

**CITY OF LUBBOCK  
REGULAR CITY COUNCIL MEETING  
NOVEMBER 9, 2006  
7:30 P. M.**

The City Council of the City of Lubbock, Texas met in regular session on the 9th day of November, 2006, in the City Council Chambers, first floor, City Hall, 1625 13th Street, Lubbock, Texas at 7:30 A. M.

**7:32 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. The following individuals appeared before the City Council to discuss the proposed annexation of the area of South Lubbock County, commonly known as "The Strip":**

Thomas Jim Dulin, Phil Crenshaw, Ken Carter, and Thomas Don (Tom) Dulin appeared before Council to voice their opinions of opposition to the proposed annexation of the area of south Lubbock County, commonly known as "The Strip".

**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."**

**7:45 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 (Lake Alan Henry, 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 (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 511.074(a)(1), to discuss personnel matters regarding duties, responsibilities, and/or appointments to the West Texas Municipal Power Agency Board of Directors.
- 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.

**9:37 A. M. CITY COUNCIL REGULAR MEETING RECONVENED**  
City Council Chambers

**Present:** Mayor David A. Miller; Mayor Pro Tem Jim Gilbreath; Council Member Linda DeLeon; Council Member John Leonard; Council Member Floyd Price; Lee Ann Dumbauld, City Manager; Anita Burgess, City Attorney; and Tommy Combs, Deputy City Secretary

**Absent:** Council Member Gary O. Boren, Council Member Phyllis Jones, and Rebecca Garza, City Secretary

Mayor Miller reconvened the meeting at 9:37 a.m.

**3. PROCLAMATIONS AND PRESENTATIONS**

**3.1. Invocation by Pastor David Langford, Quaker Avenue 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.

Council Member Jones arrived.

**3.3. Presentation of a special recognition to City of Lubbock and to City of Slaton firefighters for their combined life-saving efforts to rescue three paint crew members who were overcome by fumes while working at the top of a water tower.**

Mayor Miller presented special recognition to both the City of Lubbock and City of Slaton firefighters for rescuing the paint crew members from the water tower, who became overpowered with fumes. He requested District Chief Lewis Treadwell, Captain Delton Cleveland, Captain Emery Meunier, Captain Ben Evans, Lieutenant Craig Gannon, Equipment Operator Jay Williams, Firefighter Jason Bobo, Firefighter Wade Gipson, Firefighter Chris Kemp, Firefighter Clint Adams, Firefighter Nick Angerer, Firefighter Dustin Bell, Firefighter Kyle Pounds, and members from the Slaton Fire Department to join him while he read the special recognition.

Council Member Boren arrived.

**3.4. Presentation of a special recognition to individuals assisting in a special operations search and recovery of Joanna Rogers at the West Texas Regional Disposal Facility.**

Mayor Miller presented special recognition to the individuals assisting in a special operations search and recovery of the remains of Joanna Rogers at the West Texas Regional Disposal Facility. The Mayor invited Sheriff Gutierrez and County Commissioners McCay and Jones, Captain Don Carter, Lieutenant Antonio Menchaca, Ricky Tadlock, John Cobb, and Brian Chapa to join him while he read the special recognition in appreciation to the group. Sheriff Gutierrez and Lt. Menchaca gave comments.

At this time, Rick Murphy, President of the Lubbock Professional Firefighter's Association, made a special presentation to Council Member Floyd Price for his service as a public safety (police) officer for many years, for his service on the City Council, and for being so supportive of public safety.

**4. MINUTES**

**4.1. Approval of Prior Meeting Minutes: Regular City Council Meeting, October 13, 2006, and Special City Council Meeting, October 19, 2006**

Motion was made by Council Member Price, seconded by Mayor Pro Tem Gilbreath to approve the minutes of the Regular City Council Meeting of October 13, 2006 and the Special City Council Meeting of October 19, 2006 with the following change:

Let the minutes of the Regular City Council Meeting of October 13, 2006 reflect, in Item 6.10, the recommendation and legal advise from City Attorney Anita Burgess on handling the vote.

Motion carried: 7 Ayes, 0 Nays.

**5. CONSENT AGENDA (Items 5.1-5.13, 5.16-5.17, 5.19-5.20)**

Motion was made by Council Member DeLeon, seconded by Mayor Pro Tem Gilbreath to approve Items 5.1-5.13, 5.16-5.17, 5.19-5.20 on consent agenda as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**5.1. Ordinance Amendment 2nd Reading - Traffic: Ordinance No. 2006-O0110 Consider an ordinance amending Section 16 of the City Code adding new Section 16-251 to exempt persons with disabilities from payment of fees or penalties imposed for time limit parking.**

Section 681.006(b) of the Texas Transportation Code provides that the owner of a vehicle is exempt from the payment of a fee or penalty imposed by a governmental unit for parking at a meter if (1) the vehicle is being operated by or for the transportation of a person with a disability and (2) there are (A) displayed on the vehicle special license plates issued under Section 504.201 of the Texas Transportation Code or (B) placed on the rearview mirror of the vehicle's front windshield a disabled parking placard.

Section 681.006(e) of the Texas Transportation Code provides that a governmental unit may provide by ordinance or order that the exemption provided by Section 681.006(b) also applies to payment of a fee or penalty imposed by the governmental unit for parking in a parking garage or lot or in a space with a limitation on the length of time for parking.

**FISCAL IMPACT**

No fiscal impact is anticipated.

Staff recommended approval of the second reading of this ordinance.

**5.2. Right-of-Way Ordinance 2nd Reading - Right-of-Way: Ordinance No. 2006-O0112 Consider an ordinance abandoning and closing a temporary drainage easement located in Section 35, Block AK, Lubbock County, Texas, easement located at 6501 Spur 327.**

This proposed ordinance was read for the first time at the October 26, 2006, City Council meeting as a consent agenda item.

The proposed ordinance abandons and closes a 2.275 acre tract of temporary drainage easement in Section 35, Block AK, which is located west of Milwaukee Avenue and south of Spur 327. New drainage easements will be dedicated as needed when the property is platted.

**FISCAL IMPACT**

No fiscal impact is anticipated.

Staff recommended approval of the second reading of this ordinance.

**5.3. Zone Case No. 1335-A (715 E. 73rd Street) Ordinance 2nd Reading - Planning: Ordinance No. 2006-O0113 Consider request of AMD Engineering, LP for Nix Electric Company, Inc. for a zoning change from R-1 to M-1 on Lots 23-25, Del Prado.**

The request will relocate an existing alley and rezone three residential lots facing 73rd Street to M-1. The three lots will be joined with the parcel on the South Loop where Mr. Nix has operated Nix Electric. That parcel is zoned M-1.

Adjacent land use:

N – industrial

S – residential

E – industrial zoning

W – residential

This area was developed prior to adoption of the 1975 Plan and therefore is not in concert with current Comprehensive Land Use Plan policies. This row of seven residential lots backs up to commercial and industrial use to the north (on Loop 289), and M-1 zoning comes all the way to 73rd Street just to the east.

To alleviate any of the fears with regard to the use of the land for the remaining residential neighbors, Mr. Nix has agreed to three conditions that will benefit the residential environment. The conditions are supported by the staff.

Planning Commission recommended the request subject to the following conditions:

1. The applicant will replat the three lots and relocate the alley to the south on the west end of the redeveloped lots.
2. The applicant shall install a screening fence with 15 feet of front setback along 73rd Street and along the west property boundary adjacent to the new alley.
3. No access to the industrial facility will be allowed from the front of the three lots requested for rezoning. One access point shall be allowed for an employee parking lot.

#### **FISCAL IMPACT**

No fiscal impact is anticipated.

Staff supports the recommendation of the Planning Commission.

- 5.4. Zone Case No. 2995-C (east and west of Milwaukee Avenue, south of 66th Street and north of 82nd Street) Ordinance 2nd Reading - Planning: Ordinance No. 2006-O114 Consider request of Burl W. Masters for George McMahan for a zoning change from R-1 Specific Use and A-2 to C-3, C-2, and R-1 Specific Use on 32.9 acres of unplatted land out of Section 29 and Section 30, Block AK, .**

The request is a reformatting of zoning along Milwaukee Avenue between 66th Street and 82nd Street, with the proposed Bacon Crest subdivision developed by the same person on both sides. Adjacent land uses remain

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substantially vacant in all directions. Portions of the residential development and commercial development along 82nd Street have started.

The proposition is divided into six areas:

Area 1.

An area north of existing C-3 along Milwaukee Avenue and the corner of 82nd Street is requested as C-2. It is across from the proposed Area 5 which will be C-3, if approved. To the west of Area 1 is land dedicated to a large drainage facility. Conditions will be discussed below.

