

**CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
DECEMBER 19, 2006
7:30 A. M.**

The City Council of the City of Lubbock, Texas met in regular session on the 19th day of December, 2006, in the City Council Chambers, first floor, City Hall, 1625 13th Street, Lubbock, Texas at 7:30 A. M.

7:30 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. Mark Stripling, Pastor of Grace Assembly of God will appear before the City Council to discuss continuance of water service to the church located at 1114 84th Street.

Citizen was not present.

- Rick Bennett, Isabel Pratt, Nancy Garrett, Bill Tarver, Ron Peterson, and David Spears voiced their opposition to Council on the issue of red light cameras.

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; competitive matters of the public power utility; and, commercial or financial information that the governmental body has received from a business prospect with which the governmental body is conducting economic development negotiations, as provided by Subchapter D of Chapter 551 of the Government Code, the Open Meetings Law."

7:47 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 (Electric Utilities, Environmental Compliance, Right-of-Way, 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 (Electric Utilities, Parks and Recreation, Right-of-Way, Visitors Center).
- 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 Fire Chief) and take appropriate action.
- 2.4. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.086, on the following competitive matters (Electric Utilities):
 - 2.4.1 to deliberate, vote and take final action on electric rates of Lubbock Power and Light;
 - 2.4.2 to discuss, vote and take final action on a competitive matter regarding operation, financial and capital statements and budgets, revenue and expense projections, strategic and business plans and studies of Lubbock Power and Light;
 - 2.4.3 to discuss and deliberate a competitive matter regarding the strategies, goals, funding and strategic purpose of the City of Lubbock's relationship with and membership in the West Texas Municipal Power Agency.
- 2.5. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.087 to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations (Business Development).

9:50 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 9:50 a.m.

3. PROCLAMATIONS AND PRESENTATIONS

3.1. Invocation by Dr. Will Cotton, St. Luke's United Methodist Church.

Dr. Cotton was unable to attend, and the invocation was given by Council Member Leonard.

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.

4. MINUTES

4.1. Approval of Prior Meeting Minutes: Regular City Council Meeting, November 21, 2006

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to approve the minutes of the Regular City Council Meeting of November 21, 2006 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

Council Member Boren was away from the dais.

5. CONSENT AGENDA (Items 5.1-5.6, 5.9-5.11, 5.13-5.14, 5.16, 5.18-5.20, 5.23-5.24, 5.29-5.31)

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Jones to approve 5.1-5.6, 5.9-5.11, 5.13-5.14, 5.16, 5.18-5.20, 5.23-5.24, 5.29-5.31 on consent agenda as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.1. Zone Case No. 2573-I (5002 Auburn Street) Ordinance 2nd Reading - Zoning: Ordinance No. 2006-O0125 Consider request of I & S Investment Group for a zoning change from C-3 to IHC on 9 acres out of Block A, Section 22, Tracts C and D, and to consider an ordinance.

The area being requested for rezoning is zoned C-3 in all directions and adjacent to a recently completed La Quinta Motel. Adjacent land use is zoned for commercial in all directions.

The request is consistent with the conceptual Comprehensive Land Use Plan Amendment for the area bounded by Erskine, Chicago, and Northwest Loop 289. The Plan illustrates a variety of commercial, entertainment, and high density development in this triangle. The proposed use will have no immediate effect on any single family development since there is none in the vicinity.

The project will have an impact on the thoroughfare system in the future. The Metropolitan Planning Organization, Texas Department of Transportation, and City Council are actively engaged in the development of extension improvements of the Northwest Passage thoroughfare system to help alleviate the increased load on the system when improvements in this area are accomplished.

The Planning Commission recommended approval of the request.

FISCAL IMPACT

No fiscal impact is anticipated.

Staff supports the recommendation of the Planning Commission.

- 5.2. Zone Case No. 3069 (5710 and 5712 45th Street) Ordinance 2nd Reading - Zoning: Ordinance No. 2006-O0126 Consider request of Jack Hargrave (for Church of the Harvest A/G) for a zoning change from R-1 to A-2 limited to church and church related uses on Lots 5-7, Block 10 Westmoreland Addition, and to consider an ordinance.**

This proposal will add a parcel west of an existing church and zone for the entire location of the church.

Adjacent land uses:

- N – multifamily
- S – residentially zoned
- E – existing church
- W – commercial

The expansion of the church on this property is the most practical use of the small parcel. New development of residential on this property is very remote considering the adjacent land uses. The request is consistent with policies within the Comprehensive Land Use Plan. Approval of the request should not cause any impact on the thoroughfare system.

The Planning Commission recommended approval of the request with one condition:

- Limited to church and church related uses.

FISCAL IMPACT

No fiscal impact is anticipated.

Staff supports the recommendation of the Planning Commission.

- 5.3. Zone Case No. 3070 (8116 19th Street) Ordinance 2nd Reading - Zoning: Ordinance No. 2006-O0127 Consider request of Joe Haynes (for Haynes Meat Market) for a zoning change from T to C-4 on .823 acres out of Tract M, Block D6, Section 2, and to consider an ordinance.**

This request will zone a building occupied by Haynes Meat Market as a nonconforming use for a number of years. The structure has been used in a nonconforming manner since it was annexed and remains zoned “T”.

Adjacent land uses:

- N – vacant
- S – vacant
- E – commercial
- W – commercial

The proposal meets the “West 19th Street Corridor” policy criteria that have been informally followed by the Planning Commission and City Council for years with regard to zoning for C-4 along 19th Street west of Loop 289. Traditionally, a number of normally permitted uses C-4 permitted uses have been eliminated from those cases on west 19th. The policy has evolved since the 1960s on land outside the Loop adjacent to 19th Street since the street is a State Highway and many heavy commercial uses were inherited during the annexation process. The Comprehensive Land Use Plan recommended that C-4 be limited to major highways and expressways but several C-4 uses have been identified during numerous zone cases as not the most compatible with the entry portal to Lubbock represented by 19th Street. Thus, the request with conditions meets both Comprehensive Land Use Plan and zoning policies. Mr. Haynes indicates the proposed “strikes” will work for his purposes. The project will have no additional impact on the thoroughfare system.

As in a number of previous cases, the Planning Commission recommended the request with the following conditions:

1. The zoning shall be C-4 with the elimination of the following as permitted uses:
 - Automobile body shops
 - Billboards
 - Commercial private clubs and teenage clubs
 - Dancehall
 - Used furniture store
 - Game room except as an incidental use, pool, billiard and/or domino parlor
 - Motorcycle shop
 - Second hand goods store or pawn shop
 - Used car lot
 - Nightclubs
2. When redeveloped, the parcel shall be limited to one curb return.

FISCAL IMPACT

No fiscal impact is anticipated.

Staff supports the recommendation of the Planning Commission.

- 5.4. Zone Case No. 3071 (2915 98th Street) Ordinance 2nd Reading - Zoning: Ordinance No. 2006-00128 Consider request of Hugo Reed and Associates, Inc. (for SW Commercial Management) for a zoning change from R-1 to GO on one acre, Block E2, Section 20, and to consider an ordinance.**

This request will rezone a farmstead home parcel that has been on 98th Street for many years.

Adjacent land uses:

N – residential

S – existing farm

E – vacant, zoned residential

W – vacant, zoned Garden Office

The proposal is on a parcel adjacent to an undeveloped Garden Office tract to the west and the remnants of a former cattle operation on the south. A home remains on the land to the south but the cattle operation no longer exists, and the land is zoned R-1.

As a buffer District adjacent to 98th Street, the Garden Office fits the concept of policy within the Comprehensive Land Use Plan.

With the size of the parcel and location, staff recommended a limitation of one curb return when the parcel is redeveloped as an office and when parking is installed. This will cause less congestion on 98th Street at this location. Otherwise, approval of the project should have no negative effect on the thoroughfare system.

The Planning Commission recommended the request with one condition:

When redeveloped, the parcel shall be limited to one curb return.

FISCAL IMPACT

No fiscal impact is anticipated.

Staff supports the recommendation of the Planning Commission.

5.5. Zone Case No. 2933-A Ordinance 2nd Reading - Zoning: Ordinance No. 2006-00129 Consider request of Betenbough Homes for a zoning change from GO, A-2, R-2, R-1 and T to C-3, A-2 and R-1 Specific Use on 60 acres of Section 27, Block A, and to consider an ordinance.

The map provided in backup is distinguished by 12 tracts of land. Ten of the tracts are requested for rezoning as the master plan for the Monterey Park development matures. Tracts 8 and 9 on the drawing are already zoned and are not included in this request.

The zoning adjacent to the various tracts is a mixture of single family, apartment, and commercial.

Descriptions of current and proposed zoning for the various tracts of land (Tract numbers are shown on drawing in backup):

1. Garden Office to C-3 between Pontiac and residential that faces Quincy.
2. A-2 to C-3 (to combine with Tract 1) between Pontiac and residential that faces Quincy.
3. A-2 to R-1 Specific Use (the new cul de sac as 83rd Street).
4. R-2 to R-1 Specific Use between Mobile Avenue and Pontiac that back up to the A-2 on 82nd Street (north of 84th).

