.

In reviewing the mechanical service contract history, some recurring issues were identified. In order to potentially eliminate past complications, this year's approach was to better define all included equipment through the use of scanned original installation drawings to produce PDF documents that included identifying notations for each equipment component. This contract provides mechanical services for a period of one year with an option to renew annually for up to two additional one-year terms. The renewed contract amount shall be increased each year according to changes in the United States Bureau of Labor and Statistics Other Goods and Services Consumer Price Index, 12 months un-adjusted.

FISCAL IMPACT

A total of \$87,632 is appropriated in the approved FY 2006-07 operating budgets for the Civic Center and Auditorium/Coliseum.

Staff recommended contract award to Lubbock Heating & Air Conditioning of Lubbock, Texas for \$86,436.

Victor Kilman, Director of General Services; Jeff Yates, Chief Financial Officer; Nancy Haney, Executive Director of Community Development; and Lee Ann Dumbauld, City Manager, 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-R0454 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

Council Member Price was away from the dais.

5.11. Contract Resolution - Water Utilities: Resolution No. 2006-R0455; Resolution No. 2006-R0456 authorizing the Mayor to execute purchase contracts with O'Tool Industries and Morrison Supply for gate valves, BID #06-063-MA.

This bid is for the purchase of 16-inch to 42-inch gate valves for the relocation of water lines along Marsha Sharp Freeway around the intersection of Slide Road.

FISCAL IMPACT

A total of \$9,275,000 was appropriated with \$1,821,369 available in Capital Improvement Project 9742, Water Lines Ahead of Marsha Sharp Freeway.

Staff recommended bid award to O'Tool Industries of Lubbock, Texas for \$37,575 and to Morrison Supply of Lubbock, Texas for \$107,879.

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

Motion was made by Council Member Jones, seconded by Council Member Leonard to pass Resolution No. 2006-R0455 and Resolution No. 2006-R0456 with amending it to include K.W. Sharpe on Items 3 and 4 of the Bid Tabulation Analysis. Motion carried: 7 Ayes, 0 Nays.

5.14. Contract Resolution - Facilities Management: Resolution No. 2006-R0457 authorizing the Mayor to execute a contract with Basic Industries, Inc. for job order contracting services, RFP #06-705-BM.

The City of Lubbock, like other government agencies, has an ongoing need for straightforward and relatively minor projects involving the construction, repair, rehabilitation, or alteration of facilities. Preparing traditional bid packages, complete with plans and specifications, and going through the standard bid process for each such project can be costly and time consuming. Texas Local Government Code Section 252.043(e) provides that contracts may be awarded under the method described by Subchapter H, Chapter 271 for job order contracts for facilities construction or repair using the competitive sealed proposal procedure prescribed by Section 271.120 of the Texas Local Government Code.

Job Order Contracting (JOC) is a way of getting relatively small, simple, and commonly encountered construction projects done easily and quickly. The JOC method of project delivery was devised by the military sector in the 1980s as a way to overcome problems with the traditional Design Bid Build (DBB) method. Using DBB, every project, no matter how small, had to be designed and put out for bid, with the award going to the lowest bidder. Going through this procedure for every little job was becoming impractical. The common occurrences of construction delays, cost over-runs, and quality disputes were successfully reduced using the new method, and JOC has been equally successful in the private sector for more than a decade. Essentially, JOC will provide the City with an on-call general contractor who is familiar with the site and the City's needs.

The JOC delivery method is particularly well suited to repetitive jobs and situations in which owners know that many small tasks will arise, but the timing, type of work, and quantity of work are unknown at the time the contract is signed. Many diverse tasks such as routine maintenance, upgrades and renovations, alterations, and minor construction for a site are very efficiently handled using a single JOC contract. These jobs usually have minimal design requirements. The JOC method should not be used for large, complex new construction projects that require extensive or innovative design or are likely to encounter changes and revisions during construction.

The City and the Lubbock Housing Authority (LHA) issued a Request for Proposal for each entity to contract with a job order contractor to provide minor construction, repair, rehabilitation, and alteration at City and LHA facilities.

Proposals were ranked using the following evaluation criteria: approach to managing facility construction repair and rehabilitation programs on a job order basis (10%), demonstrated competence and experience with facility construction repair and rehabilitation programs on a job order basis (10%), proposed methodologies for this contracting opportunity including project management software (5%), safety record (10%), qualifications and

experience of the team members proposed to manage the job order construction program (5%), experience with other complex institutions or municipalities (5%), past performance on other contracts for the City of Lubbock (5%), price proposal (20%), references (5%), capability and financial resources (5%), and response to Respondent Questionnaire (20%).

Proposals were ranked as follows: Basic Industries, Inc. of Midland, Texas 432 points, Brown-McKee, Inc. of Lubbock, Texas 348 points, Kellogg, Brown & Root, Inc. of Arlington, Virginia 332 points, and Minnix Commercial Partners, Ltd. of Lubbock, Texas 237 points.