Area 2.

Area 2 is a small triangular portion south of Area 3, south of 66th Street on Milwaukee Avenue, and is requested as C-2. The dynamics of design and the shape of the area are proving to make residential development of the parcel difficult. The parcel will be north of an area proposed as either a park or a drainage facility (not shown on the area graphic). Conditions will be discussed below.

Area 3.

Just north of Area 2, the requested zoning is C-3. This will fit the current zoning to the north which is also C-3, with conditions. Conditions will be discussed below.

Area 4.

The parcel east of Area 5 (which is requested as C-3) will revert to residential zoning with a Specific Use Permit regarding setback for a cul de sac originating on 79th Street. The developer is choosing not to have a buffer other than the alley for this new residential area.

Area 5.

The parcel to the west of Area 4, noted above, is proposed as strip C-3 commercial. Conditions will be discussed below.

Area 6.

The City purchased a parcel west of Area 6 from the developer. This parcel will be used by Water Utilities to develop a pump station, which is currently under construction. The requested zoning is C-3. Conditions will be discussed below.

Discussion:

As noted in the original zone case along this portion of Milwaukee Avenue, the areas requested for commercial zoning do not conform to the policies of the Comprehensive Land Use Plan. The commercial facilities along 82nd Street to the west that were inherited in the 2000 annexation also do not conform to the Comprehensive Land Use Plan. The dynamics are different in this immediate area, because of the design of drainage facilities and the

installation of Milwaukee Avenue as a new thoroughfare before development of the area.

Taking the series of requests from Zone Case 2995, the Planning Commission recommended the request with the following conditions:

For Area 4:

1. Front setback shall be a minimum of fifteen feet, except that any front entry garage shall have a minimum setback of twenty feet.
2. Side setback on corner lots shall be a minimum of five feet.
3. A five-foot minimum setback shall be allowed on cul de sac lots with the exception that any front entry garage must meet a twenty foot setback.

For Areas 1-3 and 5-6:

1. For each of the areas zoned commercially, a traffic access plan (curb cuts) shall be approved by the Planning Commission prior to a construction permit being issued.

#### **FISCAL IMPACT**

No fiscal impact is anticipated.

Staff supports the recommendation of the Planning Commission.

**5.5. Signature Authority Resolution - Finance: Resolution No. 2006-R0529 designating authorized representatives on the City's accounts with the public funds investment pool known as the Texas Local Government Investment Pool.**

The City entered into a Participation Agreement with Texas Local Government Investment Pool (TexPool) on May 28, 1998. This resolution will update and designate new authorized representatives on these accounts. The designation of "Authorized Representative" provides full power and authority to transmit funds for investment in TexPool and withdraw funds from time to time, to issue letters of instruction, and to take all other actions deemed necessary or appropriate for the investment of local funds. All transactions require dual signature for added security and compliance with the City's Investment Policy.

"Authorized Representatives" will now include the following individuals:

Lee Ann Dumbauld, City Manager

Jeffrey A. Yates, Chief Financial Officer

Andy Burcham, Director of Fiscal Policy and Strategic Planning

Brandon Inman, Senior Financial Analyst

#### **FISCAL IMPACT**

No fiscal impact.

Staff recommended approval of this resolution.

**5.6. Grant Application Resolution - Solid Waste: Resolution No. 2006-R0530 authorizing a grant application for the purchase of equipment used to improve and expand recycling programs as part of the South Plains Association of Governments and Texas Commission on Environmental Quality FY 2007 Solid Waste Grant Programs.**

HB 3072 mandates that the Texas Commission on Environmental Quality (TCEQ) return to local governments a portion of the State surcharge (\$1.25 per ton) collected on landfill tipping fees. The funds are apportioned to the Council of Governments based on a formula that includes such things as population, need, and number of counties in the Council area. The Councils then conduct a competitive grant application process to address the needs specific to their region. This year, South Plains Association of Governments (SPAG) has \$175,975 in funding available for solid waste projects. The SPAG Solid Waste Advisory Committee has chosen to limit each single-jurisdiction award to a maximum of \$58,000.

The \$38,940 Solid Waste Department grant application for the purchase of equipment used to improve and expand the recycling programs. The equipment includes:

Three 400-gallon antifreeze containers that will replace existing antifreeze collection and storage containers that are over 15 years old. - \$12,239.

One aerosol can crusher to collect and recycle aerosol cans. With this machine, the material from inside aerosol cans is captured and the cans are recycled or disposed of in a more environmentally friendly method than landfilling. - \$26,701.

**FISCAL IMPACT**

Solid Waste has \$5,000 grant matching funds budgeted in the Adopted FY 2006-07 Solid Waste operating budget. This match can be used to fund costs associated with the purchase of this equipment or for other recycling projects.

Staff recommended approval of this resolution.

**5.7. Commercial Tax Abatement Agreement Resolution - Business Development: Resolution No. 2006-R0531 authorizing the Mayor to execute a commercial tax abatement agreement with Quaker Medical Center, LLC for the purpose of constructing a new 70-bed inpatient/outpatient physical medicine, rehabilitation, and psychiatric hospital and a 30-bed long-term acute care hospital on a site located in the Lubbock 2000 North Enterprise Zone.**

The City has received an application for commercial tax abatement from Quaker Medical Center, LLC. They have purchased a 6.66 acre tract of land east of Quaker Avenue and north of Loop 289. Quaker Medical Center plans to build a new 70-bed inpatient/outpatient physical medicine, rehabilitation, and psychiatric hospital and a 30-bed long-term acute care hospital. The site is located in the Lubbock 2000 North Enterprise Zone.

The proposed project meets the Commercial Tax Abatement Policy and Guidelines' minimum investment of \$100,000 in real property improvements for an existing company. Total investment in the project will be approximately \$17 million and will eventually create 120 new jobs, of which 75% will be professional/management staff.

At the October 26, 2006, meeting, City Council approved the Notice of Intent. Staff is recommending a five-year declining scale tax abatement.

#### **FISCAL IMPACT**

The estimated total value of the City tax abatement will be \$235,615 over the five-year period.

Staff recommended approval of this resolution.

**5.8. Monitor Well Permit Resolution - Right-of-Way: Resolution No. 2006-R0532 authorizing the Mayor to execute a monitor well permit with Talon/LPE for a street right-of-way monitor well located at 1401 Avenue Q.**

This permit allows Talon/LPE to drill a ground water monitor well just east of Avenue Q in the south street right-of-way of 13th Street. American State Bank is the adjacent property owner and has given written approval to allow the contractor to place the monitor well on the north side of their property in the street right-of-way. The former gas station property located at 1219 Avenue Q had a leaking underground fuel storage tank and the TNRCC has requested that they go off site with a monitor well in addition to what they have already drilled on their property. This 20 year permit is payable every 5 years. The location of this well was reviewed by the utilities. The annual permit fee for this property is \$100.

#### **FISCAL IMPACT**

Income to the General Fund of \$100 per year.

Staff recommended approval of this resolution.

**5.9. Right-of-Way Ordinance 1st Reading - Right-of-Way: Ordinance No. 2006-O0115 abandoning and closing a 1.44 acre tract drainage easement located in Section 16 Block E-2, Lubbock County, Texas, easement located at 103rd and Savannah Avenue.**

This ordinance abandons and closes a drainage easement in Section 16, Block E-2, which is located just east of 103rd and Savannah Avenue. This easement was dedicated by separate instrument with the Lakeridge Estates plat. It is necessary to close this easement in order to proceed with Phase IV of the development of Lakeridge Estates South. A new drainage easement will be dedicated to replace this easement closure.

#### **FISCAL IMPACT**

No fiscal impact is anticipated.

Staff recommended approval of the first reading of this ordinance.

**5.10. Right-of-Way Ordinance 1st Reading - Right-of-Way: Ordinance No. 2006-O0116 abandoning and closing a portion of a 20-foot underground utility and garbage service easement located in Section 28, Block AK, Lubbock County, Texas, easement located at 6305 82nd Street.**

This ordinance abandons and closes a portion of a 20-foot underground utility and garbage service easement in Section 28, Block AK. This easement is located on the south side of 82nd Street just south and east of the Betenbough's office. This easement was dedicated with the Betenbough Addition II Tract A plat, and is no longer needed due to the development purposes. All utility companies are in agreement with this closure.

**FISCAL IMPACT**

No fiscal impact is anticipated.

Staff recommended approval of the first reading of this ordinance.