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5. R-2 to C-3 that will combine with C-3 to the north on 82nd Street facing Milwaukee.
6. R-1 to C-3 that will combine with Tract 5 to add to the C-3 on 82nd – facing the new Wal-Mart under construction east of Milwaukee.
7. R-2 to R-1 Specific Use with conditions west of Milwaukee along 94th Street.
8. The A-2 illustrated on the drawing in backup is currently zoned A-2.
9. The C-3 at the corner of 98th Street and Milwaukee is in place.
10. A-2 out of “T” zoned property at the present, not included in the zoning request.
11. A-2 out of “T” zoned property at the present, not included in this zoning request.
12. The C-3 request represents a policy request.

Review of requests by Area numbers:

- Tracts 1 and 2 are consistent with the strip commercial that is prevalent with other strip commercial and non-residential uses along 82nd Street. The applicant is proposing Tract 3 as single family to the south and will have to deal with any impact the proposed commercial has on land sales. The Dakota Arms apartments are to the east.
- Tracts 3 and 4 are proposed to be down zoned to single family with conditions for reduced setback that have become the norm for new development.
- Tracts 5 and 6 are an extension of the existing C-3 along Milwaukee, and are across from the Wal-Mart that is under construction, with an alley to the south that will border single family. The Code will require a screening fence on the south and west of these two tracts, and again, any marketing issue for that residential property will be an issue with the applicant.
- Tract 7 is a down zone, which is normally an acceptable Comprehensive Land Use Plan issue, and the applicant will have his own marketing issue with the proposed A-2 that is in place in Tract 8.
- Tract 8 is an existing buffer A-2 district between the C-3 already zoned for Tract 9 and the residential noted at Tract 7.
- Tract 9 is per Comprehensive Land Use Plan policy and is currently zoned C-3 (corner of 98th Street and Milwaukee).
- Tracts 10 and 11 are A-2 requests, which may eventually find a market as either church tracts or apartment tracts. Regardless, the request is consistent with Comprehensive Land Use Plan Policy in that apartments and/or churches are located on the perimeter of neighborhoods with access to a major thoroughfare. The staff has discussed with Mr. Betenbough that the

“holding” of these two tracts for possible future commercial development would not be consistent with current development policy.

- Tract 12 is consistent with the Comprehensive Land Use Plan as policy for commercial at the corner of 98th Street and Upland Avenue.

The proposals, while several are out of the parameters of the current Comprehensive Land Use Plan policy in theory, fit the development patterns that have evolved in this part of the community.

Obviously, the entire development will have a major impact on the surrounding thoroughfare system. That is a capital expense issue that will have to be addressed by the City Council and future bond funding proposals.

The Planning Commission recommended the requests with the following conditions:

1. Tracts 1 and 2 (C-3) shall be subject to a review of a master curb cut plan by the Planning Commission prior to any portion of the parcels being final platted.
2. Tracts 3, 4 and 7 shall be zoned as R-1 Specific Use subject to the following conditions:
 - The front setback minimum shall be 20 feet for non- cul de sac lots.
 - The front setback minimum for a cul de sac lot shall be five feet with the exception that any front entry garage shall have a 20-foot setback.
 - Any corner lot shall have a minimum side setback of five feet and the back yard fence adjacent to the street shall also have a five-foot setback.
3. Tracts 5 and 6 (C-3) shall have a limit of two curb cuts for the entire length of the parcels along Milwaukee Avenue.
4. Tracts 10, 11 (A-2) and 12 (C-3) shall have a master curb cut plan approved by the Planning Commission for the portions adjacent to a thoroughfare prior to final plat of any portion of the parcels.

FISCAL IMPACT

No immediate fiscal impact is anticipated. As the development is completed, the City will receive additional property tax revenue.

Staff supports the recommendation of the Planning Commission.

- 5.6. Zone Case No. 3049-A Ordinance 2nd Reading - Zoning: Ordinance No. 2006-00130 Consider request of Betenbough Home for a zoning change from T to C-3 and R-1 Specific Use on 71 acres out of Block E, Section 10, and to consider an ordinance.**

The request is divided into two tracts:

1. The corner at 98th Street and Avenue P is requested as C-3.

2. The residential portion of the subdivision is requested as Specific Use to accommodate a reduction in setback for the front and side that has become common in new developments.

Adjacent land use:

N – a mixture of residential and commercial, annexed as nonconforming
S – residential, a manufactured home community that is not in the City limits
E – residential and commercial policy, not developed
W – residential

The request represents a policy zone case with regard to the Comprehensive Land Use Plan and zoning policy.

The project will have an impact on the thoroughfare system by creating higher use demands. Because of the thoroughfare status of both Avenue P and 82nd Street, a staff request will be presented for a review of curb cuts from the C-3 portion prior to platting any portion of the parcel.

The Planning Commission recommended the request with the following conditions:

1. The C-3 tract shall be subject to a review of a master curb cut plan by the Planning Commission prior to any portion of the parcel being final platted.
2. Tracts residential portion of the request shall be zoned as R-1 Specific Use subject to the following conditions:
 - The front setback minimum shall be twenty feet for non-cul de sac lots.
 - The front setback minimum for a cul de sac lot shall be five feet with the exception that any front entry garage shall have a twenty-foot setback.
 - Any corner lot shall have a minimum side setback of five feet and the back yard fence adjacent to the street shall also have a five- foot setback.

FISCAL IMPACT

No fiscal impact is anticipated.

Staff supports the recommendation of the Planning Commission.

- 5.7. This item was moved from consent agenda to regular agenda and considered following Item 5.31**
- 5.8. This item was moved from consent agenda to regular agenda and considered following Item 5.7.**
- 5.9. Municipal Settings Designation Ordinance 1st Reading - Environmental Compliance: Ordinance No. 2006-00133 providing for a Municipal Settings Designation as authorized by the Texas Legislature as an alternative means for addressing groundwater contamination when potable water supplies are available.**

Beneath many industrial and commercial properties lie historical plumes of contaminated groundwater. In some cases, it is difficult to tell the point or

points of origination or exact identities of parties who should be responsible for environmental remediation because the contaminants have migrated across property lines and have even mixed with other plumes. These problems often prevent the use and redevelopment of property, because even though the water is not used for consumption, returning the groundwater to compliance with drinking water standards would be prohibitively costly. The Texas legislature addressed this problem in 2003 by authorizing the Texas Commission on Environmental Quality (TCEQ) to work with local governments to create procedural ordinances termed "Municipal Settings Designations" (MSDs) that allow special dispensation for areas served by community water systems. Costs for environmental investigations and remediation are significantly reduced for urban properties that qualify for MSD status, encouraging restoration and revitalization of the local property tax base as the properties are subsequently redeveloped. Under MSD status, only the groundwater consumption exposure pathway requirements are relaxed because the consumption pathway is eliminated. MSD status does not eliminate the requirement to address other exposure pathways such as contact, inhalation and impact to ecological receptors.

Specific criteria must be met in order for properties to qualify for MSD status:

- An alternate potable water source, such as a municipal water supply, must be available.
- A legal description of the outer boundaries of the MSD must be established.
- A local procedural ordinance or restrictive covenant enforceable by the municipality prohibiting potable use of groundwater within one-half mile of the boundaries of the designated area must be approved by the local city council.
- Cities, utilities and private water well owners found to be within five miles of the area proposed for designation must be identified and notified.
- Cities and retail public utilities have veto power over proposed MSDs, and each MSD must be supported by the city council in order to qualify.
- A properly completed application including legal description, use restrictions, proof of notice and a \$1,000 state filing fee must be submitted to and subsequently approved by the Executive Director of the TCEQ.

The attached draft ordinance incorporates a public hearing. If adopted, the ordinance will provide a mechanism for private and public owners of contaminated properties to reduce or avoid costs for investigation and remediation of groundwater that is not utilized as a drinking water resource, provided that Council subsequently supports each individual designation by way of a resolution. Again, the City and retail public utilities have veto power. The ordinance has been reviewed by and has received preliminary approval from the TCEQ. The ordinance provides public protection from dangers associated with consumption of contaminated groundwater, encourages appropriate use and redevelopment of property, avoids waste of monetary

resources for remediation of non-essential groundwater and enhances the local property tax base.

FISCAL IMPACT

A fee payable to the City in the amount of \$2,000 is specified for each application. Staff anticipates from two to six applications per year, generating \$4,000 to \$12,000 of revenue to the General Fund.

Staff recommended approval of the first reading of this ordinance.

- 5.10. Right-of-Way Ordinance 2nd Reading - Right-of-Way: Ordinance No. 2006-O0124 Consider an ordinance abandoning and closing a portion of a 10-foot sewer line easement located in Lot 305, Suncrest Addition, easement located at 4722 106th Street.**

This ordinance was first read as a consent agenda item at the City Council meeting held on December 7, 2006. This ordinance considers abandoning and closing a portion of a 10-foot sewer line easement along the south side of Lot 305, Suncrest Addition. This easement was dedicated before the platting of the lot and the developer is now requesting the closure of a portion of this easement. Water Utilities Engineering Department is in agreement with closing a portion of this sewer line easement.

FISCAL IMPACT

No fiscal impact is anticipated.

Staff recommended approval of the second reading of this ordinance.

- 5.11. Paving Improvements Resolution - Streets: Resolution No. 2006-R0588 accepting paving improvements in Stonebrook South Addition, Lots 37-99, and directing payment to the developer for the City's portion of the cost of such improvements.**

This is a routine acceptance of paving improvements required at the time of platting this new subdivision. The paving improvements consist of curb and gutter and asphalt paving on the following streets and avenues:

106th Street from Detroit Avenue to the alley east of Detroit Avenue.