This JOC contract will apply to all City facilities and can be used for any number of jobs that need to be done for as long as the contract is in effect. The term of the contract is for one year with an option to renew annually for up to three additional one-year terms. A price coefficient will be used to determine the actual cost of each job. This contract specifies the R.S. Means Manual as the unit price book to be used. The contracted price coefficient will be applied to all labor and materials line items necessary for each job to arrive at a firm price for the job. As an inducement for the contractor to offer a lower coefficient, the City will use its best efforts to issue job orders totaling at least \$500,000 ("Minimum Value") during the term of this contract. If, at the expiration date, the Minimum Value has not been obtained, the expiration date will be extended until job orders have been issued causing the Minimum Value to be obtained, provided that the contractor is not in default and the City has been reasonably satisfied with the contractor's performance.

The process of using a JOC contract is relatively fast and straightforward. When a need is identified, the City will contact the JOC contractor and they walk through the site, define the extent of the project, and discuss alternate approaches to be considered. The contractor will then draw up a design, if necessary, and a detailed project list including all materials and labor needed. Using the unit price book, the contractor can establish a firm price for the job. The City will review the proposal and issue an authorization to proceed. The process from request to authorization to begin work takes a short time, sometimes as little as ten days to two weeks and not more than 30 days.

FISCAL IMPACT

Funding will be based on usage by various General Fund and Enterprise Fund Departments. The City anticipates an annual combined expenditure of \$500,000 for all projects.

Staff recommended contract award to Basic Industries, Inc. of Midland, Texas with a coefficient of 0.893 the first year, 0.913 the second year, 0.933 the third year, and 0.953 the fourth year.

Victor Kilman, Director of General Services, 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-R0457 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.15. Contract Resolution - Risk Management: Resolution No. 2006-R0458 authorizing the Mayor to execute a contract with Hammerman and Gainer, Inc. to provide liability claims services, RFP #06-056.

This contract is for automobile, general, and personal injury liability claim services. The contract period is for one-year beginning October 1, 2006, with an option to renew annually for up to two additional one-year terms.

Proposals were evaluated on service (30%), management information (30%), financial capacity (15%), and cost (25%).

The respondents to the Request for Proposal were ranked as follows: Hammerman & Gainer (incumbent) 16.45; GAB Robins 13.4; York Claims Service 12.3; The Littleton Group 11.45; Alternative Service Concepts 11.25, and Crawford and Company 10.25.

York Claims Service, The Littleton Group and Alternative Service Concepts, LLC currently have no claims office located in Lubbock. Each said they would be willing to open a local claims service, however, the contract begins October 1, 2006. Crawford and Company has a local claim office, however, their service and management information ranking was ranked lowest. GAB has a local office with one adjuster, no support staff and no commitment to provide additional staff to handle the City's claims.

FISCAL IMPACT

The estimated cost for 2006-07 is \$286,784. Fees are on a per claim basis for the life of the claim. Time and expense will be billed at an hourly rate of \$66.

All charges for liability claims services are paid from the Risk Fund.

Staff recommended contract award to Hammerman and Gainer, Inc. of LaPlace, Louisiana.

Jeff Yates, Chief Financial Officer; Doug Sanford of Sanford Insurance Agency; and Leisa Hutcheson, Risk Management Coordinator, 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-R0458 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.16. Contract Resolution - Risk Management: Resolution No. 2006-R0459 authorizing the Mayor to approve purchase of property insurance coverage in layers from Lexington Insurance Company for the primary \$25 million; Westchester Insurance Company (50%) and Commonwealth Insurance Company (50%) for a layer of \$20 million excess of the first \$25 million; and RSUI Indemnity Insurance for the remaining \$255 million excess of the \$45 million above.

The City purchases property insurance for all its structures and contents with an estimated total value of \$764,820,629. The property policy covers all risk of direct physical loss including flood and earthquake up to \$25 million. All property and contents, excluding mobile equipment and vehicles is covered at replacement cost. Mobile equipment and vehicles are covered at Actual Cash Value (ACV). After careful consideration, it was determined that the likelihood of a total loss was extremely unlikely and the decision was made to purchase blanket coverage in the amount of \$300 million. The current carriers are Lexington Insurance Company for the primary \$25 million; Westchester Surplus Lines Insurance Company (50%) and Commonwealth Insurance Company (50%) for the second \$20 million excess of the first \$20 million and RSUI Indemnity Insurance Company for the \$250 million excess of the \$45 million.

Attached is a loss history indicating no payable losses in the past 5 years.

The most favorable quote for the new fiscal year includes the same carriers with the exception of Lexington Insurance carrying \$25 million for the first layer, Westchester Surplus Lines insurance Company and Commonwealth Insurance Company sharing 50% of the second \$20 million and RSUI Indemnity Insurance Company carrying \$255 million in excess of the \$45 million. Other insurance carriers contacted but not competitive were Chubb Insurance, First State/Hartford, and Wausau. The deductibles will remain at \$250,000 on all but wind/hail which carries a one-percent deductible with a \$250,000 minimum and a \$1 million maximum. Terrorism/war risks coverage is included in the premium cost.

FISCAL IMPACT

The \$524,679 premium is budgeted in the FY 2006-07 Risk Management Fund.