**5.11. Contract Resolution - Library: Resolution No. 2006-R0533 authorizing the Mayor to execute a grant contract with the Texas State Library and Archives Commission to support the Loan Star Libraries direct aid program for State FY 2007 for Lubbock Public Library.**

The 79th Texas State Legislature appropriated \$2.7 million during each year of the 2006-07 biennium for the Loan Star Libraries program. This grant provides direct grants-in-aid to public libraries that are members of the Texas State Library System. Under this program, the Lubbock Public Library will receive \$20,476 in State FY 2007. This is the sixth year the City has received Loan Star Libraries grant funds.

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

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

The library will use the Loan Star funds to supplement local funds for library materials by purchasing audiovisual media for adults and children, which includes audio books and DVDs. The grant will also fund a part time reference librarian to work ten hours per week to enhance the staffing level on evenings and weekends at the Mahon Library. This is the third year for Loan Star Libraries funding for this part-time position.

The grant will also fund a part time Library Aide I for the Godeke Branch Library. Thirty-two percent of the total items checked out in the library

system during FY 2005-06 were from Godeke (330,567 items), which serves a population of almost 100,000 within a three mile radius. Godeke has become overwhelmed with returned library materials due to its location and drive-up book return. Customer service will be enhanced with this additional part time position as library materials will be discharged, routed, and shelved in a more timely manner.

The Loan Star Libraries Plan of Action was approved by the Lubbock Libraries Board on September 18, 2006.

### **FISCAL IMPACT**

At the October 26, 2006, City Council meeting the City Council accepted and appropriated the \$20,476 grant from Texas State Library and Archives Commission for the purchase of multimedia materials and two part-time employees.

Staff recommended approval of this resolution.

**5.12. Contract Resolution - Facilities Management: Resolution No. 2006-R0534 authorizing the Mayor to execute a contract with ThyssenKrupp Elevator Corporation for elevator and escalator service and maintenance at City facilities.**

This item involves a contract to provide elevator and escalator service and maintenance at City municipal buildings. The term of the contract is for one year with an option to renew for up to four additional one-year terms. The following facilities have elevators and/or escalators covered by this contract:

- Municipal Building (6 units)
- LP&L Cooke Station (1 unit)
- Water Treatment Plant (2 units)
- Lubbock Preston Smith International Airport (4 units)
- Civic Center (3 units)
- Mahon Library (2 units)
- Municipal Square (2 units)
- Water Reclamation Plant (1 unit)
- Lubbock Business Center (2 units)
- Health Department (1 unit)
- Municipal Court (1 unit).

This contract is with ThyssenKrupp Elevator Corporation of Midland, Texas using Texas Cooperative Purchasing Network (TCPN) Contract No. R4679. TCPN is the Region 4 Education Service Center cooperative purchasing program, which offers contracts that have been established through open competition as prescribed by the laws of the State of Texas. Enabling statutes for TCPN can be found in the VTCA Government Code, Chapter 791 Interlocal Cooperation Act. TCPN is available for use by all public and private schools, colleges, universities, cities, counties, and other government entities in the State of Texas.

**FISCAL IMPACT**

Beginning in FY 2006-07, the Facilities Management Department is responsible for all facilities maintenance. The funding for this contract is available in the Adopted FY 2006-07 operating budget in various departments, however the contract will be managed by Facilities Management.

Staff recommended approval of this resolution.

**5.13. Contract Resolution - Aviation: Resolution No. 2006-R0535 authorizing the Mayor to execute a contract with F&W Electrical Contractors for airfield guidance signage, BID 06-720-DD.**

This project involves replacing the existing airfield guidance signage panels and upgrading the airfield electrical vault, which powers the lighted airfield guidance signs at Lubbock Preston Smith International Airport. The sign panels will replace existing panels that are faded, cracked, and delaminated. The guidance signs are internally lighted and placed around the airfield to visually mark the runways, taxiways, and aprons during both day and night conditions. The upgraded equipment in the airfield electrical vault will ensure that necessary circuits are available to power the lighted airfield guidance signs and are essential for night aircraft operations at the airport.

The replacement of the sign panels and the upgrade of the electrical vault equipment are necessary for continued safe operations at the airport. The most recent Federal Aviation Administration inspection identified these items as needing replacement.

Thirteen local contractors were notified of the Invitation to Bid. Time for completion is 210 calendar days and liquidated damages is \$450 per day.

**FISCAL IMPACT**

This project is funded with Passenger Facility Charge funds. A total of \$915,000 has been appropriated with \$787,675 available in Capital Improvement Project 90402, New Airfield Guidance Signage.

The Airport Board and staff recommended contract award to the low bidder F&W Electrical Contractors of Floresville, Texas for \$525,000.

**5.14. This item was moved from consent agenda to regular agenda and considered following Item 5.20.**

**5.15. This item was moved from consent agenda to regular agenda and considered following Item 5.14.**

**5.16. Contract Resolutions - Central Warehouse: Resolution No. 2006-R0536; Resolution No. 2006-R0537; Resolution No. 2006-R0538 for Water Utilities related items for inventory at the City of Lubbock Central Warehouse, BID 06-053-MA.**

This bid establishes annual pricing for the purchase of primary stock items such as pipes, adapters, gaskets, and other supplies necessary for the day-to-

day operations and emergency maintenance and construction requirements of all Water Utilities sections. These items are stored at the City's Central Warehouse or delivered to specific job sites.

Price adjustments may be allowed for "pass through" costs incurred by the supplier. Requests for price adjustments must be in writing and must include documentation that substantiates additional costs from the manufacturer. A supplier's mark-up will not be allowed to any manufacturer's price adjustment.

Twelve local business were notified of the Invitation to Bid.

### **FISCAL IMPACT**

These items will be purchased by the Central Warehouse and sold on an as needed basis to the Water Department. The Central Warehouse will purchase approximately \$700,000 of materials for use over the next year. Funding to purchase these items exist in various water capital and operating budgets.

Staff recommended bid award to Morrison Supply, of Lubbock, Texas for \$448,322.65;

Western Industrial Supply, LLC of Lubbock, Texas for \$146,669.34; and

Ferguson Enterprises, Inc. of Lubbock, Texas for \$82,149.98

**5.17. Contract Resolution - Water Utilities: Resolution No. 2006-R0539 authorizing the Mayor to execute a contract with Roberts & Spencer Service, LLC for instrument and flow meter inspection and calibration services, BID 06-053-MA.**

This contract provides the services of a calibration specialist to inspect and calibrate numerous flow meters, loss of head meters, and water quality instruments/analyzers to ensure proper function and accuracy. This equipment is located throughout the water system at the Water Treatment Plant, water pumping stations, valve stations, and other water facilities. It is essential that this equipment be inspected and calibrated regularly to ensure that the information and records derived from them is accurate and reliable. The contractor will identify all metering equipment and instruments, perform inspection and full calibration service, and provide final reporting for all units. This information is necessary to maintain properly recorded information for internal use and for TCEQ annual inspections. Trending this information over time will assist technical and management staff identify instruments that may experience failure, and will serve to provide information regarding life expectancy of this equipment and make projections for future replacement easier to predict.

This service will be performed on a semi-annual basis. The contract period is two years with an option to renew for one additional two-year period. Therefore, each metering device will be properly inspected and calibrated four times during the contract.

Roberts & Spencer Service, LLC is the low bidder and they propose to perform inspection and calibration services for \$65 per unit. The annual

pricing for this service is \$15,340 and the total cost for the two-year is \$30,680.

The bid submitted by Averett Electric includes services for \$125 for each device. The annual cost would be \$29,500 and the total cost for the two-year contract would be \$59,000.

A bid submitted by Technical Plant Services and Products was not bid as specified. Therefore, it was not considered for this project.

#### **FISCAL IMPACT**

The proposed contract is based on the number of inspections with each one costing \$65. A total of \$20,000 is appropriated in the Adopted FY 2006-07 Water Fund operating budget for these inspections.

Staff recommended contract award to Roberts & Spencer Service LLC of Dallas, Texas for \$30,680 or \$15,340 annually.

- 5.18. This item was moved from consent agenda to regular agenda and considered following Item 5.15.**
- 5.19. Contract Amendment Resolution - Community Development: Resolution No. 2006-R0540 authorizing the Mayor to execute an amendment to a Community Development Funding Contract with LIFE Run Centers to fund the Comprehensive Energy Assistance Elderly/Disabled Component.**

The Community Development and Services Board voted to approve funding for this project on December 7, 2005, at its regularly scheduled meeting. Funding was approved by City Council at the January 31, 2006, City Council meeting.