106th Street from the cul-de-sac west of Dixon Avenue to the point of tangency of curve at Detroit Avenue.

107th Street from the cul-de-sac west of Dixon Avenue to Dixon Avenue.

107th Street from Detroit Avenue to the alley east of Detroit Avenue.

The north half of 108th Street from Elgin Avenue to the alley east of Detroit Avenue.

Detroit Avenue from 108th Street to 106th Street.

Dixon Avenue from 108th Street to 106th Street.

FISCAL IMPACT

This subdivision was being platted prior to the revision to the City's paving policy related to prepaid paving on thoroughfare streets and the City's extra width cost on collector streets. 108th Street is a collector street, and the City is responsible for the cost of the extra width paving on this street.

Upon approval of this resolution, the City's portion of the cost for paving, \$6,392 will be due to the developer. Funding is available in the following projects, CIP project 91051, Paving and Street Assessment and CIP project 91189, Strip Paving Unpaved Streets.

Staff recommended approval of this resolution.

5.12. This item was moved from consent agenda to regular agenda and considered following Item 5.8.

5.13. Employee Benefit Plan Document Changes Resolution - Health Benefits: Resolution No. 2006-R0589 authorizing the City Manager to execute changes to the Employee Benefit Plan with Blue Cross Blue Shield of Texas.

The City became self-insured on January 1, 2004. Federal and state laws allow self-insured municipalities the flexibility of developing and changing their Plan Document. For the plan year 2007, staff recommended minimal changes.

1. Currently, a member pays a \$25 co-payment for ancillary charges performed after the day of the physician's office visit. Effective January 1, 2007, these charges will be paid at 100% with no co-payment.

This change is in response to complaints about late afternoon appointments where labs cannot be done the same day. This is also in the administrator's self-funded plan standard.

2. Coverage for newborns will change. A member will have 60 days to add a newborn rather than the current 30 days. Paperwork to add the child must be completed within 60 days. If for any reason paperwork is not completed within 60 days, the child will have no health coverage. The child cannot be added to the member's coverage until the next annual enrollment and may be subject to any pre-existing condition exclusions.

The City's stop loss carrier and administrator accepted our recommendation to change the Plan Document and Summary Plan Description to allow adding newborns from 30 days to 60 days. However, the stop loss carrier and administrator do require documentation for a newborn to be added to a member's coverage and would not go beyond 60 days. The administrator's system cannot support automatically adding a newborn. This change was negotiated with the stop loss carrier with no increase in premium.

3. Second and/or third opinions for surgery will not be required. However, should a member decide to get a second and/or third opinion, the plan will pay benefits according to the Summary Plan Description.

This change was recommended by the City's administrator. Their standard document does not require second and/or third opinions.

4. The administrator does not have a network provider for ambulance services. Therefore, any services for ground and air ambulance services will be covered at 80% after deductible.
5. Emergency room treatment for non-emergency situations for out-of-network charges will change. The plan currently pays in network for facility charges, but will now be paid at 50% after a \$75 co-pay and calendar year deductible. The co-pay and deductible will be waived if the participant is admitted to the hospital. Previously, physician charges were paid in network at 80% after calendar year deductible. Physician charges will now be paid at 50% after calendar year deductible.
6. Serious mental illness will be covered as any other illness. Currently, the plan pays 80% after deductible for in network charges or 50% after deductible for out-of-network charges with a 45-day inpatient calendar year maximum. Outpatient physician charges are paid at 100% after co-payment for network charges, or 50% after deductible for out-of-network charges; outpatient facility charges are paid at 80% after deductible for network charges and 50% after deductible for out-of-network charges. There is currently a maximum of 60 visits per calendar year for all outpatient services, which include physician and facility charges. Any services for serious mental illness must be preauthorized.

The revised Employee Benefit Plan will be provided at the City Council meeting.

FISCAL IMPACT

The financial impact to claims payments will be minimal and are budgeted for in the Health Benefits Fund.

Staff recommended the above plan changes.

5.14. Contract Resolution - Health Benefits: Resolution No. 2006-R0590 authorizing the Mayor execute a contract with PayFlex Systems USA, Inc. for Flexible Spending Account administration.

The City's Flexible Benefit Plan provides employees the opportunity to withhold pre-tax wages for health care and dependent day care reimbursement. This contract will provide administrative services for the Plan. Fees for services are set forth in Exhibit A of the Administrative Services Agreement.

FISCAL IMPACT

Costs for administration of flexible spending account are budgeted in the Health Insurance Fund for FY 2006-07.

Staff recommended approval of this resolution.

- 5.15. This item was moved from consent agenda to regular agenda and considered following Item 5.12.**
- 5.16. Contract Resolution - Police: Resolution No. 2006-R0591 authorizing the Mayor to execute a contract with the Governor's Office of Emergency Management for a \$50,000 Homeland Security Grant for the purchase of Special Weapons and Tactics Team's equipment.**

The City has been approved to receive a \$50,000 Homeland Security Grant through the Governor's Office of Emergency Management to reimburse the City for the purchase of specific equipment authorized in the grant. This equipment will enhance the Special Weapons and Tactics Team's ability to respond to Special Threat Situations at the South Plains Mall.

The requirements of City grant policies regarding submittal of grants through the Finance Office for approval and City Council authorization of funding have been met. On December 7, 2006, City Council approved the second reading of a Budget Amendment Ordinance authorizing the acceptance and appropriation for the Grant. This resolution authorizes the Mayor to execute the Sub-recipient Award Agreement.

The Grant requires that purchasing, invoicing, and requests for reimbursement be completed by January 31, 2007. The City has received permission to extend that deadline to February 28, 2007. Towards that end, the Police Department began ordering the approved equipment as soon as the Council passed the Budget Amendment Ordinance authorizing appropriation.

FISCAL IMPACT

The \$50,000 grant has previously been appropriated.

Staff recommended approval of this resolution.

- 5.17. This item was moved from consent agenda to regular agenda and considered following Item 5.15.**
- 5.18. Contract Resolution - Parks and Recreation: Resolution No. 2006-R0592 authorizing the Mayor to execute a purchase order contract with T. F. Harper and Associates, LP for accessible picnic shelters at the Hub City Playground - Maxey Park.**

This item involves the purchase and installation of two 12' x 18' picnic shelters, two Americans with Disability (ADA) accessible picnic tables, and two concrete slabs for the shelters. The demolition of an existing concrete slab is also included. The shelters will be adjacent to the Hub City Playground at Maxey Park. The existing playground has no adjacent covered seating.

The purchase and installation of Child's Play picnic shelters and ADA picnic tables are available through the Texas Association of School Boards Local Government Purchasing Cooperative using an electronic purchasing system, known as BuyBoard. This purchasing cooperative is an administrative agency created in accordance with Section 791.001 of the Texas Government Code. Its purpose is to obtain the benefits and efficiencies that can accrue to

members of a cooperative, to comply with state bidding requirements, and to identify qualified vendors of commodities, goods, and services.

Project completion time is 90 consecutive calendar days and liquidated damages are \$25 per day.

FISCAL IMPACT

\$330,000 was appropriated for this project in Capital Improvement Project 90006 - Park Benches / Seating Area. \$23,198 is available for this portion of the project. AMBUCS is providing an additional \$15,000. Therefore, total funding available is \$38,198.

Staff recommended contract award to T. F. Harper and Associates of Austin, Texas for \$38,198.

5.19. Contract Resolution - Parks and Recreation: Resolution No. 2006-R0593 authorizing the Mayor to execute a contract with Musco Sports Lighting for MLK Little League Complex field lighting.

On October 26, 2006, the City Council approved a contract to construct the MLK Little League Baseball Complex. In order to evaluate lighting systems and their associated cost, the sports lighting system was removed from the original scope of work. Musco Light Structure Green system is available through Texas Association of School Boards Local Government Purchasing Cooperative using an electronic purchasing system, known as BuyBoard. This purchasing cooperative is an administrative agency created in accordance with Section 791.001 of the Texas Government Code. Its purpose is to obtain the benefits and efficiencies that can accrue to members of a cooperative, to comply with state bidding requirements, and to identify qualified vendors of commodities, goods, and services. This equipment is available on BuyBoard Contract No. 204-04 from Musco Lighting of Oskaloosa, Iowa.

The Musco Light Structure Green™ System includes the following:

- Pre-cast concrete bases
- Galvanized steel poles
- UL Listed remote electrical component enclosures
- Pole length wire harness
- Factory-aimed and assembled luminaries
- 2P auxiliary mounting brackets
- Energy savings of more than 50% over a standard lighting system
- Less spill and glare light
- Musco Constant 25™ warranty and maintenance program that eliminates 100% of the maintenance costs for 25 years, including labor and materials

- Guaranteed constant light level of 50 foot-candles on the infield and 30 foot candles on the outfield for the Little League Fields, for 25 years, +/- 10% per IESNA RP-06-01
- One group re-lamp at the end of the lamps' rated life, 5000 hours
- Reduced energy consumption with an average of 56.3 kW per hour
- Control Link® Control & Monitoring System for flexible control and solid management of the lighting system
- Lighting Contactors sized for 480 Volt 3 phase
- Installation of equipment-including unloading, drilling and installation of concrete bases, pole assembling/standing, and electrical to poles.