Staff recommended purchasing property insurance coverage as outlined above from Lexington Insurance Company, Westchester Surplus Lines Insurance Company, Commonwealth Insurance Company and RSUI Indemnity Insurance Company for a total policy premium of \$524,679 for FY 2006-07 or such alternative action as the City Council may deem appropriate. This represents a premium increase of \$35,724 or about seven-percent from the FY 2005-06 amount.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Jones to pass Resolution No. 2006-R0459 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.17. Contract Resolution - Risk Management: Resolution No. 2006-R0460 authorizing the Mayor to approve purchase of boiler and machinery insurance coverage from Zurich Insurance Company.

The City currently purchases boiler and machinery insurance coverage from Zurich Insurance Company with \$50 million in coverage and varying deductibles from \$25,000 to \$500,000 for a policy premium of \$483,450.

Boiler and Machinery coverage protects equipment, including generating equipment, boilers, HVAC, pumps and other mechanical equipment from mechanical failure or damage, excluding wear and tear.

Attached are loss histories indicating payable losses in the past 5 years.

The City's broker of record was able to secure quotes from Zurich Insurance Company for \$476,616 and from Lexington Insurance Company for \$461,780. Zurich's quote has consistent coverage and deductibles with the expiring policy. Lexington's quote included higher deductibles going from \$250,000 to \$500,000 and less favorable terms on generating equipment. Zurich offers replacement cost on all generating equipment with the exception of equipment that is over 25 years old and equipment that has not been overhauled in the last seven years, coverage on excluded equipment will be at actual cash value. Lexington offers replacement cost coverage on generating equipment that is less than 15 years old, regardless of overhaul status. In addition, both carriers will provide loss prevention functions that include state inspections for all City owned boilers, and infrared thermographic testing, oil analysis, and Doble testing on electric generating and distribution equipment.

FISCAL IMPACT

The \$476,616 premium is budgeted in the FY 2006-07 Risk Management Fund.

Staff recommended purchasing boiler and machinery insurance coverage as outlined above from Zurich Insurance Company for a total policy premium of \$476,616 for FY 2006-07 or such alternative action as the City Council may deem appropriate. This represents a premium decrease of \$6,834 or about one-percent from the FY 2005-06 amount.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Jones to pass Resolution No. 2006-R0460 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

- 5.18. Contract Resolution - Risk Management: Resolution No. 2006-R0461 authorizing the Mayor to approve purchase of inland marine insurance and crime insurance coverage from the Great American Insurance Company, pipeline liability insurance coverage from the Chubb Group, and airport directors and officers insurance coverage from Texas Municipal League - Intergovernmental Risk Pool.**

The City currently purchases inland marine insurance coverage from the Great American Insurance Company with \$3,399,631 in coverage and varying deductibles from \$1,000 to \$25,000 for a policy premium of \$10,199. Inland Marine coverage provides for direct physical loss coverage for special classes such as fine arts and sound and broadcasting equipment at stated values for stated locations.

Attached are loss histories indicating payable losses in the past 5 years.

The City's broker of record was able to secure quotes from The Great American Insurance for \$9,134 and the Travelers Lloyds Insurance Company for \$9,053. Great American's quote has consistent coverage and deductibles with the expiring policy. Travelers' quote is also consistent with the expiring policy, but has blanket coverage instead of specific location coverage. The City left Travelers three years ago due to required professional appraisals, which would have greatly increased costs to the City.

The City currently purchases crime insurance coverage from AIG Insurance Company, costing \$8,604,000 with \$1.5 million in coverage and a \$25,000 deductible. Crime coverage protects monies and securities from employee dishonesty; forgery or alteration; theft, disappearance, and destruction; computer fraud and funds transfer fraud. The City's broker of record was able to secure quotes from AIG Insurance Company for \$7,340 and the Great American Insurance Company for \$7,081. AIG's quote has consistent coverage and deductibles with the expiring policy but does offer a FRISC endorsement that allows for limited investigation. Great American's quote is also consistent with the expiring policy, but has theft disappearance and destruction coverage not offered by AIG.

The City currently purchases pipeline liability insurance coverage from the Chubb Group at a cost of \$5,150 with \$2 million in coverage and a \$2,500 deductible. Pipeline liability coverage protects from explosion of the City's gas pipeline which is excluded under the City's excess liability coverage. The City's broker of record was able to secure quotes from Chubb Group for the same as the expiring term and AIG who has a minimum premium of \$25,000.

The City currently purchases airport directors and officers' insurance coverage from Texas Municipal League - Intergovernmental Risk Pool (TML_IRP) with \$10 million in coverage and a \$7,500 deductible for a policy premium of \$10,504. Airport directors and officers insurance is similar to the Public Entity Management policy for the remainder of the council, boards and commissions, but the airport functions are specifically excluded under the City's excess liability coverage. The City's broker of record was not able to secure competitive quotes from the commercial market. TML-IRP's renewal quote was for the same coverage and deductible and a \$10,604 policy premium.

FISCAL IMPACT

The \$9,134 premium for inland marine insurance is budgeted in the FY 2006-07 Risk Management Fund.

The \$7,081 premium for crime insurance is budgeted in the FY 2006-07 Risk Management Fund.

The \$5,150 premium for pipeline liability insurance is budgeted in the FY 2006-07 Risk Management Fund.

The \$10,604 premium for airport directors and officers insurance is budgeted in the FY 2006-07 Risk Management Fund.