These funds were originally allocated to the Heating/Cooling Component of the Comprehensive Energy Assistance Program (CEAP). \$21,500 is now being transferred to the LIFE Run Centers for their Elderly/Disabled program. CEAP funds originate from the Texas Department of Housing and Community Affairs. The Elderly/Disabled Program provides relief to low-income elderly and disabled households that are most vulnerable to the high cost of energy for home heating and cooling. The State has recently relaxed their allocation caps for each component of the program to allow their sub-recipients to better serve the low-income individuals and families of Texas. The Community Development and Services Board determined that funding for the Elderly/Disabled should be a higher priority than the Heating/Cooling component, and recommended the transfer. The transfer of funds will help serve approximately 60 additional households.

City Council previously approved \$108,500 from CEAP and \$5,000 from CSBG funds for a total of \$113,500. The additional \$21,500 raises the total for this program to \$135,000. The contract term is from January 1, 2006, through December 31, 2006. No match or return of investment is required.

**FISCAL IMPACT**

The additional \$21,500 provided to Life Run Centers will increase the maximum allowable allocation to this organization to \$135,000. The total CEAP program appropriation of \$834,832 will remain unchanged.

Staff recommended approval of this resolution.

**5.20. Contract Amendment Resolution - Community Development: Resolution No. 2006-R0541 authorizing the Mayor to execute an amendment to a Community Development Funding Contract with Lutheran Social Services Neighborhood House to fund the Comprehensive Energy Assistance Elderly/Disabled and Energy Crisis Components.**

The Community Development and Services Board voted to approve funding for this project on December 7, 2005, at its regularly scheduled meeting. Funding was approved by City Council at the January 31, 2006, City Council meeting.

These funds were originally allocated to the Heating/Cooling Component of the Comprehensive Energy Assistance Program (CEAP). \$20,000 is being transferred to the Lutheran Social Services Neighborhood House for their Elderly/Disabled and Energy Crisis Program. CEAP funds originate from the Texas Department of Housing and Community Affairs. The Elderly/Disabled and Energy Crisis Program provides relief to low-income elderly and disabled households that are most vulnerable to the high cost of energy for home heating and cooling. The State has recently relaxed their allocation caps for each component of the program to allow their sub-recipients to better serve the low-income individuals and families of Texas. The Community Development and Services Board determined that funding for the Elderly/Disabled and Energy Crisis Program should be a higher priority than the Heating/Cooling component, and recommended the transfer. The transfer of funds will help serve approximately 100 additional households.

City Council previously approved \$385,095 from CEAP and \$30,000 from Community Services Block Grant funds for a total of \$415,095. The additional \$20,000 raises the total for this program to \$435,095. Terms of the contract are from January 1, 2006, through December 31, 2006. No match or return of investment is required.

**FISCAL IMPACT**

The additional \$20,000 provided to the Lutheran Social Services will increase the maximum allowable allocation to this organization to \$435,095. The total CEAP program appropriation of \$834,832 will remain unchanged.

Staff recommended approval of this resolution.

**6. REGULAR AGENDA**

**Note: Regular Agenda items, and Consent Agenda items moved to Regular Agenda, are listed in the order they were addressed (Items 5.14, 5.15, 5.18, 6.1-6.13).**

**5.14. Contract Resolution - Police: Resolution No. 2006-R0542 authorizing the Mayor to execute a contract with GT Distributors for police taser equipment.**

This purchase order contract involves a sole-source purchase of police taser equipment from GT Distributors of Austin, Texas. Taser International is the only manufacturer of the Advanced Taser X26E. GT Distributors is the only authorized distributor in the State of Texas.

The Advanced Taser meets the specialized needs of this department by having unique features that are not found with other tasers:

- only less lethal-weapon that can stop an aggressive, focused, combat attacker;

- directly stimulates motor, nerve and muscle tissue, causing incapacitation regardless of mental focus, training, size or drug induced dementia;

- option to remotely fire from underneath a rifle, robot, tactical mirror on a pole, camera, etc.;

- over 94.9% field effectiveness rating;

- same hand motions and muscle memory as standard semi-automatic pistols.

Lubbock police officers are currently equipped with the Advanced X26E Taser. Recruit Class 2006-A must also be equipped with the Taser to provide them with an equal level of protection.

**FISCAL IMPACT**

The taser equipment is budgeted in the Adopted FY 2006-07 Police Department Operating Budget. This contract is based on the unit cost of \$871.83 per taser and training cartridge. It is anticipated the City will spend \$27,026.73 in FY 2006-07 for this equipment.

Staff recommended approval of this resolution.

Claude Jones, Police Chief, 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-R0542 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**5.15. Contract Resolution - Parks: Resolution No. 2006-R0543 authorizing and directing the Director of Purchasing and Contract Management to use the Construction Manager at Risk delivery method as the construction project method providing the best value for the City of Lubbock for the Lubbock Youth Sports Complex and the Northwest Little League Complex.**

Subchapter H, Section 271 of the Local Government Code provides for alternate project delivery methods for certain projects. For projects involving the construction of a facility, Subchapter H permits a municipality to use any of the following methods that provides the best value for the municipality:

- competitive bidding;
- competitive sealed proposals;
- a design-build contract;
- a contract using a construction manager; or
- a job order contract.

"Facility" means buildings the design and construction of which are governed by accepted building codes. The term does not include: (A) highways, roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water and wastewater distribution or conveyance facilities, wharves, docks, airport runways and taxiways, drainage projects, or related types of projects associated with civil engineering construction; or (B) buildings or structures that are incidental to projects that are primarily civil engineering construction projects.

One of the projects being considered for Construction Manager at Risk is described as Phase 1 of the Youth Sports Complex including 12 girls softball fields and 4 Little League baseball fields with irrigation, press boxes, concession stands, lighting, fencing, and accessible parking. A second project being considered for Construction Manager at Risk is described as the construction of fields for Northwest Little League. The complex will be located at North University and Marshall Avenue, on the south side of Llano Estacado Lake. The project includes the construction of three regulation little league fields, concession, restrooms, press boxes, fences, lighting, turf, irrigation, parking, sidewalks and bleachers.

Section 271.114 of the Local Government Code requires that the governing body of a municipality that is considering a construction contract using a method other than competitive bidding must determine which delivery method provides the best value for the City. Resolution No. 2002-R0543 authorizes the City Manager to determine which alternate construction contract method will provide the best value for any construction project not anticipated to exceed \$1 million in total cost.

As set out in the resolution, staff is asking City Council to authorize and direct City staff to use the Construction Manager at Risk delivery method for the Lubbock Youth Sports Complex as the method providing the alternate project delivery method that provides the best value for the City of Lubbock. The

following information is provided to help City Council determine which delivery method provides the best value for the City.

1. Contracts for Facilities: Construction Manager-At-Risk

A municipality may use the construction manager-at-risk method for the construction, rehabilitation, alteration, or repair of a facility. A construction manager-at-risk is a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for construction, rehabilitation, alteration, or repair of a facility at the contracted price as a general contractor and provides consultation to the City regarding construction during and after the design of the facility.

Before or concurrently with selecting a construction manager-at-risk, the City must select or designate an engineer or architect who must prepare the construction documents for the project. The City's engineer, architect, or construction manager-agent for a project may not serve, alone or in combination with another, as the construction manager-at-risk unless the engineer or architect is hired to serve as the construction manager-at-risk under a separate or concurrent procurement conducted in accordance with this subchapter.

The City must provide or contract for, independently of the construction manager-at-risk, the inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the facility by the City. The City must select those services for which it contracts in accordance with Section 2254.004, Government Code.

The City must select the construction manager-at-risk in either a one-step or two-step process. The City must prepare a request for proposals, in the case of a one-step process, or a request for qualifications, in the case of a two-step process, that includes general information on the project site, project scope, schedule, selection criteria, estimated budget, and the time and place for receipt of proposals or qualifications, as applicable, and other information that may assist the City in its selection of a construction manager-at-risk. The City must state the selection criteria in the request for proposals or qualifications, as applicable. The selection criteria may include the offeror's experience, past performance, safety record, proposed personnel and methodology, and other appropriate factors that demonstrate the capability of the construction manager-at-risk. If a one-step process is used, the City may request, as part of the offeror's proposal, proposed fees and prices for fulfilling the general conditions. If a two-step process is used, the City may not request fees or prices in step one. In step two, the City may request that five or fewer offerors, selected solely on the basis of qualifications, provide additional information, including the construction manager-at-risk's proposed fee and its price for fulfilling the general conditions.