Musco Lighting solicited the following local electrical contractors to install the conduit wire and lighting system; A1 Service Electric, Row Wall Electric, Larcon Electric, Greer Electric, Temple Electric, Caprock Electric and Traver Electric. Larry Anderson of Larcon Electric will be the sub-electrical contractor responsible for the installation, upon approval of the Musco Lighting's contract.

Project completion time is 90 consecutive calendar days and liquidated damages are \$500 per day.

FISCAL IMPACT

\$1,939,237 was appropriated for the construction of the Little League Baseball Complex - MLK Little League. \$157,281 is available in Project Number 90374 (MLK Little League Fields) for this purpose.

Staff recommended contract award to Musco Lighting of Oskaloosa, Iowa for \$157,281.

5.20. Contract Resolution - Legislation: Resolution No. 2006-R0594 authorizing the Mayor to execute a contract with Meyers and Associates for federal legislative consulting services.

Meyers and Associates specialize in providing governmental relations services in federal legislative and administrative matters. The City currently has a contract with the firm that expires December 31, 2006.

FISCAL IMPACT

\$108,000 was appropriated for this purpose in the Adopted FY 2006-07 City Council Operating Budget. This contract is anticipated not to exceed \$108,000 for the year.

Staff recommended approval of this resolution.

5.21. This item was moved from consent agenda to regular agenda and considered following Item 5.17.

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

5.23. Contract Resolution - Water Utilities: Resolution No. 2006-R0595 authorizing the Mayor to execute a purchase order contract with J & L Equipment for submersible pumps and accessories for the Southwest Water Reclamation Plant.

The headworks located at the Southeast Water Reclamation Plant consist of a lift station, screens, and grit removal system. The lift station associated with the headworks consists of four screw type pumps that have the capacity to pump 68 million gallons of sewage. Over the past two years, two of these pumps have experienced catastrophic failure. Currently Black and Veatch Engineering is designing plant modifications that include replacement of these screw pumps with submersible pumps. Submersible pumps will be more efficient, economical, and easier to maintain. Black and Veatch has been working with the City of Lubbock Engineering staff and has specified Flygt submersible pumps for this application. Due to the recent failure of a second screw pump and an extended manufacture time, staff is recommending pre-purchase through the sole source procurement process. Two of these pumps will be installed on a temporary basis to replace the failed screw pump until summer of 2007 when all the screw pumps will be replaced on a permanent basis with the remaining submersible pumps.

Staff and Black and Veatch have worked diligently over the past months to evaluate and redesign the headworks lift station to save capital costs and provide a more efficient and effective lift station. The decision to replace screw pumps with submersible pumps not only results in a substantial cost savings, but also provides a more manageable and safe working condition for the operation and maintenance staff at the Southeast Water Reclamation Plant.

This purchase is for eight Flygt NP3301 submersible pumps and appurtenances for the Southeast Water Reclamation Plant lift station. Currently, the City operates 22 flygt pumps located in lift stations within the wastewater collection system. Flygt pumps give the City a great advantage because they have proven to be more reliable and easier to maintain within the City's wastewater collection system.

FISCAL IMPACT

A total of \$2,200,000 was appropriated in Capital Improvement Project #90359 (SEWRP Headworks Pump Rehabilitation) with \$1,710,057 available for this purpose. The purchase of the pumps totals \$317,472.

Staff recommended purchase from J&L Equipment for \$317,472.

5.24. Contract Resolution - Water Utilities: Resolution No. 2006-R0596; Resolution No. 2006-R0597; Resolution No. 2006-R0598 authorizing the Mayor to execute purchase order contracts with K.W. Sharp, Master Meter, and Morrison Supply for the purchase of multi-jet and compound water meters, BID 06-074-RW.

This bid is for the purchase of multi-jet and compound meters ranging in size from .75 inches to 6 inches. These meters are used to measure water and

sewer consumption for residential and commercial customers. These meters will be used in new development and to replace meters that have been in service for 10 years or longer and that no longer accurately accounting for water and sewer consumption.

FISCAL IMPACT

\$1,605,000 has been appropriated in capital project 91049, Water Meter Replacement, with \$957,000 available for the purchase of these meters.

Staff recommended approval of this resolution.

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

5.26. Contract Amendment Resolution - Water Utilities: Consider a resolution authorizing the Mayor to execute a contract amendment with Southwestern Public Service for the sale and purchase of treated sewage effluent for power generation purposes.

This item was deleted.

5.27. This item was moved from consent agenda to regular agenda and considered following Item 5.25.

5.28. This item was moved from consent agenda to regular agenda and considered following Item 5.27.

5.29. Vintage Township PID Dissolution Public Hearing Resolution - Business Development: Resolution No. 2006-R0599 calling for a Public Hearing to be held at 10:00 a.m. on January 12, 2007 to consider the dissolution of the Public Improvement District (PID) for Vintage Township which covers the north one-half of Section 23, Block E-2, City of Lubbock, Lubbock County, Texas, generally bounded by 114th Street on the North, Quaker Avenue on the East, 122nd Street on the South, and Slide Road on the West.

The City of Lubbock created the Vintage Township Public Improvement District at their Council meeting on December 15, 2005 and amended the creation resolution on February 24, 2006. The area covers approximately 275.5 acres. PID establishment can only be initiated by a petition of property owners meeting two tests outlined in the statute, petition signed by the owners of: (1) more than 50% of the appraised value of the taxable real property liable for assessment; and (2) the record owners of property that constitute more than 50% of the number of record owners or of more than 50% of the area within the PID. The developer has expanded the scope of his proposed Service Plan for the Vintage Township PID and Vinson and Elkins, bond counsel, are recommending that he dissolve the current PID and establish a new PID encompassing the new scope and Service Plan. This process will include a new Master Development Agreement with Paul Stell as the developer. In order to dissolve a PID, the same process is required. The petition received by the City of Lubbock was signed by Paul Stell representing two companies

requesting the dissolution of the Vintage Township Public Improvement District, owners of 75.4 of the total appraised value (\$6,558,954) for the area and 97.68% of the total land areas contained by the proposed PID. The petition has been examined, verified, and found to meet the requirements of Section 372.005(b) of the Texas Local Government Code and to be sufficient for consideration by the City of Lubbock.

The Public Hearing is to consider the dissolution of the Vintage Township Public Improvement District pursuant to the Public Improvement District Assessment Act.

If this resolution calling for the public hearing is approved, the next step in the process is to hold the public hearing on January 12, 2007 and consider a resolution dissolving the Vintage Township Public Improvement District. A resolution calling for a public hearing to discuss the creation of Vintage Township PID, with the additional scope, is also on this agenda.

FISCAL IMPACT

As per the Master Development Agreement approved by the Council on November 7, 2005 and amended on February 24, 2006, the developer has agreed to pay all the City's cost and expenses relating to the dissolution of this PID.

Staff recommended the public hearing be held at 10:00 a.m. on January 12, 2007.

- 5.30. Vintage Township PID Creation Public Hearing Resolution - Business Development: Resolution No. 2006-R0600 calling for a Public Hearing to be held at 10:15 a.m. on January 12, 2007 to consider the creation of a Public Improvement District (PID) for Vintage Township which covers the north one-half of Section 23, Block E-2, City of Lubbock, Lubbock County, Texas, generally bounded by 114th Street on the North, Quaker Avenue on the East, 122nd Street on the South, and Slide Road on the West.**

The City of Lubbock has received a petition from Stellar Land Company, Ltd. and Vintage Land Company, Ltd. requesting that the City of Lubbock establish a Public Improvement District (PID) for the proposed Vintage Township development area. The developer has expanded the scope of his proposed Service Plan for the Vintage Township PID and Vinson and Elkins, bond counsel, has recommended that the new PID be created after the developer dissolves the current PID. The area covers approximately 275.5 acres. PID establishment can only be initiated by a petition of property owners meeting two tests outlined in the statute, petition signed by the owners of: (1) more than 50% of the appraised value of the taxable real property liable for assessment; and (2) the record owners of property that constitute more than 50% of the number of record owners or of more than 50% of the area within the PID. The petition received by the City of Lubbock was signed by Paul Stell representing two companies requesting the establishment of the Vintage

Township Public Improvement District, owners of 75.4% of the total appraised value (\$6,558,954) for the area and 97.68% of the total land areas contained by the proposed PID. The petition has been examined, verified, and found to meet the requirements of Section 372.005(b) of the Texas Local Government Code and to be sufficient for consideration by the City of Lubbock.

The Public Hearing is to consider the formation of a Public Improvement District in this area pursuant to the Public Improvement District Assessment Act for the purpose of constructing and maintaining specific amenities defined in the Master Development Agreement.

If this resolution is approved, the public hearing to discuss the creation of the Vintage Township PID will be held following the dissolution public hearing on January 12, 2007. After the public hearing, a resolution to create the Vintage Township PID, with the additional scope of services, will be considered.

FISCAL IMPACT

As per the Master Development Agreement approved by the Council on November 7, 2005, and amended on February 24, 2006, the developer has agreed to pay all the City's cost and expenses relating to the development and establishment of this PID. In addition, the construction and maintenance expenses that will be identified in the PID Service Plan will be funded through an assessment to the property owners; therefore, will not impact the City's budget.

Staff recommended the public hearing be held at 10:15 a.m. on January 12, 2007.

5.31. Appointment Confirmation Resolution - City Manager: Resolution No. 2006-R0601 confirming the appointment of Rhea Cooper as Interim Fire Chief of the City of Lubbock.