Staff recommended purchasing inland marine insurance coverage as outlined above from the Great American Insurance Company for a total policy premium of \$9,134 for FY 2006-07 or such alternative action as the City Council may deem appropriate. This represents a policy premium decrease of \$965 or about 10% from the FY 2005-06 amount.

Staff recommended purchasing crime insurance coverage as outlined above from the Great American Insurance Company for a total policy premium of \$7,081 for FY 2006-07. This represents a premium decrease of \$1,523 or about 22% from the FY 2005-06 amount.

Staff recommended purchasing pipeline liability insurance coverage as outlined above from the Chubb Group for a total policy premium of \$5,150 for FY 2006-07. This represents no premium increase or decrease from the FY06 amount.

Staff recommended purchasing airport directors and officers insurance coverage as outlined above from TML-IRP for a total policy premium of \$10,604 for FY 2006-07. This represents a premium increase of \$100 or about 1% from the FY 2005-06 amount.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Jones to pass Resolution No. 2006-R0461 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.19. Contract Resolution - Risk Management: Resolution No. 2006-R0462 authorizing the Mayor to approve purchase of airport/non-owned aircraft liability coverage from ACE USA Insurance Company.

The City purchases airport and non-owned aircraft liability insurance separately from its other liability insurance program since aircraft are specifically excluded. The City's current policy is with ACE USA Insurance and has \$50 million in coverage for airport liability and \$50 million in coverage for non-owned aircraft liability insurance. Airport liability insurance covers liability the city becomes legally obligated to pay for bodily injury and property damage arising from the City's airport operations. Non-owned aircraft liability covers liability the City becomes legally obligated to pay for bodily injury and property damage arising from the occupancy or operation of a non-owned aircraft. This includes any allegations of civil rights violations for airport police boarding a commercial or private aircraft. The policy premiums are \$35,715 and \$10,750 respectively. Both policies have no deductible.

Attached are loss histories indicating payable losses in the past 5 years.

The City's broker of record was able to obtain quotes from ACE USA with limits same as expiring and policy premiums of \$35,715 and \$11,600 respectively, AIG Aviation with total policy premium of \$65,000, and Global Aerospace with total policy premium of \$85,000 all having similar coverage to the current year policy.

FISCAL IMPACT

The \$35,715 and \$11,600 premiums for aviation liability and non-owned aircraft liability for a total of \$47,315 is budgeted in the FY 2006-07 Risk Management Fund.

Staff recommended purchasing aviation liability insurance coverage and non-owned aircraft liability insurance coverage as outlined above from ACE USA Insurance Company for a total policy premium of \$47,315 for FY 2006-07 or such alternative action as the City Council may deem appropriate. This represents a premium increase of \$850 or about 2% from the FY 2005-06 amount.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Jones to pass Resolution No. 2006-R0462 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.20. Contract Resolution - Risk Management: Resolution No. 2006-R0463 authorizing the Mayor to approve purchase of excess liability coverage from St. Paul Travelers Companies.

The City purchases excess liability insurance for all operations other than the airport and pipeline liability on one policy form. The package excess liability insurance covers general liability, employee benefits liability, law enforcement liability, public entity management liability, and auto liability. The current annual cost is \$359,212 for \$10 million in coverage with a \$500,000 self-insured retention (deductible) per claim with the exception of employment practices liability that carries only a \$1 million limit.

Attached are loss histories indicating payable losses in the past 5 years.

The City's broker of record received a renewal quote from St. Paul Travelers with the same coverages for a policy premium of \$392,932 and from Princeton Excess and Surplus Lines, but their policies were limited to \$1 million per line of coverage. There has been a 10% increase in exposure due to additional police officers hired and increasing budget.

FISCAL IMPACT

The \$392,932 premium is budgeted in the FY 2006-07 Risk Management Fund.

Staff recommended purchasing excess liability insurance coverage as outlined above from the St. Paul Travelers Insurance Company for a total policy premium of \$392,932 for FY 2006-07 or such alternative action as the City Council may deem appropriate. This represents a premium increase of \$33,720 or about nine-percent from the FY 2005-06 amount.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Jones to pass Resolution No. 2006-R0463 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.21. Contract Resolution - Risk Management: Resolution No. 2006-R0464 authorizing the Mayor to approve purchase of workers' compensation coverage from Texas Municipal League Intergovernmental Risk Pool.

The City has workers' compensation exposures for all city employees and is required by labor code to provide workers' compensation benefits in accordance with the statute to all municipal employees. The City further chooses to extend those benefits to volunteers to limit liability exposures. Workers' compensation provides medical and lost wages in accordance with the Act, regardless of cause of loss.

The City currently purchases coverage for these exposures from TML-IRP on a guaranteed cost program, i.e., fully insured (both claims handling and claims payments).

The current year guaranteed premium for this coverage is \$1,512,645. The City's broker of record forecasted losses for the FY 2006-07 at \$1,907,206, excluding claims handling.

The City's broker of record was unable to find any commercial market that could provide a comparable quote, TML-IRP's current year's quote of \$1,745,230. The increase is due to increased number of employees and payroll.

FISCAL IMPACT

The \$1,745,230 premium is budgeted in the FY 2006-07 Risk Management Fund.