At each step, the City must receive, publicly open, and read aloud the names of the offerors. At the appropriate step, the City must also read aloud the fees and prices, if any, stated in each proposal as the proposal is opened. Not later

than the 45th day after the date of opening the proposals, the City must evaluate and rank each proposal submitted in relation to the criteria set forth in the request for proposals.

The City must select the offeror that submits the proposal that offers the best value for the City based on the published selection criteria and on its ranking evaluation. The City must first attempt to negotiate a contract with the selected offeror. If the City is unable to negotiate a satisfactory contract with the selected offeror, the City must, formally and in writing, end negotiations with that offeror and proceed to negotiate with the next offeror in the order of the selection ranking until a contract is reached or negotiations with all ranked offerors end.

A construction manager-at-risk must publicly advertise and receive bids or proposals from trade contractors or subcontractors for the performance of all major elements of the work other than the minor work that may be included in the general conditions. A construction manager-at-risk may seek to perform portions of the work itself if the construction manager-at-risk submits its bid or proposal for those portions of the work in the same manner as all other trade contractors or subcontractors and if the City determines that the construction manager-at-risk's bid or proposal provides the best value for the City.

The construction manager-at-risk and the City or its representative must review all trade contractor or subcontractor bids or proposals in a manner that does not disclose the contents of the bid or proposal during the selection process to a person not employed by the construction manager-at-risk, engineer, architect, or City. All bids or proposals must be made public after the award of the contract or not later than the seventh day after the date of final selection of bids or proposals, whichever is later.

If the construction manager-at-risk reviews, evaluates, and recommended to the City a bid or proposal from a trade contractor or subcontractor but the City requires another bid or proposal to be accepted, the City must compensate the construction manager-at-risk by a change in price, time, or guaranteed maximum cost for any additional cost and risk that the construction manager-at-risk may incur because of the City's requirement that another bid or proposal be accepted.

If a selected trade contractor or subcontractor defaults in the performance of its work or fails to execute a subcontract after being selected in accordance with this section, the construction manager-at-risk may, without advertising, fulfill the contract requirements itself or select a replacement trade contractor or subcontractor to fulfill the contract requirements.

If a fixed contract amount or guaranteed maximum price has not been determined at the time the contract is awarded, the penal sums of the performance and payment bonds delivered to the City must each be in an amount equal to the project budget, as specified in the request for qualifications. The construction manager must deliver the bonds not later than

the 10th day after the date the construction manager executes the contract unless the construction manager furnishes a bid bond or other financial security acceptable to the City to ensure that the construction manager will furnish the required performance and payment bonds when a guaranteed maximum price is established.

## 2. Selecting Contractor for Construction Services Through Competitive Bidding

The City may use competitive bidding to select a contractor to perform construction, rehabilitation, alteration, or repair services for a facility. The municipality must award a competitively bid contract at the bid amount to the bidder offering the best value to the City according to the established selection criteria. Competitive bidding is the process of selecting a general contractor where contractors compete for the same project by submitting public bids to the municipality. Each contractor is given the same set of plans and specifications. The estimating department of each contractor solicits subcontractor bids for work they do not perform with their own forces. All bids are assembled and a bid amount is arrived at and submitted to the municipality.

A specific "lump sum" price is determined through competitive bidding by two or more general contractors. The work is usually awarded to the lowest responsible bidder who then manages the construction project. An outside architectural firm will need to be employed by the owner under a separate contract to prepare complete plans and specifications, called the "bid documents". The plans will show the scope of work desired, and the specifications will spell out the level of quality desired.

This procurement method will generally require more time during the design and pricing stage than the other types would require. Ample time needs to be allowed for architect selection, preparation of preliminary design drawings, preparation of development design drawings, then preparation of final construction drawings and specifications (the "bid documents"). After plans have been finalized and approved by the City, bids are solicited from a list of contractors. The contractors are then given approximately three weeks to prepare their construction cost estimates and bids.

If the lowest bid received is within the construction budget, then a "lump sum" contract can be awarded, and construction can begin. But if the lowest bid is over budget, the City may have to enter a "value engineering" stage to make deductive cost changes to the scope of work and re-bid the construction phase until the project's cost is within budget. This may take several more weeks of difficult decision making until the City is able to re-bid and get the project within budget.

## 3. Selecting Contractor for Construction Services Through Competitive Sealed Proposals

In selecting a contractor for construction, rehabilitation, alteration, or repair services for a facility through competitive sealed proposals, the City must select or designate an engineer or architect to prepare construction documents for the project. The City must provide or contract for, independently of the contractor, the inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the facility by the City.

A request for competitive sealed proposals includes construction documents, selection criteria, estimated budget, project scope, schedule, and other information that contractors may require to respond to the request. The City must state in the request for proposals the selection criteria that will be used in selecting the successful offeror.

The City must receive, publicly open, and read aloud the names of the offerors and, if any are required to be stated, all prices stated in each proposal. Not later than the 45th day after the date of opening the proposals, the City must evaluate and rank each proposal submitted in relation to the published selection criteria.

The City must select the offeror that offers the best value for the City based on the published selection criteria and on its ranking evaluation. The City must first attempt to negotiate a contract with the selected offeror. 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 determining best value for the City, the City is not restricted to considering price alone, but may consider any other factor stated in the selection criteria.

#### 4. Contracts for Facilities: Construction Manager-Agent

A municipality may use the construction manager-agent method for the construction, rehabilitation, alteration, or repair of a facility. A construction manager-agent is a sole proprietorship, partnership, corporation, or other legal entity that provides consultation to the City regarding construction, rehabilitation, alteration, or repair of the facility. A City using the construction manager-agent method may, under the contract between the City and the construction manager-agent, require the construction manager-agent to provide administrative personnel, equipment necessary to perform duties under this section, and on-site management and other services specified in the contract. A construction manager-agent represents the City in a fiduciary capacity.

Before or concurrently with selecting a construction manager-agent, the City must select or designate an engineer or architect who must prepare the construction documents for the project. The City's engineer or architect may

not serve, alone or in combination with another person, as the construction manager-agent unless the engineer or architect is hired to serve as the construction manager-agent under a separate or concurrent. This does not prohibit the City's engineer or architect from providing customary construction phase services under the engineer's or architect's original professional service agreement in accordance with applicable licensing laws.

A City must select a construction manager-agent on the basis of demonstrated competence and qualifications in the same manner as provided for the selection of engineers or architects under Section 2254.004, Government Code.

A City using the construction manager-agent method must procure, in accordance with applicable law, a general contractor, trade contractors, or subcontractors who will serve as the prime contractor for their specific portion of the work.

The City or the construction manager-agent must procure in accordance with Section 2254.004, Government Code, all of the testing of construction materials engineering, the inspection services, and the verification testing services necessary for acceptance of the facility by the City.

##### 5. Design-Build Contracts for Facilities

A municipality may use the design-build method for the construction, rehabilitation, alteration, or repair of a facility. The City must select or designate an engineer or architect independent of the design-build firm to act as its representative for the duration of the work on the facility. If the City's engineer or architect is not a full-time employee of the City, the City must select the engineer or architect on the basis of demonstrated competence and qualifications as provided by Section 2254.004, Government Code.

The City must prepare a request for qualifications that includes general information on the project site, project scope, budget, special systems, selection criteria, and other information that may assist potential design-build firms in submitting proposals for the project. The City must also prepare a design criteria package that includes more detailed information on the project. If the preparation of the design criteria package requires engineering or architectural services that constitute the practice of engineering within the meaning of The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes) or the practice of architecture within the meaning of Chapter 478, Acts of the 45th Legislature, Regular Session, 1937 (Article 249a, Vernon's Texas Civil Statutes), those services must be provided in accordance with the applicable law.

The City must evaluate statements of qualifications and select a design-build firm in two phases: (1) In phase one, the City must prepare a request for qualifications and evaluate each offeror's experience, technical competence, and capability to perform, the past performance of the offeror's team and members of the team, and other appropriate factors submitted by the team or

firm in response to the request for qualifications, except that cost-related or price-related evaluation factors are not permitted. Each offeror must certify to the City that each engineer or architect that is a member of its team was selected based on demonstrated competence and qualifications in the manner provided by Section 2254.004, Government Code. The City must qualify a maximum of five offerors to submit additional information and, if the City chooses, to interview for final selection. (2) In phase two, the City must evaluate the information submitted by the offerors on the basis of the selection criteria stated in the request for qualifications and the results of an interview. The City may request additional information regarding demonstrated competence and qualifications, considerations of the safety and long-term durability of the project, the feasibility of implementing the project as proposed, the ability of the offeror to meet schedules, costing methodology, or other factors as appropriate.