Section 143.013 of the Local Government Code requires appointment of the head of a civil service department of a municipality to be made by the municipality's chief executive and confirmed by the municipality's governing body.

The City Manager of the City of Lubbock has appointed an Interim Fire Chief for the City of Lubbock to fill the vacancy created by the retirement of Chief Steve Hailey.

FISCAL IMPACT

His annual salary will be \$104,450.

5.32. This item was moved from consent agenda to regular agenda and considered following Item 5.28.

6. REGULAR AGENDA

Note: Regular Agenda items, and Consent Agenda items moved to Regular Agenda, are listed in the order they were addressed (Items 5.7-5.8, 5.12, 5.15, 5.17, 5.21-5.22, 5.25, 5.27-5.28, 5.32, 6.10-6.11, 6.2, 6.4, 6.3, 6.5, 6.1, 6.6-6.9)

5.7. Refunding Bonds Issuance Ordinance 1st and Only Reading - Finance: Ordinance No. 2006-00134 providing for the issuance of City of Lubbock, Texas, General Obligation Refunding Bonds, Series 2007 in an amount not to exceed \$75,000,000; levying a tax in payment thereof; approving execution and delivery of an escrow agreement and a bond purchase contract; approving the official statement; and enacting other provisions relating thereto.

Presently, there are outstanding bonds issued by the City that carry an interest rate that is higher than current interest rates. The City desires to refund all or a portion of those outstanding bonds in order to achieve interest rate savings. The bonds that could potentially be refunded in this financing include:

General Obligation Refunding Bonds, Series 1997

General Obligations Bonds, Series 2002 and 2003

Tax and Sewer System Surplus Revenue Certificates of Obligation, Series 2002 and 2003

Tax and Municipal Drainage Utility System Surplus Revenue Certificates of Obligation, Series 2003

Tax and Electric Light & Power System Surplus Revenue Certificates of Obligation, Series 2003

Tax and Solid Waste System Surplus Revenue Certificates of Obligation, Series 2003

Tax and Tax Increment Revenue Certificates of Obligation, Series 2003

Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2003

Combination Tax and Electric Light & Power System Surplus Revenue Certificates of Obligation, Series 2005

The ordinance states that the refunding bonds will not exceed \$75 million. It is more likely that the amount of the refunding issuance will be less than this amount. The interest rates at the time of the refunding transaction will determine which bonds are refunded and, consequently the amount of new bonds that are issued. If interest rates fall, a higher level of bonds could be refunded at an attractive savings. Conversely, if interest rates rise, refunding the outstanding bonds may not provide a savings level that warrants the refunding of all of the bonds. Therefore, a maximum amount of issuance has been provided that gives the City adequate flexibility in obtaining the greatest amount of savings possible on the date of sale.

The bond ordinance is a “parameters ordinance”, which delegates authority to the City’s Chief Financial Officer (CFO) to authorize the timing, terms, and interest rates of the bond issuance. The City Manager and the Director of Fiscal Policy & Strategic Planning have also been named as backup signatories in the event that the CFO is unable to authorize the timing, terms and interest rates of the bond issuance. The ordinance designates certain parameters to which the CFO must conform while executing the bond sale, and expires after a 60 day period. This arrangement will allow the City to attain the most attractive rates or terms by timing the issuance under the best market conditions. In accordance with Section 7.1(a) of the Ordinance, the following conditions with respect to the Bonds must be satisfied in order for the Chief Financial Officer to act on behalf of the City in selling and delivering the Bonds to the Underwriter:

- (a) the price to be paid for the Bonds shall be not less than 97.5% of the aggregate principal amount of the Bonds;
- (b) the Bonds shall not bear interest at a rate greater than the maximum rate allowed by Chapter 1204, Texas Government Code, as amended;
- (c) the aggregate principal amount of the Bonds authorized to be issued for the purposes described in Section 3.1 of the ordinance shall not exceed the maximum amount authorized in Section 3.1 of the ordinance and shall equal an amount sufficient to (i) provide for the refunding of the Refunded Obligations and (ii) pay the costs of issuing the Bonds;
- (d) the maximum maturity for the Bonds shall not exceed 28 years;
- (e) the refunding of the Refunded Obligations shall result in a net present value savings of at least 2.35%; and
- (f) the Bonds to be issued, prior to delivery, must have been rated by a nationally recognized rating agency for municipal securities in one of the four highest rating categories for long term obligations.

On the date of execution, the City and RBC Capital Markets, the City’s Financial Advisor, will negotiate a purchase price for the bonds with the City’s chosen underwriters.

Senate Bill 1759 of the 77th Legislative Session amends Subchapter B, Chapter 1201, of the Texas Government Code under Section 1201.028(3) allowing the authorization of a public security with only one reading of the ordinance. Therefore, this will be the only reading of this ordinance that authorizes the issuance of these bonds.

FISCAL IMPACT

Included in Item Summary.

Staff recommended passage of the first reading of this ordinance.

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 on first reading Ordinance No. 2006-O0134 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.8. Fee Increase Resolution - Finance: Resolution No. 2006-R0602 approving fee increases associated with FY 2006-07 General Fund Operating Budget.

On September 13, 2006, the City Council approved the FY 2006-07 Operating Budget with amendments. In those amendments, City Council directed staff to review the existing fees for service and to return with a recommendation for fee increases. The City Council appropriated an additional \$100,000 of anticipated revenue based on those fee increases.

Exhibit A illustrates the fees proposed for increase. The recommended fee increases are for services provided by Parks and Recreation, Cemetery, Health Department, and Libraries.

FISCAL IMPACT

The anticipated revenue generated from these increases is \$101,900. The effective date for these increases will be January 1, 2007, and the anticipated revenue has been pro-rated accordingly.

Staff recommended approval of this resolution.

Jeff Yates, Chief Financial Officer; Nancy Haney, Executive Director of Community Development; Randy Truesdell, Parks and Recreation Manager; and Jane Clausen, Director of Library Services, gave comments and answered questions from Council.

Motion was made by Council Member Price, seconded by Council Member Leonard to pass Resolution No. 2006-R0602 as recommended by staff. Motion carried: 6 Ayes, 1 Nay. Council Member DeLeon voted Nay.

5.12. Transfer of Surplus Property Resolution - Purchasing: Resolution No. 2006-R0603 authorizing the transfer of surplus bicycles to the Lubbock Independent School District.

The Purchasing and Contract Management Department is responsible for the disposition of all City-owned surplus and salvage property. City Council may authorize the transfer of such property to other governmental agencies and to charitable and civic organizations located in the City, provided that the property is used to perform a function for the benefit of Lubbock residents.

This item involves the transfer of surplus bicycles obtained from the Police Property Room to Lubbock Independent School District (LISD). LISD will provide the surplus bicycles as rewards to students with good citizenship, good grades and perfect attendance. Elementary students who qualify will have their name placed in a drawing every six weeks. Schools that have provided bikes as incentive awards have experienced a dramatic increase in student attendance, citizenship, and grades.

FISCAL IMPACT

No fiscal impact is anticipated.

Staff recommended approval of this resolution.

Brooke Witcher, Special Events Coordinator, gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Leonard to pass Resolution No. 2006-R0603 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.15. Contract Resolution - Health Benefits: Resolution No. 2006-R0604 authorizing the Mayor to execute an agreement with Concentra Network Services, Inc. and Blue Cross and Blue Shield of Texas for auditing services.

Because claims processing necessitates timely payments, hospital claims are adjudicated, and post-payment hospital bill audits are conducted to recover any overpayments. Blue Cross and Blue Shield of Texas (BCBSTX) partners with Concentra Network Services (CNS) for BCBSTX's insured business to help reduce claims costs through a Diagnostic Related Group (DRG) validation hospital bill audit.

For self-funded groups, the service is available through a tri-party agreement, and recovered dollars are applied to the employer group. To defray administrative costs associated with auditing and recouping claims dollars, BCBSTX and CNS retain a percentage of recovered dollars and reimburse the employer group with the remainder.

CNS will provide the City with weekly refunds, if applicable, and a quarterly savings report. CNS includes documentation with each payment, including the original billed amount, the revised billed amount, savings, the administrative fee, and a copy of the reimbursement check from the provider. Refunds typically take 30 to 90 days.

BCBSTX will provide CNS with claims extract data, provider reimbursement information, and access to BCBSTX's automated claim system and other records as necessary for CNS to perform healthcare bill management system (HBMS) services; respond to City and member inquiries; coordinate with local BCBSTX plans on re-pricing of claims paid as the result of the HBMS services; and provide detailed supporting documentation for the benefit of the City to support the recovery payment.

For services in which CNS performs the collection of provider reimbursement pursuant to the agreement, the City will pay CNS 28%, and BCBSTX 5%, of the difference between the total amounts paid by the City on the original claim and the repriced claim amount of the same claim after CNS provides services, but only to the extent that said difference is actually collected from the provider by or on behalf of the City.

FISCAL IMPACT

Recovery of overpayments will generate estimated savings to the Health Insurance Fund. Based on historical data, expected savings from post-payment audit services is 1.5% of total annual medical claim payments. \$18 million in health claims is budgeted in FY 2006-07.

Staff recommended approval of this resolution.

Jeff Yates, Chief Financial Officer, and Leisa Hutcheson, Risk Management Coordinator, gave comments and answered questions from Council.