Staff recommended purchasing workers' compensation coverage as outlined above from TML-IRP for a total policy premium of \$1,745,230 for FY 2006-07. This represents a premium increase of \$232,587 or about 14% from the FY 2005-06 amount.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Jones to pass Resolution No. 2006-R0464 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.22. Contract Resolution - Parks: Resolution No. 2006-R0465 authorizing the Mayor to execute a purchase order contract with Community Lawn Care of Lubbock for application of herbicide on various parks and City properties, BID #06-064-MA.

This contract includes one application of pre-emergent and post-emergent weed control on various parks and City properties. The post-emergent herbicide application will control a broad spectrum of broadleaf weeds. The objective of pre-emergent product is to control the fall/winter germination of various weeds and improve turf health and appearance.

FISCAL IMPACT

Funds are appropriated in the FY 2006-07 Park Maintenance operating budget.

Staff recommended bid award to Community Lawn Care of Lubbock, Texas for \$64,726.03.

Randy Truesdell, Parks and Recreation Manager; Victor Kilman, Director of General Services; and James Loomis, Assistant City Manager, gave comments and answered questions from Council.

Motion was made by Council Member Leonard, seconded by Council Member Jones to pass Resolution No. 2006-R0465 with an amendment to make the contract contingent upon a performance bond being furnished. Motion carried: 7 Ayes, 0 Nays.

5.24. Master Lease Resolution - Finance: Resolution No. 2006-R0466 amending the previous master lease Resolution No. 2006-R0082 regarding the equipment list.

At the February 24, 2006, City Council meeting, City Council approved Resolution No. 2006-R0082 which contained an approved equipment list to be master leased for FY 2005-06. Since then, City Council has approved several other additions to the approved list in separate budget amendments. The City has executed 13 master lease schedules with Banc of America. These schedules included make-ready items that are part of the approved equipment (such as police radios and antennae) which were included in the purchase price of the approved vehicles, but not described with specificity in the previous resolution.

This resolution combines all previous amendments, ratifies and approves the previous 13 schedules, and provides language that will allow continued financing of make-ready items so long as such items are included in the Operating Budget.

The intent is to bring a similar resolution to the City Council at the end of each fiscal year to wrap up and solidify the entire master lease program as purchased through properly approved budget authorizations.

FISCAL IMPACT

The amount of items that have been master leased during the Fiscal Year totals \$13,276,946 with an estimated lease payment of \$2,831,654 during FY 06/07. A total of \$15,894,331 has been appropriated for FY 2005-06, and \$2,617,385 of appropriation remains unissued.

Staff recommended approval of this resolution.

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

Motion was made by Council Member Leonard, seconded by Council Member Jones to pass Resolution No. 2006-R0466 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.1 - 6.10. These items were considered following Item 6.11.

6.11. Utility Rate Decrease Resolution - City Manager's Office: Resolution No. 2006-R0467 to approve an agreed rate decrease for Atmos Energy Corporation, Lubbock Division, effective September 28, 2006, as provided for under the Gas Utility Regulatory Act § 104.111.

Consider a resolution approving an agreed reduction to the tariffs and rates of Atmos Energy Corporation, Lubbock Division, effective September 28, 2006, as provided for under the Gas Utility Regulatory Act § 104.111.

FISCAL IMPACT

No fiscal impact anticipated.

Matt Wade, Assistant City Attorney, Gary Gregory and Dan Alderson of Atmos Energy, gave comments and answered questions from Council.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member DeLeon to pass Resolution No. 2006-R0467 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.1. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2006-O0104 Zone Case No. 1897-A (north of Mac Davis Lane and east of University Avenue): Hold a public hearing to continue request of Parkhill, Smith & Cooper, Inc. (for McCanton Woods Ltd. and/or Assigns) for a zoning change from C-2 and R-3 to CB-2 Specific Use for mixed use development (retail and office) with reduced setback on Tracts 3A and 3B, Overton Park Addition.

Mayor Miller opened the public hearing at 11:40 a. m. No one appeared on behalf of McCanton Woods Ltd. and/or Assigns. No one appeared in opposition. Mayor Miller closed the hearing at 11:41 a. m.

Continuing the redevelopment of the Overton area, the request is the commercial component of the area adjacent to Mac Davis Lane (6th Street) and University Avenue. This retail area is being built in conjunction with a planned hotel and public meeting center to the east. A parking garage will be illustrated on the site plan. A portion of the parking garage on this property will be committed to the motel and public meeting facility.

Adjacent land uses:

N – commercial

S – vacant commercial

E – vacant commercial

W – Texas Tech

The request if filed as CB 2 Specific Use will provide a residential component as well as retail. The use will have a mix of commercial and residential, as well as a parking building. The applicant requested that the zoning continue to Council, that a site plan will be available at that time or the project will require Planning Commission approval as an “other business” review as an alternative.

The request will be consistent with the Comprehensive Land Use Plan adopted for the redevelopment area. As in the other parcels, the principles of “new urbanism” are being utilized. Most of the buildings are pulled closer to the street, having less visible parking. The staff continues to work with the new property owner on the site plan. The proposed “shared parking” on the parcel is based on the premise that the tenant mix in an area allows for less overall pavement, adding to the aesthetic appeal of the shopping area and allowing for a greater density of development – but not with a negative context.