The City may not require offerors to submit detailed engineering or architectural designs as part of the proposal. The City must rank each proposal submitted on the basis of the criteria set forth in the request for qualifications. The City must select the design-build firm that submits the proposal offering the best value for the City on the basis of the published selection criteria and on its ranking evaluations. The City must first attempt to negotiate a contract with the selected offeror. If the City is unable to negotiate a satisfactory contract with the selected offeror, the City must, formally and in writing, end negotiations with that offeror and proceed to negotiate with the next offeror in the order of the selection ranking until a contract is reached or negotiations with all ranked offerors end.

Following selection of a design-build firm, that firm's engineers or architects must complete the design, submitting all design elements for review and determination of scope compliance to the City or the City's engineer or architect before or concurrently with construction.

The City must provide or contract for, independently of the design-build firm, the inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the facility by the City. The City must select those services for which it contracts in accordance with Section 2254.004, Government Code.

The design-build firm must supply a signed and sealed set of construction documents for the project to the City at the conclusion of construction.

A payment or performance bond is not required for, and may not provide coverage for, the portion of a design-build contract under this section that includes design services only. If a fixed contract amount or guaranteed maximum price has not been determined at the time a design-build contract is awarded, the penal sums of the performance and payment bonds delivered to the City must each be in an amount equal to the project budget, as specified in the design criteria package. The design-build firm must deliver the bonds not later than the 10th day after the date the design-build firm executes the

contract unless the design-build firm furnishes a bid bond or other financial security acceptable to the City to ensure that the design-build firm will furnish the required performance and payment bonds when a guaranteed maximum price is established.

#### 6. Job Order Contracts for Facilities Construction or Repair

A City may award job order contracts for the minor construction, repair, rehabilitation, or alteration of a facility if the work is of a recurring nature but the delivery times are indefinite and indefinite quantities and orders are awarded substantially on the basis of predescribed and prepriced tasks.

The City may establish contractual unit prices for a job order contract by: (1) specifying one or more published construction unit price books and the applicable divisions or line items; or (2) providing a list of work items and requiring the offerors to bid or propose one or more coefficients or multipliers to be applied to the price book or work items as the price proposal.

The City must advertise for, receive, and publicly open sealed proposals for job order contracts. The City may require offerors to submit additional information besides rates, including experience, past performance, and proposed personnel and methodology. The City may award job order contracts to one or more job order contractors in connection with each solicitation of bids or proposals.

An order for a job or project under the job order contract must be signed by the City's representative and the contractor. The order may be a fixed price, lump-sum contract based substantially on contractual unit pricing applied to estimated quantities or may be a unit price order based on the quantities and line times delivered. The contractor must provide payment and performance bonds, if required by law, based on the amount or estimated amount of any order.

The base term of a job order contract is for the period and with any renewal options that the City sets forth in the request for proposals. If the City fails to advertise that term, the base term may not exceed two years and is not renewable without further advertisement and solicitation of proposals.

If a job order contract or an order issued under the contract requires engineering or architectural services that constitute the practice of engineering, those services must be provided in accordance with applicable law.

#### **FISCAL IMPACT**

Capital improvement project 91197, Youth Sports Complex Phase I has \$12,730,381 currently appropriated with 12,161,443 remaining.

Capital improvement project 91207, Northwest Little League has \$2,598,000 currently appropriated with \$2,514,155 remaining.

In reliance on the professional architectural opinions of MWM Architects and Chapman Harvey Architects who have said that the Lubbock Youth Sports

Complex project architecturally meets the definition of a “facility” as defined in Local Government Code 271.111, staff recommended approval of this resolution.

Scott Snider, Assistant City Manager; Victor Kilman, Director of General Services; and Anita Burgess, City Attorney, gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Jones to pass Resolution No. 2006-R0543 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**5.18. Contract Amendment Resolution - Water Utilities: Resolution No. 2006-R0544 authorizing the Mayor to execute a contract amendment with HDR Engineering, Inc. for Phase II engineering services for the design of major water line replacement and downtown water lines replacement projects.**

This item involves a contract with HDR Engineering, Inc. for Phase II engineering services for the design of the major water line replacement along 34th Street (Major Water Line Replacement CIP) and replacement of several water lines in downtown (Downtown Water System Replacement CIP).

The purpose of the first project is to replace an existing 16-inch water line that has reached the end of its useful life. The major water line starts at 19th Street and Avenue A, moves south along Avenue A to 34th Street, moves west along 34th Street to Quaker Avenue, moves north along Quaker Avenue, and terminates at the Marsha Sharp Freeway. City staff has had discussions regarding the proposed plans with the 34th Street Business Association to gather input and provide information related to the construction phase.

The purpose of the second project is to study the existing downtown water supply system and design the replacement of existing water lines of various sizes in the downtown area with attention given to the improvement of supply and pressure for fire protection. This project is limited to the area bordered by 4th Street on the north, 19th Street on the south, Avenue Q on the west, and Interstate 27 on the east. City staff has taken the proposal to the Urban Design and Historic Preservation Commission which has approved the removal of the brick surface along 16th Street to be replaced with asphalt.

The contract amendment amends the existing master agreement with HDR Engineering, Inc. dated October 27, 2005, to establish the scope of work and compensation for Part II – Design Phase. The preliminary engineering report was completed and submitted in May 2006.

The contract amendment adds \$859,531 to the cost of the original contract of \$183,850, raising the total contract amount to \$1,043,381. The Lubbock Water Advisory Commission considered this contract amendment at their November 1, 2006, Board meeting and recommended approval.

**FISCAL IMPACT**

A total of \$972,319 was appropriated with \$664,697 available in project number 90273, Major Water Line Replacement, and a total of \$783,630 was appropriated with \$676,238 available in project number 90274, Downtown Water System Replacement.

Staff supports the recommendation of the Lubbock Water Advisory Commission and recommended approval of this resolution.

Tom Adams, Deputy City Manager/Water Utilities Director, gave comments and answered questions from Council.

Motion was made by Council Member Price, seconded by Council Member DeLeon to pass Resolution No. 2006-R0544 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.1. Public Hearing 10:00 a.m. - Business Development: Conduct a public hearing on an ordinance to levy the assessment for the North Overton Public Improvement District, the boundary of which includes a portion of the area between Fourth Street on the North, Avenue Q to the East, Broadway Street on the South, and University Avenue to the West.**

Mayor Miller opened the public hearing at 10:25 a. m. No one appeared on behalf of North Overton Public Improvement District. No one appeared in opposition. Mayor Miller closed the hearing at 10:26 a. m.

This public hearing will allow property owners in the proposed District the opportunity to speak in favor of, or opposition to, the assessment to be levied in the North Overton Public Improvement District (PID). The City is required to hold an annual public hearing to levy the assessment. A notice of public hearing was published in the Lubbock-Avalanche Journal on Friday, October 27, 2006, and notices were mailed to the property owners on Friday, October 27, 2006, as required by statute.

From 2005 to 2006, the number of property owners increased from 19 to 40 and the total assessed value for these properties increased from \$107.5 million to \$145 million.

**FISCAL IMPACT**

No fiscal impact is anticipated.

Staff recommended holding the public hearing for the North Overton Public Improvement District at 10:00 a.m. on November 9, 2006.

**6.2. North Overton Public Improvement District Assessment Ordinance - Business Development: Ordinance No. 2006-O0117 reviewing the service plan and the classifications for the methods of assessing special benefits for the services and improvements of property in the North Overton Public Improvement District; approving, adopting, and filing with the City Secretary the Assessment Roll; and closing the hearing and levying assessments based on the Service Plan for the cost of certain services and/or improvements to be provided in the District during 2007.**

Each year the City of Lubbock is required to do the following:

- review classifications for the methods of assessing;
- approve, adopt and file the assessment roll with the City Secretary;
- and levy the assessment for the North Overton Public Improvement District.

This item is preceded by a Public Hearing, which allows property owners in the District to speak in favor of or in opposition to the assessment rate pursuant to Chapter 372 of the Texas Local Government Code. The proposed assessment rate for 2007 is \$0.15 per \$100 of valuation through year 2010, decreasing to \$0.10 per \$100 of valuation in 2011. All property zoned commercial and high-density residential under the City of Lubbock Zoning Ordinance will be assessed for 2007. All single-family and duplex-zoned property will be assessed on a block-by-block basis as public improvements to be maintained by PID funds are completed in that block. Staff is anticipating assessments on single-family and duplex-zoned properties in 2007. The Council is also required to review the Service Plan annually. The Service Plan is included in the backup.

From 2005 to 2006, the number of property owners increased from 19 to 40 and the total assessed value for these properties increased from \$107.5 million to \$145 million.