Motion was made by Council Member Jones, seconded by Council Member Price to pass Resolution No. 2006-R0604 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.17. Contract Resolution - Community Development: Resolution No. 2006-R0605 authorizing the Mayor to execute a contract with the Community Housing Resource Board (CHRB) from the HOME Investment Partnership (HOME) grant program to fund the Lease/Purchase X Program.

This program is funded from FY 2004-05 HOME allocation funds from the United States Department of Housing and Urban Development (HUD). Under the regulations for the HOME program, the City is required to spend 15% of the annual allocation for an eligible Community Housing Development Organization (CHDO) project. The Community Housing Resource Board meets all the requirements to be designated a CHDO. The Lease/Purchase X Program meets all the requirements to be designated an eligible CHDO project.

On June 29, 2004, City Council voted to approve the Lease/Purchase X Program in the amount of \$196,295. Council then approved a contract for this project on October 11, 2004. A total of \$143,162 was expended by September 30, 2006, the end date of the contract, leaving \$53,133 in unspent funds. These funds are part of the required 15% set aside.

To comply with HUD regulations, the remaining dollars must be used by CHRB for the Lease/Purchase Program. These funds are not eligible for reallocation to another project. The Lease/Purchase Program is meant to promote homeownership opportunities for low-to-moderate income households. Under the program, CHRB purchases and renovates existing single-family houses. Successful applicants then enter into a lease agreement with CHRB. The family or individual will continue to rent for a period of time until they are ready to take on the responsibilities of homeownership.

There is a 25% match requirement for these funds. With regards to the Return of Investment Policy, CHRB has the option of reinvesting program funds back into the Lease/Purchase Program or the organization can repay 25% of the grant amount used.

FISCAL IMPACT

Federal funds will be used from the HOME Investment Partnership program. The maximum to be allocated to this project is \$53,133.

Staff recommended approval of this resolution.

Motion was made by Council Member Leonard, seconded by Council Member Jones to pass Resolution No. 2006-R0605 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.21. Contract Resolution - Telephone Services: Resolution No. 2006-R0606 authorizing the Mayor to execute a purchase agreement with AT&T DataComm for a processor upgrade to the City's telephone switch.

The City originally purchased the Nortel 81C Phone Switch in 1997. Over the years, there have been three software upgrades to the 81C switch. The 81C switch supports 21 Option 11s and Norstar telephone systems that derive off this switch to operate in City facilities.

The call processor of the 81C switch will soon be technologically obsolete and will not be supported by the Manufacturer or Maintenance Vendor. A Nortel Networks promotional campaign allows the City of Lubbock to purchase this system through the State of Texas Department of Information Resources Contract at a lower price than is typically available through the DIR contract.

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

This equipment will be purchased from AT&T DataComm through the State of Texas Department of Information Resources DIR-SDD-232 Contract.

The upgrade will not only provide City telephone system support in case of minor or major issues, it will also extend the life of the already nine year-old system by approximately ten years. Although the City is not currently prepared to implement Voice over Internet Protocol (VoIP), this upgrade allows the capability to utilize this technology when the decision is made to do so.

A one-year warranty is included in the price of the hardware and software. Following the warranty, the maintenance of the system will be included in the annual maintenance contract for the Telephone System.

FISCAL IMPACT

The cost of the system is \$123,233. The purchase of the Phone Switch Upgrade is part of the FY 2006-07 Master Lease program.

Staff recommended approval of this resolution.

Mark Yearwood, 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-R0606 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

Council Member DeLeon recused herself.

5.22. Contract Resolution - Information Technology: Resolution No. 2006-R0607 authorizing the Mayor to execute a purchase agreement with Hewlett-Packard Computer Corporation for the purchase of a high-speed core switch.

The Core switch is the heart of the City's computer network, providing high-speed data connectivity from the City's central server environment to local area networks spread across several buildings.

The current switch was purchased in 1997, and has become technologically obsolete. The manufacturer no longer supports this equipment, leaving Information Technology unable to repair the switch in case of hardware failure.

The Hewlett-Packard Procurve Routing Switch will allow IT to connect 70 servers and 14 networks to the switch's high-capacity backplane.

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

This equipment will be purchased from Hewlett-Packard Computer Corporation through the State of Texas Department of Information Resources DIR-SDD-223 Contract.

FISCAL IMPACT

The cost of the switch is \$108,393. Included in the purchase price is a three-year warranty. The purchase of the routing switch is part of the FY 2006-07 Master Lease Program.

Staff recommended approval of this resolution.

Motion was made by Council Member Leonard, seconded by Council Member Price to pass Resolution No. 2006-R0607 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.25. Contract Amendment Resolution - Water Utilities: Resolution No. 2006-R0608 authorizing the Mayor to execute Change Order No. 1 to the contract with Craig Wallace Construction I, Ltd. for Parks Irrigation System Groundwater Conversion Phase I.

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

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

This change order will amend the existing contract with Craig Wallace Construction I, Ltd. The original contract was for a total of \$1,446,901 with 180 days for completion. This change order will reflect \$50,000 savings to the City of Lubbock as a result of value engineering with the electrical sub-contractor and retrofitting pump control panels with electronic motor protection devices necessitated by decreased static levels in the irrigation wells. The net change order results in a \$30,718 savings to the City of Lubbock.

FISCAL IMPACT

A total of \$2,200,000 was appropriated and \$1,762,465 is available in Capital Improvement Project number 90357 (Parks Conversion to Groundwater) for this purpose. The original contract value is \$1,446,901 and the amount of this change order is a credit to the City of Lubbock totaling \$30,718.

Staff recommended approval of this resolution.

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

Motion was made by Council Member Jones, seconded by Council Member Price to pass Resolution No. 2006-R0608 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.27. Contract Amendment Resolution - Civic Center: Resolution No. 2006-R0609 authorizing the Mayor to execute an amendment to the Naming Rights Agreement with City Bank for the Lubbock Municipal Auditorium and the Lubbock Municipal Coliseum.

City Council approved a naming rights agreement with City Bank on December 7, 2006.

Item No. 2 of that agreement states:

The consideration for the commitments and promises set forth herein is the payment by City Bank of the amount of One Hundred Thousand and no/100 dollars (\$100,000) per year, due on January 1st of each year during the term, with the first such payment due upon execution of this agreement.

This amendment substitutes item No. 2 as follows:

The consideration for the commitments and promises set forth herein is the payment by City Bank of the amount of Four Hundred Thirty-Two Thousand Nine Hundred Forty-Eight and no/100 dollars (\$432,948), due upon execution of this agreement.

This represents the present value of \$500,000 at 5% for a 5-year term; consistent with the original agreement.

This is the only modification to the original agreement approved on December 7, 2006.

FISCAL IMPACT

\$432,948 revenue to the General Fund.

Staff recommended approval of this resolution.

Motion was made by Council Member Price, seconded by Council Member Jones to pass Resolution No. 2006-R0609 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.28. Contract Resolution - Civic Center: Resolution No. 2006-R0610 authorizing the Mayor to execute an agreement for commission with the South Plains Professional Hockey Club Limited.

The authorized representative for the South Plains Hockey Club (Cotton Kings) approached City officials with a naming rights proposal in August, 2006. Specifics were to be negotiated between the City and City Bank for an agreed upon amount for the naming rights. Negotiations resulted in a final agreed upon amount of \$432,948 to be paid upon execution.

It is recommended that a commission of \$100,000 be paid to South Plains Hockey Club as consideration for their efforts.

FISCAL IMPACT

\$100,000 from the General Fund, paid from naming rights proceeds.

Staff recommended approval of this resolution.

Motion was made by Council Member Boren, seconded by Council Member Price to pass Resolution No. 2006-R0609 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.32. Alternative Delivery Method Resolution - Animal Services: Resolution No. 2006-R0611 authorizing and directing the Director of Purchasing and Contract Management to use the Design-Build delivery method as the construction project method providing the best value for the City of Lubbock for the Lubbock Animal Shelter and Adoption Center.

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 Design-Build is described as Phase 1 of the Lubbock Animal Shelter and Adoption Center.

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 Design-Build delivery method for the Lubbock Animal Shelter and Adoption Center 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. 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.

2. 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.

3. 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.

4. 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.

5. 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.

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

\$1,043,000 is currently available in Capital Improvement Project 91158, Animal Shelter Facility. Based on response to the Request for Proposals, additional appropriation may be needed before the project can be completed.

Staff recommended approval of this resolution.

Victor Kilman, Director of General Services, and City Manager Lee Ann Dumbauld gave comments and answered questions from Council. Council Member Leonard suggested to staff that they take a look at other animal shelters, such as the one in Washington, DC, and possibly incorporate elements like a walking/jogging track into the City's animal shelter.

Motion was made by Council Member Leonard, seconded by Council Member Jones to pass Resolution No. 2006-R0611 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.10. Public Hearing - 10:00 a.m. - Electric Utility: Hold a public hearing to amend Sections 2-480, 2-482, 2-484, and 2-485 of Chapter 2, Article XVIII of the Code of Ordinances of Lubbock, Texas, as published, related to the duties and obligations of the Electric Utility Board.

Mayor Miller opened the public hearing at 10:17 a. m. No one appeared on behalf of the Code of Ordinances amendment. No one appeared in opposition. Mayor Miller closed the hearing at 10:18 a. m.