The project will have no more than the anticipated effect on the thoroughfare system. It is obvious that traffic is going to be heavy in the area, but “walkability” and less emphasis on the vehicle is one of the basic tenants of new urbanism. In addition, the numbers of residents that live within walking distance of this project area, at least 3,500 new beds have been added within one-half mile.

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

1. The project is tied to a site plan and building elevation approved at the Council first reading with some ability to move one or several of the buildings as the details of the project mature; or
2. The applicant will provide the Commission a site plan and building elevation for "other" business approval when the plans are complete.

FISCAL IMPACT

No fiscal impact is anticipated.

The staff supports the recommendation of the Planning Commission.

Motion was made by Council Member Leonard, seconded by Council Member Price to pass on first reading Ordinance No. 2006-O0104 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.2. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2006-O0105 Zone Case No. 2926-C (east of Savannah and South of 99th Street): Hold a public hearing to consider request of Ken Flagg (for Lakeridge Estates) for a zoning change from C-2 and R-1 Specific Use to R-1 Specific Use for Garden Homes on proposed Lots 148-158, 163-193 and R-1 Specific Use for reduced setbacks on proposed Lots 212-222, Lakeridge Estates Addition.

Mayor Miller opened the public hearing at 11:40 a. m. No one appeared on behalf of Lakeridge Estates. No one appeared in opposition. Mayor Miller closed the hearing at 11:41 a. m.

The applicant is requesting an adjustment zone case for an area now finalized by the design and platting process to allow garden home development in one section and the now favored setbacks on standard single family in the other section.

Adjacent land uses:

- N – commercial
- S – residential
- E – residential
- W – residential

The request is split into two parts, one area will be garden homes with reduced setback on corner lots and cul de sac lots, and the second area will be traditional homes with a reduced front setback along the streets and on the cul de sac, as well as the side set back for the corner lots.

As residential, the request does not rise to the level of a Comprehensive Land Use Plan discussion. The request is consistent with zoning policies. The project will have no more than the expected impact on the thoroughfare system.

The Planning Commission recommended the request with the following conditions:

1. In the Garden Home section, the minimum front setback for cul de sac lots shall be five feet, with the exception that any home with a front entry garage shall provide a 20-foot setback for the garage portion.
2. In the Garden Home section the minimum side setback on corner lots shall be five feet.
3. In the traditional residential section along 101st Street, the minimum front setback for cul de sac lots shall be five feet, with the exception that any home with a front entry garage shall provide a 20-foot setback for the garage portion.
4. In the traditional home section the minimum side setback on corner lots shall be five feet.

FISCAL IMPACT

No fiscal impact is anticipated.

The staff supports the recommendation of the Planning Commission.

Motion was made by Council Member Leonard, seconded by Council Member Price to pass on first reading Ordinance No. 2006-O0105 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

- 6.3. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2006-O0106 Zone Case No. 3068 (3618 and 3620 34th Street): Hold a public hearing to consider request of Allen D. Scott, Jr. (for Paint Doctor, Inc.) for a zoning change from C-2 to C-4 limited to auto repair and muffler shop and all unconditionally permitted C-3 uses on Lots 8 and 9, Block 3, Taylor Heights Addition.**

Regular City Council Meeting
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Mayor Miller opened the public hearing at 11:40 a. m. No one appeared on behalf of Paint Doctor, Inc. No one appeared in opposition. Mayor Miller closed the hearing at 11:41 a. m.

The applicant previously leased the former service station to a dent removal shop as a nonconforming building (the property is zoned C-2 and service stations currently require C-3). Prior to 1975 when the station was built, service stations were a permitted use in C-2, thus the nonconforming status became effective with the adoption of the current model of the zoning code in 1975.

Mr. Scott recently leased to a tenant that has rehabilitated the property and installed a minor auto repair and muffler shop. Both Mr. Scott and the tenant made the assumption that the former use as a service station would meet the test for the new use. The fact that these two uses are a C-4 permitted use was not understood by Mr. Scott. Mr. Scott is now requesting rezoning that will accommodate only the minor auto repair and muffler business and exclude the balance of C-4 uses, to allow one C-3 use for paintless dent repair (should he relocate from his current 34th and Slide location), and for the parcel to revert to C-2 uses if either or both C-4/C-3 operations are abandoned.

Adjacent land uses:

- N – residential
- S – commercial
- E – commercial (C-2 zoned)
- W – commercial (C-2 zoned)

The request is slightly in conflict with the policy within the Comprehensive Land Use Plan that recommended C-4 as heavy commercial on streets that are designated as a regional or state highway. 34th Street has no such designation. However, the applicant is requesting only two uses from the C-4 District and one from C-3.

The practical aspect of this request versus the theoretical creates the decision making dilemma. The business is in a location where the current use as auto repair and muffler repair was legal when the building was constructed. As noted, the service station use became non-conforming when the 1975 Zoning Code was adopted, and if the building had been an auto repair as many other locations close to this facility remain, it would be also legal nonconforming.