**FISCAL IMPACT**

The revenue will go into a separate North Overton Public Improvement District (PID) Fund. The funds raised by the levy will be used to provide security service, landscape maintenance and street and pedestrian lighting and maintenance on projects in the District, as well as cover a portion of the costs of administering the PID. The estimated revenue total levy for 2006 is \$217,539.

Staff recommended approval of the first reading of this ordinance.

Motion was made by Council Member Boren, seconded by Council Member Price to pass on first reading Ordinance No. 2006-O0117 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.3. Public Hearing 10:00 a.m. - Business Development: Conduct a public hearing to consider an ordinance to levy the assessment for the North Point Public Improvement District, the boundary of which includes the area between Erskine and Ursuline, and between North Quaker to a line east of Frankford.**

Mayor Miller opened the public hearing at 10:26 a. m. No one appeared on behalf of North Point Public Improvement District. No one appeared in opposition. Mayor Miller closed the hearing at 10:26 a. m.

This hearing will allow property owners in the proposed District the opportunity to speak in favor of, or opposition to, the assessment to be levied in the North Point Public Improvement District (PID). The City is required to hold an annual public hearing to levy the assessment. A notice of Public Hearing was published in the Lubbock-Avalanche Journal on Friday, October 27, 2006, and notices were mailed to the property owners on Friday, October 27, 2006, as required by statute.

From 2005 to 2006, the number of property owners increased from 113 to 189 and the total assessed value for these properties increased from \$10 million to \$27.1 million.

**FISCAL IMPACT**

No fiscal impact is anticipated.

Staff recommended holding the public hearing for the North Point Public Improvement District at 10:00 a.m. on November 9, 2006.

**6.4. North Point Public Improvement District Assessment Ordinance - Business Development: Ordinance No. 2006-00118 reviewing the service plan and the assessment plan for special benefits for the services and improvements of property in the North Point Public Improvement District; approving, adopting, and filing with the City Secretary the Assessment Roll; and closing the hearing and levying assessments based on the Revised Service Plan for the cost of certain services and/or improvements to be provided in the District during 2007.**

Each year the City of Lubbock is required to do the following:

- review classifications for the methods of assessing; approve,
- adopt and file the assessment roll with the City Secretary;
- and levy the assessment for the North Point Public Improvement District.

This item is preceded by a Public Hearing, which allows property owners in the District to speak in favor of or in opposition to the assessment rate pursuant to Chapter 372 of the Texas Local Government Code. Added to the Service Plan is the electric cost of lighting at the entrances to the neighborhoods. This will not change the assessment rate. The proposed assessment rate for 2006 is \$0.14 per \$100.00 of valuation through year 2010,

decreasing to \$0.04 per \$100.00 of valuation in 2011. All property will be assessed for 2007.

From 2005 to 2006, the number of property owners increased from 113 to 189 and the total assessed value for these properties increased from \$10 million to \$27.1 million.

#### **FISCAL IMPACT**

The revenues will go into a separate North Point Public Improvement District (PID) Fund. The funds raised by the levy in the District will be used to provide maintenance on the commons areas on North Slide and adjacent right-of-way, creating and maintaining a green space located under a utility easement, and enhancing and maintaining amenities in the entry stations on North Slide, as well as cover a portion of the costs of administering the PID. The total estimated revenue for 2006 is \$37,947.

Staff recommended approval of this ordinance.

Motion was made by Council Member Leonard, seconded by Council Member Price to pass on first reading Ordinance No. 2006-O0118 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.5. Tax Abatement Notice of Intent Resolution - Business Development: Resolution No. 2006-R0545 giving notice of intent to amend the property description in the tax abatement agreement with BeMove, Ltd. and Module Truck Systems, Inc.**

An amendment is required to the property description in Module Truck Systems (MTS) tax abatement agreement because a portion of the land that was included in the MTS agreement has been sold to Teinert Metals, Inc. to build their new structure. MTS has agreed to the amendment.

To amend an existing tax abatement agreement requires that the same procedure be followed as was used in the execution of the original contract. This requires the municipality to deliver a notice of intent to amend a tax abatement agreement to the other taxing jurisdictions. This action fulfills that requirement.

#### **FISCAL IMPACT**

The amendment of the legal description in this tax abatement contract will not change the fiscal impact.

Staff recommended approval of the Notice of Intent.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to pass Resolution No. 2006-R0545 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.6. Tax Abatement Notice of Intent Resolution - Business Development: Resolution No. 2006-R0546 giving notice of intent to amend the property description in the tax abatement agreement with BeMove, Ltd. and Vertical Turbine Specialists, Inc.**

An amendment is required to the property description in Vertical Turbine Specialists (VTS) tax abatement agreement because a portion of the land that was included in the VTS agreement has been sold to Teinert Metals, Inc. to build their new structure. VTS has agreed to the amendment.

To amend an existing tax abatement agreement requires that the same procedure be followed as was used in the execution of the original contract. This requires the municipality to deliver a notice of intent to amend a tax abatement agreement to the other taxing jurisdictions. This action fulfills that requirement.

#### **FISCAL IMPACT**

The amendment of the legal description in this tax abatement contract and is not anticipated to have a fiscal impact.

Staff recommended approval of the Notice of Intent.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to pass Resolution No. 2006-R0546 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.7. Tax Abatement Notice of Intent Resolution - Business Development: Resolution No. 2006-R0547 giving notice of intent to enter into a tax abatement agreement with Teinert Metals, Inc. to construct a new facility on a portion of the land located on the west and south side of the former Eagle Picher property located in the Lubbock 2000 South Enterprise Zone.**

The City has received an application for industrial tax abatement from Teinert Metals, Inc. Teinert Metals has purchased a portion of the land located on the west and south side of the former Eagle Picher property from BeMove, Ltd. to construct a new facility. The site is located in the Lubbock 2000 South Enterprise Zone.

The project meets the Industrial Tax Abatement Policy and Guidelines minimum investment of \$500,000 in real property improvements for an existing company. Total investment in the project will be approximately \$1.6 million (\$100,000 in new personal property and \$1.5 million in real property improvements). No new jobs will be created with the project.

Teinert Metals, Inc. is an existing company and has a total of 16 employees at the plant located in the former Eagle Picher facility.

An amendment will be required to the property description in both the Vertical Turbine Specialists and Module Truck Systems tax abatement agreements because all of the property owned by BeMove, Ltd., including the land with no structures, was included in their agreements. Both companies have agreed to the amendments. The Notice of Intent for both of these amendments is also on the November 9, 2006 City Council meeting. BeMove, Ltd. has re-platted all the property at the former Eagle Picher facility.

In order to contract with a company for tax abatement, the municipality must first deliver a notice of intent to enter into a tax abatement agreement to the other taxing jurisdictions. This action fulfills that requirement.

Staff is recommending a five-year declining scale tax abatement.

#### **FISCAL IMPACT**

The estimated total fiscal impact of the tax abatement will be \$22,176 over the five year period.

Staff recommended approval of the Notice of Intent.

Cheryl Brock, Business Research Specialist, gave comments and answered questions from Council.

Motion was made by Council Member Price, seconded by Council Member Boren to pass Resolution No. 2006-R0547 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.8. Annexation Ordinance 1st Reading - Planning: Ordinance No. 2006-O0119 annexing an area of land generally described as located from one-half mile south of 98th Street, east of Avenue P, to approximately 500 feet east of the Tahoka Highway, two sides of which are adjacent to the existing corporate limits of the City of Lubbock, Texas.**

City Council conducted the required public hearings for the annexation of this area of land on October 13 and October 19, 2006. The ordinance, map, and service plan is provided.

All required notices, including written notice of intent to annex said area to each property owner, each public entity and each railroad company within said area as required by Section 43.062, Subchapter C-1, Local Government Code, and all public hearings for such annexation have been had in accordance with applicable law.

#### **FISCAL IMPACT**

The proposed service plan does not recommended additional infrastructure because the area fits the definition in State law allowing annexation to provide services “as in like areas” of the rest of the city. Operational expenses (soft services – police, fire, etc.) will be absorbed by various departments within current operating budgets.

The staff recommended annexation of the entire area noted as Exhibit A within the proposed service plan.

Randy Henson, Director of Planning; Jeff Yates, Chief Financial Officer; Lee Ann Dumbauld, City Manager; and Anita Burgess, City Attorney, gave comments and answered questions from Council.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member DeLeon to pass on first reading Ordinance No. 2006-O0119 as

recommended by staff. Motion carried: 6 Ayes, 1 Nays. Council Member Price voted Nay.