Chapter 1, Article XII, Section 1 of the City Charter establishes and outlines certain responsibilities and duties of the Electric Utility Board. On December 16, 2004, the City Council passed Ordinance Number 2004-O0140, amending Sections 2-479 through 2-485 of Chapter 2, Article XVIII of the Code of Ordinances detailing the duties and responsibilities of the Electric Utility Board and detailing the procedure for disbursing net revenues of the City's municipally owned electric utility. The Electric Utility Board has requested that the City Council amend certain portions of the above described ordinance.

FISCAL IMPACT

The fiscal impact for FY 2006-07 will be \$1 million in the form of a rebate to LP&L's electric customers. Required reserves are being reduced from 6 months to 5 months which will impact future years. The amount of reserves is variable but the reduction from 6 months to 5 months for FY 2006-07 would be on the order of \$11 million. The reduction in required reserves will allow LP&L to begin making franchise payments to the General Fund sooner. Overall, the financial situation of both the City and LP&L are strengthened by the ordinance change.

W.R. Collier, Chairman of the Electric Utility Board, and Matthew Wade, Natural Resources Attorney, gave comments and answered questions from Council.

6.11. Board Ordinance 1st Reading - Electric Utility: Ordinance No. 2006-O0135 amending Sections 2-480, 2-482, 2-484, and 2-485 of Chapter 2, Article XVIII of the Code of Ordinances outlining the duties and responsibilities of the Electric Utility Board, and providing for the disbursement of revenues of the City's electric utility.

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FISCAL IMPACT

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months to 5 months which will impact future years. The amount of reserves is variable but the reduction from 6 months to 5 months for FY 2006-07 would be on the order of \$11 million. The reduction in required reserves will allow LP&L to begin making franchise payments to the General Fund sooner. Overall, the financial situation of both the City and LP&L are strengthened by the ordinance change.

Motion was made by Council Member Boren, seconded by Council Member Price to pass on first reading Ordinance No. 2006-00135 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.2. North Overton TIRZ 4th Amended Project and Finance Plan Public Hearing 10:00 a.m. - Business Development: Hold a Public Hearing to receive public comment on the proposed amendments to the North Overton Tax Increment Financing Reinvestment Zone Third Amended Project Plan and Third Amended Finance Plan.

Mayor Miller opened the public hearing at 10:34 a. m. No one appeared on behalf of North Overton TIRZ. No one appeared in opposition. Mayor Miller closed the hearing at 10:34 a. m.

Based on current sales and construction activity in Overton Park, the McDougal Companies have increased their projections of the scope of the new construction projects. With this new information, at their meeting on November 20, 2006, the members of the North Overton Tax Increment Financing Reinvestment Zone (TIRZ) Board approved the Fourth Amended Project Plan and the Fourth Amended Finance Plan. V.T.C.A. Tax Code 311.003 requires that the City Council hold a public hearing to allow public comment on the changes to the Plans before adopting. This item fulfills that requirement.

Changes included in the North Overton Tax Increment Finance Fourth Amended Project Plan and Fourth Amended Finance Plan:

- Increase in total estimated assessed value from \$445 million to \$530.5 million based on new estimates on development in Overton Park
- Increase in total estimated tax increment over the life of the TIRZ from \$89 million to \$108.9 million.
- Total estimated Phase I project cost increased from \$28.965 million to \$41.721 million due to new projects added and increased cost of construction on existing projects.

FISCAL IMPACT

No fiscal impact is anticipated.

Staff recommended holding the public hearing to discuss amendments to the North Overton Tax Increment Financing Reinvestment Zone Third Amended Project Plan and Third Amended Finance Plan.

6.4. CBD TIRZ 2nd Amended Project and Finance Plan Public Hearing 10:00 a.m. - Business Development: Hold a Public Hearing for the City Council to receive public comment on the proposed amendments to the Central Business District Tax Increment Financing Reinvestment Zone First Amended Project Plan and First Amended Finance Plan.

Mayor Miller opened the public hearing at 10:34 a. m. No one appeared on behalf of Central Business District TIRZ. No one appeared in opposition. Mayor Miller closed the hearing at 10:34 a. m.

Based on new estimates of revenues for the Central Business District Tax Increment Financing Reinvestment Zone (TIRZ), the Board of the Central Business District Tax Increment Financing Reinvestment Zone adopted the Second Amended Finance Plan and Second Amended Project Plan at their November 14, 2006 meeting, and submit it to the City Council for approval. V.T.C.A. Tax Code 311.003 requires that the City Council hold a public hearing to allow public comment on the changes to the Plans before adopting. This item fulfills that requirement.

Changes included in the Central Business District Second Amended Project Plan and Second Amended Finance Plan:

- Increase in total estimated assessed value from \$207 million to \$228.8 million based on the revision of the projections for the TIRZ.
- Increase in total estimated tax increment over the life of the TIRZ from \$8.357 million to \$10.405 million.
- Total estimated project cost increased from \$8.357 million to \$10.405 million based on the new projections of revenue for the TIRZ.
- The statute requires that the project plan include the cost of administering the TIRZ, so \$300,000 was added to the plan for administrative costs for the life of the TIRZ.
- Total project costs revised to match total projected revenue.

FISCAL IMPACT

No fiscal impact is anticipated.

Staff recommended holding the public hearing to discuss the amendments to the Central Business District Tax Increment Financing Reinvestment Zone First Amended Project Plan and First Amended Finance Plan.

6.3. North Overton Tax Increment Financing Reinvestment Zone Fourth Amended Project and Fourth Amended Finance Ordinance 1st Reading - Business Development: Ordinance No. 2006-00136 approving the North Overton Tax Increment Finance Reinvestment Zone Fourth Amended Project Plan and Fourth Amended Finance Plan as adopted by the Board of Directors of the North Overton Tax Increment Financing Reinvestment Zone.

Based on current sales and construction activity in Overton Park, the McDougal Companies have increased their projections of the scope of the new construction projects. With this new information, at their meeting on November 20, 2006, the members of the North Overton Tax Increment Financing Reinvestment Zone (TIRZ) Board approved the Fourth Amended Project Plan and the Fourth Amended Finance Plan.

Changes included in the North Overton Tax Increment Financing Fourth Amended Project Plan and Fourth Amended Finance Plan:

- Increase in total estimated assessed value from \$445 million to \$530.5 million based on new estimates on development in Overton Park
- Increase in total estimated tax increment over the life of the TIRZ from \$89 million to \$108.9 million.
- Total estimated Phase I project cost increased from \$28.965 million to \$41.721 million due to new projects added and increased cost of construction on existing projects.

FISCAL IMPACT

These public improvements will be paid out of bonds issued and revenues collected by the North Overton Tax Increment Finance Reinvestment Zone. The Capital Improvement Program will be amended accordingly at a future City Council meeting.

The North Overton Tax Increment Financing Reinvestment Zone Board and staff recommended approval of this ordinance.

Motion was made by Council Member Boren, seconded by Mayor Pro Tem Gilbreath to pass on first reading Ordinance No. 2006-00136 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.5. Central Business District Tax Increment Financing Reinvestment Zone 2nd Amended Project Plan and Finance Plan Ordinance 1st Reading - Business Development: Ordinance No. 2006-00137 approving the Central Business District Tax Increment Finance Reinvestment Zone Second Amended Project Plan and Second Amended Finance Plan as adopted by the Board of Directors of the Central Business District Tax Increment Financing Reinvestment Zone.

Based on new estimates of revenues for the Central Business District Tax Increment Financing Reinvestment Zone (TIRZ), the Board of the Central Business District Tax Increment Financing Reinvestment Zone adopted the Second Amended Finance Plan and Second Amended Project Plan at their November 14, 2006 meeting, and submit it to the City Council for approval.

Changes included in the Central Business District Second Amended Project Plan and Second Amended Finance Plan:

- Increase in total estimated assessed value from \$207 million to \$228.8 million based on the revision of the projections for the TIRZ.
- Increase in total estimated tax increment over the life of the TIRZ from \$8.357 million to \$10.405 million.
- Total estimated project cost increased from \$8.357 million to \$10.405 million based on the new projections of revenue for the TIRZ.
- The statute requires that the project plan include the cost of administering the TIRZ, so \$300,000 was added to the plan for administrative costs for the life of the TIRZ.
- Total project costs revised to match total projected revenue.

FISCAL IMPACT

These public improvements will be paid out of revenues collected by the Central Business District Tax Increment Finance Reinvestment Zone.

The Central Business District Tax Increment Finance Reinvestment Zone Board and staff recommended approval of this ordinance.

Motion was made by Council Member Boren, seconded by Mayor Pro Tem Gilbreath to pass on first reading Ordinance No. 2006-00137 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

At this time, Mayor Miller asked Fire Chief Steve Hailey to come and give departing remarks, since this was the last Council meeting he would attend as City of Lubbock Fire Chief. Chief Hailey's retirement date is January 5, 2007. Each Council member thanked Chief Hailey for his service. He then gave comments and received a standing ovation.

6.1. Red Light Camera Automated Enforcement Ordinance 2nd Reading - Traffic Engineering: Ordinance No. 2006-00131 Consider an ordinance amending the Code of Ordinances of the City of Lubbock, by amending Chapter 16, to add Article XIV, Automated Traffic Signal Enforcement.