Mr. Scott (his tenant) has cleaned the property and has attempted to create a viable use. Many nonconforming auto related uses exist along 34th Street for the reason noted above (being built pre-1975). Thus, the decision making process is confronted with either accommodating a viable business that has significantly cleaned up the property or maintain the goal of the street eventually becoming a C-2 conforming strip of businesses and probably have a vacant structure – many of which are becoming more evident on 34th Street west of Avenue Q.

The project will have no effect on the thoroughfare system.

With the request limited to the two C-4 uses, one C-3 use, and a drop back to C-2 if the land is not used for any of the three noted uses, staff is of the opinion that the practical argument trumps the theoretical argument.

The Planning Commission recommended the request with the following conditions:

1. As C-4, the parcels are limited to an minor auto repair (no body work and no paint booth) and muffler repair shop.
2. The property may be used as one permitted C-3 use, paintless dent removal.
3. Should the uses noted in #1 and #2 be discontinued, the permitted uses on the parcels shall conform to C-2 permitted uses.

FISCAL IMPACT

No fiscal impact is anticipated.

The staff supports the recommendation of the Planning Commission.

Motion was made by Council Member Leonard, seconded by Council Member Price to pass on first reading Ordinance No. 2006-O0106 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.4. Public Hearing 10:00 a.m. - Planning: Ordinance No. 2006-O0107 Hold a public hearing to consider amendment of Section 29-3 (105l.1) “sign, primary identification” of the City of Lubbock Code of Ordinances to amend the percentage of a sign that must be dedicated to primary identification of a shopping center.

Mayor Miller opened the public hearing at 11:40 a. m. No one appeared to speak in favor of the amendment to the Code of Ordinances. No one appeared in opposition. Mayor Miller closed the hearing at 11:41 a. m.

This is a request to change the definition of a primary identification sign to allow more sign area for the individual tenants and less required identification of the shopping center.

The original 1977 sign ordinance required that all freestanding signs identify only the primary shopping center and did not allow for individual tenants to be placed on the freestanding sign.

In 1987 the definition of a “primary identification sign” was added to the code allowing up to 50% of the freestanding sign to be tenant panels and 50% for identification of the center.

This request is to modify that 1987 definition to allow up to 75% of a primary identification sign to be dedicated to the tenants. The code will be amended as follows:

Section 29-3(105l.1) Sign, primary identification: Any sign identifying the name of a shopping center or group of commercial buildings. Such signs shall commit a minimum of 25 percent of the allowable area to the primary

identification while the remainder may identify businesses within the shopping center or group of commercial buildings.

In smaller shopping centers with three to five tenants, this change will be a benefit to the individual businesses by affording them more exposure on the freestanding sign. In some larger shopping centers where only the largest tenants are allowed by the property owner on the freestanding sign, the small businesses that depend on the shopping center name to identify their location may not be added on the sign, but that process is a landlord/tenant negotiation. The City does not interfere with those negotiations.

This change will also allow the percentage allowed for reader boards, menu boards, and electronic message signs to increase from 50 percent to 75 percent.

After careful consideration, staff supports the request.

FISCAL IMPACT

No fiscal impact is anticipated.

The staff supports the recommendation of the Planning Commission.

Motion was made by Council Member Leonard, seconded by Council Member Price to pass on first reading Ordinance No. 2006-O0107 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.5. Reinvestment Zone Resolution - Business Development: Resolution No. 2006-R0468 giving notice of intent to consider the designation of a Reinvestment Zone located north of FM 1294 and east of Interstate 27.

The City has been approached by the Lubbock Economic Development Alliance (LEDA) to assist them in obtaining and developing marketable sites in Lubbock for industrial businesses. LEDA has asked that the 301-acre tract of land north of Lubbock Preston Smith International Airport and owned by the City be sold to LEDA for development of industrial sites.

In order for the City of Lubbock to assist LEDA, it has been determined that a reinvestment zone will need to be created at the site in order to facilitate the transfer of the land. The first step in the process to create a reinvestment zone is to hold a public hearing to discuss the issue. The law requires that the City of Lubbock give seven days notice of the public hearing to other taxing jurisdictions. This resolution, if approved, will be forwarded to other taxing jurisdictions as a notice of intent to hold a public hearing.

FISCAL IMPACT

No fiscal impact is anticipated.

Staff recommended approval of this resolution.

Cheryl Brock, Business Research Specialist, 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-R0468 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

Council Member Boren was away from the dais.

6.6. Grant Contract Resolution - Library: Resolution No. 2006-R0469 authorizing the Mayor to execute grant contract documents and subsequent amendments with the Texas State Library and Archives Commission to support the West Texas Library System.

The West Texas Library System (WTLS) is a state funded grant program designed to improve library service programs in a 29-county area. WTLS is one of ten systems established under the Library Systems Act of 1969. The program is administered by the Texas State Library and Archives Commission and is comprised of various elements designed to improve and expand the service programs of libraries that are members of the system. The grant encourages the establishment of public libraries in communities that do not have library service. At the end of State of Texas FY 2006, 34 libraries were qualified for membership. The Lubbock Public Library was designated as the Major Resource Center headquarters for the WTLS program as of September 1, 1974. The grant funds two and one half positions.

This program is fully funded by the State of Texas, and the City has no responsibility or obligation in the event that funds are not appropriated. The Texas State Library and Archives Commission contracts with the City for housing of staff and implementation of the service program components.