**6.9. Budget Amendment Ordinance 1st Reading - Finance: Ordinance No. 2006-O0120 Amendment No. 2 amending the FY 2006-07 budget respecting the General Fund, Grant Fund, Hotel/Motel Tax Fund, Lake Alan Henry Fund, Cemetery Fund, and Capital Improvement Program.**

1. Accept and appropriate a \$127,637 South Plains Association of Governments pass-through grant from the Texas Department on Aging and Disability Services and appropriate \$65,000 of anticipated program revenues, for a total grant program budget of \$192,637 to provide hot meals, transportation, recreational, and social activities for Lubbock senior citizens, with estimated revenues increased accordingly. The required in-kind match of \$12,612 is included in the Adopted FY 2006-07 Parks and Recreation operating budget.
2. Appropriate \$103,325 of Lake Alan Henry (LAH) Fund Balance to the LAH fund for capital and training costs associated with the LAH Dive Team. Capital costs include the purchase of a dive boat, side scan sonar, nitrox tanks, regulators, and escape air bottles. The training costs will include personnel expenses, including training and certification costs.
3. Establish a new Capital Improvement Project entitled "Seal Coat Program" and transfer \$770,000 from Capital Improvement Project #8522, Brick Street Reconstruction to the new project. These funds will be used for the City's annual seal coat program.
4. Amend Capital Improvement Project #91074 within the North Overton TIF entitled "North Overton TIF Public Facilities" by appropriating \$4,100,000 of certificate of obligation bonds bringing the total project appropriation to \$8.4 million for the conference center and related public improvements located adjacent to the new hotel planned for construction in 2007-2008. The source of repayment for these bonds will initially come from hotel/motel funds generated from this specific hotel, and from TIF increment tax revenues once the TIF is fully established.
5. Amend Capital Improvement Project #91048 entitled "City Hall HVAC Renovations" by appropriating \$120,000 of General Fund Balance making the total project appropriation \$1,254,673. The increase is necessary to cover unanticipated asbestos abatement, additional web-based controls and a 10% project contingency for additional asbestos remediation costs.
6. Create the Cemetery Fund and to appropriate expenditures, estimate revenues, and authorize positions as outlined in attachment "A" to the cemetery fund. To authorize a \$259,187 transfer from General Fund to the Cemetery Fund and to reduce General Fund revenues and expenses accordingly. Authorize other necessary accounting entries in the General Fund to transfer related assets and liabilities to the Cemetery Fund.

7. Create Capital Improvement Project #92003 entitled "Project Site Archeology" by appropriating \$50,000 for archeological services at Fiesta Plaza and Mackenzie Amphitheater. The project costs will be funded from \$30,000 of unallocated 2001 General Obligation bond proceeds and \$20,000 of unallocated 2003 General Obligation bond proceeds.
8. Appropriate \$175,000 of Hotel/Motel Tax Fund Balance to Civic Lubbock, Inc. for the administration of the 2007 Lubbock Music Festival.

Budget amendment ordinance was provided prior to the City Council meeting.

#### **FISCAL IMPACT**

Included in item summary.

Staff recommended approval of the first reading of this ordinance.

Jeff Yates, Chief Financial Officer; Lee Ann Dumbauld, City Manager; Randy Truesdell, Manager of Parks and Recreation; Mark Yearwood and Scott Snider, Assistant City Managers; Rhea Cooper, Deputy Fire Chief; and Don Caldwell, all gave comments and answered questions from Council.

Motion was made by Council Member Price, seconded by Council Member DeLeon to pass on first reading Ordinance No. 2006-00120 as recommended by staff. Motion carried: 7 Ayes, 0 Nays, except on Item No. 8 where Council Member Jones recused herself, and the vote was 6 Ayes, 0 Nays.

- 6.10. Call for Public Hearing Resolution - LP&L: Resolution No. 2006-R0548 calling for a public hearing pursuant to Chapter 2, Article XVIII, Section 2-485 of the Code of Ordinances of Lubbock, Texas to consider proposed amendments to Chapter 2, Article XVIII, of the Code of Ordinances of Lubbock, Texas and authorizing publication of the proposed amendments.**

**This item was reconsidered following Item 6.13.**

This resolution establishes the date and time when a public hearing will be conducted to consider changes to the ordinance establishing and outlining the duties of the Electric Utility Board and related matters.

When determining the date of the hearing, City Council is reminded that a notice in the must be published at least 30 days prior to the hearing and published at least once a week for three consecutive weeks with the last publication coming not less than seven days before the hearing nor more than two weeks before the hearing.

#### **FISCAL IMPACT**

No fiscal impact.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Boren to pass Resolution No. 2006-R0548 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.11. Board Appointments - City Secretary: Consider one appointment to West Texas Municipal Power Agency Board of Directors.**

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Boren to appoint Carroll McDonald to the West Texas Municipal Power Agency Board of Directors. Motion carried: 7 Ayes, 0 Nays.

**6.12. Resolution to Nominate Candidate to LCAD Board of Directors - City Secretary: Resolution No. 2006-R0549 to nominate a candidate to fill a vacancy on the Lubbock Central Appraisal District Board of Directors.**

The City of Lubbock has been notified by the Lubbock Central Appraisal District of a vacancy on the Board of Directors of LCAD. This allows the City of Lubbock as a voting taxing unit to nominate by resolution a candidate to fill the vacancy, pursuant to Section 6.03, Property Tax Code.

**FISCAL IMPACT**

No fiscal impact.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Boren to pass Resolution No. 2006-R0594 and nominate Bobby McQueen to the Lubbock Central Appraisal District Board of Directors. Motion carried: 7 Ayes, 0 Nays.

**6.13. Windfall Revenue Resolution - City Council: Resolution No. 2006-R0550 establishing the intent of the City to adopt a budget for FY 2007-08 allocating increased revenues and expenditure savings to the City, in the event same are to occur, due to increased sales tax revenue, health care costs savings, fuel cost savings and red light camera revenues, to property tax reduction, employee competitive pay increases, street and park improvements, public safety expenditures and the reduction of water and sewer rates.**

Resolution No. 2006-R0550 establishing the intent of the City to adopt a budget for FY 2007-08 allocating increased revenues and expenditure savings to the City, in the event same are to occur, due to increased sales tax revenue, health care costs savings, fuel cost savings and red light camera revenues, to property tax reduction, employee competitive pay increases, street and park improvements, public safety expenditures and the reduction of water and sewer rates.

The resolution will be provided prior to the City Council meeting.

**FISCAL IMPACT**

Fiscal impact to be determined.

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

Motion was made by Council Member Leonard, seconded by Council Member Boren to pass Resolution No. 2006-R0550 as recommended by staff.

After discussions, motion was made by Council Member Jones, seconded by Council Member Price to amend Resolution No. 2006-R0550 by removing the paragraph saying "BE IT RESOLVED that budget amendments shall be presented quarterly and in the interim, budget variances shall be presented monthly, and". Motion carried: 5 Ayes, 2 Nays. Council Members Boren and Leonard voted Nay.

Mayor Pro Tem Gilbreath gave comments and called for the previous question. Vote was taken, which carried: 5 Ayes, 2 Nays. Council Members Boren and Leonard voted Nay.

Motion was then made by Council Member Leonard, seconded by Council Member Boren to pass Resolution No. 2006-R0550 with an amendment to remove the paragraph saying "BE IT RESOLVED that budget amendments shall be presented quarterly and in the interim, budget variances shall be presented monthly, and". Motion carried: 7 Ayes, 0 Nays.

Mayor Miller asked City Manager Dumbauld and her staff to submit, in a timely fashion, all information available regarding the budget and amendments. Chief Financial Officer Yates stated that the Finance office would be more than happy to do so.

**At this time, Item 6.10 was reconsidered.**

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to reconsider Item 6.10, so that the date and time of the public hearing can be established. Motion carried: 7 Ayes, 0 Nays.

Motion was then made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to set the date and time of the public hearing to December 19, 2006 at 10:00 a.m. and pass Resolution 2006-R0548 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**12:08 P. M. CITY COUNCIL RECESSED**

**1:02 P.M. CITY COUNCIL RECONVENED**

**7. WORK SESSION**

**7.1. Presentation on a day in the life of a Fire Fighter by Todd Jordan and Nick Wilson, Lubbock Fire Fighters.**

Fire Fighters Todd Jordan and Nick Wilson gave a presentation on a day in the life of a firefighter, which included the history of the Lubbock Fire Department, their apparatus and equipment, their responses to the different types of fires, station life, facts and statistics, and training. Jordan and Wilson both answered questions from Council.

**2:15 P. M. COUNCIL ADJOURNED**

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