Due to the 79% increase in the number of people killed statewide as a result of red-light running between 1975 and 1999, and the continued significant number of crashes due to red-light running in Lubbock, the Citizens Traffic Commission and the City Traffic Engineering Department have recommended that City Council implement this new ordinance authorizing red light photo enforcement. Section 54.004 of the Local Government Code authorizes municipalities to enact ordinances deemed necessary to protect the health, life, and property of their citizens, and Section 542.202 of the Texas Transportation Code authorizes municipalities to regulate traffic by means of traffic control devices through criminal, civil, and administrative enforcement methods. Programs in other cities have shown that automated red light photo enforcement has been successful at reducing the number of crashes due to red light running.

FISCAL IMPACT

Revenues from automated red light photo enforcement will exceed the cost of equipment, operation, and maintenance. Based on data from many municipalities, the cost for the program is well below the revenue generated.

The Citizens Traffic Commission recommended approval of this ordinance.

Jere Hart, Traffic Engineer; Claude Jones, Police Chief; and Anita Burgess, City Attorney, gave comments and answered questions from Council. Council Member Leonard requested language is added into the contract to say that the City of Lubbock will not enter into any agreement or contract with a red light camera vendor that has any type of quota at all. Mr. Leonard added that there can be no minimum guarantees of any kind. The vendor can not pull out of the contract or get more of a revenue share even if infractions fall to zero. Mayor Miller requested that the length of tape storage time should be set to a period of time that would go no longer than necessary for the processing of the citation. Hart informed the Mayor that it could also be part of the contract.

Motion was made by Council Member DeLeon, seconded by Council Member Jones to pass on second and final reading Ordinance No. 2006-O0131 as recommended by staff. Motion carried: 6 Ayes, 1 Nay. Council Member Leonard voted Nay.

6.6. Support for Increased Funding Resolution - Parks and Recreation: Resolution No. 2006-R0612 supporting increased funding for the Texas Recreation and Parks Account and the State Park System.

The Texas Recreation and Parks Account (TRPA) is a grant program for parkland acquisition and the development of recreational facilities. The TRPA is administered by the Texas Parks and Wildlife Department. The annual funding in the TRPA prior to the 78th Legislature was \$15.5 million. The TRPA was reduced to \$8.1 million annually during the 78th Legislature and to \$5 million by the 79th Legislature. The Texas Parks and Wildlife Department and the Texas Recreation and Parks Account are funded from sales tax levied on sporting goods. The resolution supports maximizing the use of revenue from the sporting goods sales tax to increase funding for parks and recreation facilities and programs.

Appropriations for the maintenance and operation of the State parks and historical sites in Texas has also been reduced over the past two Legislative Sessions resulting in park closures, reduced hours and days of operations as well as staff layoffs. This decrease in appropriations has come at a time when the population of the state is expanding and the need for open space is greater than it has ever been.

Over the past four years, the City of Lubbock has received over \$1,750,000 in grant funding from the TPWD. Grant funded projects have included Fiesta Plaza, Legacy Play Village, Cavazos Baseball Complex, Brazos River Journey at the Science Spectrum and hiking trails at Lake Alan Henry.

Staff is continuing to look for grant opportunities from TPWD.

FISCAL IMPACT

No fiscal impact anticipated.

Staff recommended City Council approve the resolution supporting increased funding for the Texas Recreation and Parks Account and the State Park System.

Randy Truesdell, Parks and Recreation Manager, gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Jones to pass Resolution No. 2006-R0612 as recommended by staff. Motion carried: 6Ayes, 0 Nays.

Council Member Boren was away from the dais.

6.7. Contract Resolution - Water Utilities: Resolution No. 2006-R0613 authorizing the Mayor to execute a contract with Utility Contractors of America for major water line relocation for the Marsha Sharp Freeway, BID 06-730-BM.

This project involves relocating large diameter distribution water mains ahead of the Marsha Sharp Freeway, Phase 3B project. The distribution water mains consist of approximately 700 feet of 48" water distribution lines; 2,470 feet of 36" water distribution lines; and all the necessary valves, vaults, encasements and road bore near the intersection of Marsha Sharp Freeway and Slide Road.

FISCAL IMPACT

A total of \$9,200,000 was appropriated with \$1,790,731 available in Capital Improvement Project #9742, Lines Ahead of Marsha Sharp Freeway. An additional \$393,528 and \$900,000 has been requesting in a budget amendment for this project.

Staff recommended bid award to Utility Contractors of America of Wolfforth, Texas for \$2,255,400.

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

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to pass Resolution No. 2006-R0613 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

Council Member Boren was away from the dais.

6.8. Budget Amendment Ordinance 2nd Reading - Finance: Ordinance No. 2006-00132 Consider budget ordinance Amendment #4 amending the FY 2006-07 budget respecting the Capital Improvement Program, Civic Lubbock Inc., General Fund, and Lubbock Economic Development Alliance.

1. Amend Capital Improvement Project 90359, Southeast Water Reclamation Plant (SEWRP) Head Works Pump Rehabilitation by increasing the appropriation by \$1,010,073 for the necessary repair of a major failure of the screw pumps at the SEWRP. The project costs will be funded from FY 2007 Certificates of Obligation. Total appropriation will be \$3,010,073.
2. Amend Capital Improvement Project 9742, Water Lines Ahead of Sharp Freeway by increasing the appropriation by \$1,293,528 for the completion of this project. The project costs will be funded from FY 2007 Certificates of Obligation. Total appropriation will be \$10,568,528.
3. Appropriate \$390,000 from General Fund fund balance for a grant to Lubbock Economic Development Alliance (LEDA) for the development and diversification of the economy, elimination of unemployment and underemployment, and the development and expansion of commerce. The specific project related to this grant involves the purchase of a 301 acre tract of land north of the Lubbock Preston Smith International Airport known as the "Lubbock Rail Port".

LEDA will use the grant funds to purchase this property from the City. The proceeds from the purchase of this land will be paid into the General Fund.

4. Appropriate \$150,000 of additional General Fund revenue from the sale of naming rights as a grant to Civic Lubbock, Inc., with estimated revenue increased accordingly.
5. Appropriate \$100,000 of additional General Fund revenue from the sale of naming rights to pay South Plains Professional Hockey Club Limited organization a commission for their role in securing the sale of the naming rights, with estimated revenue increased accordingly.

FISCAL IMPACT

Included in item summary.

Staff recommended approval of the second reading of this ordinance.

City Manager Lee Ann Dumbauld gave comments and answered questions from Council.

Motion was made by Council Member Price, seconded by Council Member DeLeon to pass on second and final reading Ordinance No. 2006-00132 as recommended by staff.

Council Member Jones made a motion, which was seconded by Council Member DeLeon to amend the motion on the floor as follows:

“Whereas, the Airport Director has been promoted to the position of Assistant City Manager and has assumed additional responsibilities for Engineering, Solid Waste, Street Maintenance, Traffic Engineering, his annual salary should be \$119,250, with an effective date of July 18, 2006.

Whereas, the Human Resources Director has been promoted to the position of Assistant City Manager and has assumed responsibilities for Parks and Recreation, Cemetery, Libraries, Health Department, Civic Facilities, and Community Development, his annual salary should be \$115,875, with an effective date of July 18, 2006.

Whereas, the Business Development Director has been promoted to the position of Assistant City Manager and has assumed additional responsibilities for Downtown Development, GIS and Mapping, Building Inspection, and Planning, his annual salary should be \$109,125, with an effective date of July 18, 2006.

Whereas, these positions and funding were approved in the FY 06-07 Budget, and positions established with the approved organizational chart in pursuant to the ordinance adopting the FY 06-07 budget and requiring City Council approval.”

After discussions on this item were had and questions answered by City Attorney Anita Burgess, motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Boren to continue only the amendment.

Mayor Miller asked if the amendment could be continued until a later date. City Attorney Anita Burgess advised Council that the amendment should be voted up or down, instead of a continuance. Mayor Pro Tem Gilbreath and Council Member Boren then withdrew their motion and second.

Council Member Leonard then called for the question, which was seconded by Mayor Pro Tem Gilbreath. Because further discussion was requested by Council Member Boren, Council Member Leonard and Mayor Pro Tem Gilbreath withdrew the call and the second for the question.

Further discussion was had. Council Member Leonard called for the question on the amendment, seconded by Council Member Boren. Vote was taken, which carried: 7 Ayes, 0 Nays.

After Council Member Jones read the proposed amendment again, vote was taken on the motion to the amendment, which failed: 3 Ayes, 4 Nays. Mayor Miller, Mayor Pro Tem Gilbreath, Council Members Boren and Leonard voted Nay.

Vote was then taken on the original motion made by Council Member Price, seconded by Council Member DeLeon to pass on second and final reading Ordinance No. 2006-O0132. Motion carried: 7 Ayes, 0 Nays.

6.9. Master Lease Resolution - Finance: Resolution No. 2006-R0614 approving equipment to be purchased as part of the Master Lease Program for FY 2006-07.

The Master Lease payments were approved in the FY 2006-07 Operating Budget. This equipment will be purchased through the Master Lease agreement with Banc of America. The Master Lease Program allows the City to amortize the cost of the equipment over the life of the equipment at a favorable interest rate.

This resolution will approve the initial FY 2006-07 Master Lease items as reflected in Exhibit A.

FISCAL IMPACT

The lease payments are included in the Adopted FY 2006-07 Operating Budget.

Staff recommended approval of this resolution.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to pass Resolution No. 2006-R0614 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

11:52 A. M. COUNCIL ADJOURNED

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