FISCAL IMPACT

The \$368,642 West Texas Library System Operation Grant Contract will provide for the full cost of the program.

Staff recommended approval of this resolution.

Motion was made by Council Member Price, seconded by Council Member DeLeon to pass Resolution No. 2006-R0469 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

Council Member Boren was away from the dais.

6.7. Grant Contract Resolution - Library: Resolution No. 2006-R0470 authorizing the Mayor to execute contract documents and subsequent amendments with the Texas State Library and Archives Commission to support the Interlibrary Loan Program and services.

As the Major Resource Center for the West Texas Library System, the Lubbock Public Library serves as the headquarters for the Interlibrary Loan (ILL) grant program. The ILL Center locates and requests materials for all public libraries, community college libraries, and special libraries within the 29-county area served by the West Texas Library System. The grant funds two full-time employees.

This program is fully funded by the State of Texas, and the City has no responsibility or obligation in the event that funds are not appropriated or provided. The Texas State Library and Archives Commission contracts with the City for housing of staff and implementation of the service program components.

FISCAL IMPACT

The \$96,741 Interlibrary Loan Center Grant will provide for the full cost of the program.

Staff recommended approval of this resolution.

Motion was made by Council Member Price, seconded by Council Member DeLeon to pass Resolution No. 2006-R0470 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

Council Member Boren was away from the dais.

6.8. Grant Contract Resolution - Library: Resolution No. 2006-R0471 authorizing the Mayor to execute contract documents and subsequent amendments with the Texas State Library and Archives Commission to support the Technical Assistance Negotiated Grant.

The Lubbock Public Library serves as the headquarters for the Technical Assistance Negotiated Grant program. The grant funds one full-time technical advisor for public libraries in the West Texas Library System service region. The technical advisor provides training and technological assistance to all of these area libraries. This program is fully funded by the State of Texas, and the City has no responsibility or obligation in the event that funds are not appropriated or provided. The Texas State Library and Archives Commission contracts with the City for housing of staff and implementation of the service program components.

FISCAL IMPACT

The \$80,000 Technical Assistance Negotiated Grant will provide for the full cost of the program.

Staff recommended approval of this resolution.

Motion was made by Council Member Price, seconded by Council Member DeLeon to pass Resolution No. 2006-R0471 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

Council Member Boren was away from the dais.

6.9. Appointment Resolution - Human Resources: Resolution No. 2006-R0472 confirming the appointment of Luis Cardenas for a term of office of three years as a member of the Civil Service Commission.

Luis Cardenas is very knowledgeable of the rules and regulations of Chapter 143 of the Local Government Code and has served as a Civil Service

Commissioner since October 13, 2004. Luis Cardenas' current term will expire on October 13, 2006.

The Commission members ratify rules and standards applicable to classified civil service positions in the Fire and Police departments and the enforcement and effect of the Civil Service statutes. Members are appointed by the City Manager pursuant to Texas Local Government Code 143.006, and ratified by the governing body.

The term for these appointments is three years and the meetings are held as needed. There are three members of the Commission as required by law and the Interim Director of the Commission, Steve Synck.

In order to stay in compliance with Texas Local Government Code Chapter 143, a third Commissioner needs to be appointed before the next scheduled meeting on October 19, 2006.

FISCAL IMPACT

No fiscal impact is anticipated.

Staff recommended approval of this resolution.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to pass Resolution No. 2006-0472 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

Council Member Boren was away from the dais.

6.10. Board Appointments - City Secretary: Consider four appointments to Electric Utility Board; one appointment to Health/Education Facilities Board of Directors, one appointment to Urban Design/Historic Preservation Commission, and one appointment to the Airport Board.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to reappoint SuzAnn Kirby, Marciano Morales, Chris Snead, and John Zwiacher to the Electric Utility Board. Motion carried: 6 Ayes, 0 Nays. Council Member Boren was away from the dais.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to reappoint Michael Ward to the Health/Education Facilities Board of Directors. Motion carried: 6 Ayes, 0 Nays. Council Member Boren was away from the dais.

Motion was made by Mayor Pro Tem Martin, seconded by Council Member Leonard to appoint Gary Loden to the Urban Design/Historic Preservation Commission. Motion carried: 6 Ayes, 0 Nays. Council Member Boren was away from the dais.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to reappoint Irasema Velasquez to the Airport Board. Motion carried: 6 Ayes, 0 Nays. Council Member Boren was away from the dais.

Regular City Council Meeting
September 28, 2006

- 6.11. Utility Rate Decrease Resolution - City Manager's Office: Resolution No. 2006-R0467 to approve an agreed rate decrease for Atmos Energy Corporation, Lubbock Division, effective September 28, 2006, as provided for under the Gas Utility Regulatory Act § 104.111.**

Consider a resolution approving an agreed reduction to the tariffs and rates of Atmos Energy Corporation, Lubbock Division, effective September 28, 2006, as provided for under the Gas Utility Regulatory Act § 104.111.

FISCAL IMPACT

No fiscal impact anticipated.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member DeLeon to pass Resolution No. 2006-R0467 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

1:42 P. M. COUNCIL ADJOURNED

There being no further business to come before Council, Council Member Leonard adjourned the meeting.