

**CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
JANUARY 12, 2007
7:30 A. M.**

The City Council of the City of Lubbock, Texas met in regular session on the 12th day of January, 2007, in the City Council Chambers, first floor, City Hall, 1625 13th Street, Lubbock, Texas at 7:30 A. M.

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

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

Absent: No one (Council Member DeLeon arrived at 7:45 a.m.)

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.**

Pastor Stripling addressed Council regarding the Grace Assembly of God church being without water because the owners of the old KAMC-28 building had the meter removed. Anita Burgess, City Attorney, and Tom Adams, Deputy City Manager/Water Utilities Director, answered questions from Council. Consensus from Council was to temporarily fix the problem by placing a water meter on the church property until annexation or another alternative can take place.

- Lloyd Headrick, a local realtor, addressed Council regarding an area of town located in the vicinity of 65th Drive to 66th Street, between Avenue Q and University Avenue. His concern was the amount of crime, drugs, and prostitution taking place in that area. He would like to reactivate the Task Force (Fire, Police, Codes), and for staff to possibly monitor the area for code violations, hoping this will help get the area cleaned up.

At this time, consent agenda Item 5.7 was considered.

- 5.7. Certificates of Obligation Bonds Issuance Ordinance 1st and Only Reading - Finance: Ordinance No. 2007-O0001 providing for the issuance of City of Lubbock, Texas, Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2007; Levying a tax and pledging surplus waterworks system revenues in payment thereof; approving the official statement; approving execution of a purchase contract; and enacting other provisions relating thereto.**

On December 7, 2006, the City Council approved the first step in the issuance process of City of Lubbock, Texas, Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2007. Resolution #2006-R0587, dated December 7, 2006, approved and authorized publication of a notice of intention to issue the certificates of obligation. The resolution also incorporated language to allow the reimbursement of bond-funded construction costs expected to be incurred prior to the bond issuance.

At the Council meeting on December 7, 2006, Council also approved Advance Funding Agreement Resolution #2006-R0586, which authorized the Mayor to execute the agreement with the Texas Department of Transportation (TxDOT) for the completion of Phase 3B of the Marsha Sharp Freeway. The State has communicated to the City that the City's participation, as a result of that agreement, will expedite the completion of the Marsha Sharp Freeway by providing TxDOT the remaining funds needed to bid Phase 3B of the project.

Upon approval of this ordinance, the City will sell these certificates on a negotiated basis. On January 11, 2007, the City and RBC Capital Markets, the City's Financial Advisor, will negotiate a purchase price for the certificates with the City's chosen underwriters (Morgan Keegan & Company, Inc., as senior manager, and M. E. Allison & Co., Inc., Southwest Securities, and Popular Securities, Inc.).

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 certificates. The ordinance excludes certain information that is unknown as of the printing of the backup material. Examples of this information include: annual principal and interest amounts and maturity dates. After negotiations, the information will be completed and a revised ordinance will be made available to City Council.

FISCAL IMPACT

The City will pay TxDOT \$12.5 million on January 22, 2007, and the remaining \$12.5 million on January 22, 2008. The City's financial advisor has recommended that the entire \$25 million be issued at this time, and deposit \$12.5 million amount that is due in 2008 in an interest bearing escrow account. The interest earnings rate will be fixed at the same interest rate that is paid on the bonds. Therefore, the interest expense on that portion of the obligations will be offset by the interest earnings on those bonds. By doing this, the City will lock in today's interest rates on the debt and avoid additional bond issuance costs by avoiding a second issuance.

The annual debt service on this issuance, estimated \$1.95 million, will be paid from the Gateway Streets Fund.

Staff recommended approval of the first and only reading of this ordinance.

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

Motion was made by Council Member Leonard, seconded by Council Member Jones to pass on first and only reading Ordinance No. 2006-00001 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

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.”

7:52 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 (Cable Utilities - NTS, Codes, Environmental Compliance, Police, Right-of-Way, Solid Waste, Streets, Water Utilities).**
- 2.2. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.072, to deliberate the purchase, exchange, lease, or value of real property (Visitors Center, Water Utilities).**
- 2.3. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.074 (a)(1), to discuss personnel matters (City Attorney, City Manager, City Secretary) and take appropriate action.**
- 2.4. Hold an executive session in accordance with V.T.C.A. Government Code, Section 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).**

**9:40 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 9:40 a.m.

3. PROCLAMATIONS AND PRESENTATIONS

Note: Items are listed in the order they were considered.

- 3.1. **Invocation by Father Martin Piña, St. Joseph's Church.**

- 3.2. **Pledge of Allegiance to the Flags.**

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

- 3.4. **Presentation by Patty Vannoy and members of the Downtown, Monterey and Caprock Chapters of the AMBUC's for support of the HUB City Playground.**

Jim Berrier, Leslie Cox, and Alison Chapa, representatives from AMBUC's, joined Patty Vannoy in presenting a check to assist the City of Lubbock Parks and Recreation Department in building the HUB City Playground. Ms. Vannoy gave comments.

- 3.3. **Presentation by Patty Vannoy and representatives of the Board of the Lubbock Challenger Little League for support of the Challenger Little League Field.**

Jeff Gibson and Alison Chapa, representatives of the Board of the Lubbock Challenger Little League, joined Patty Vannoy in presenting a check to the City of Lubbock Parks and Recreation Department in support of the Challenger Little League Field. Mr. Gibson gave comments.

- 3.5. **Special recognition honoring City Bank for being selected as one of the "Best Companies to Work for in Texas".**

Mike Liner, President of City Bank, joined Mayor Miller as he presented recognition to City Bank for being selected as one of the "Best Companies to

Work for in Texas". Accompanying Mr. Liner were Cory Newsom, Sue Ann Thompson, and Sandra Wallace. Mr. Liner gave comments.

3.6. Special recognition honoring United Supermarkets as one of the "Best Companies to Work for in Texas" for the second consecutive year.

Eddie Owens, Director of Communications at United Supermarkets, joined Mayor Miller as he presented special recognition to United Supermarkets for being selected as one of the "Best Companies to Work for in Texas". Accompanying Mr. Owens were Matt Bumstead and Phil Pirkle.

3.7. Board Recognition

Animal Shelter Advisory Committee:

Todd Klein

Libraries Board:

Pamela Casto

Junked Vehicle Compliance Board:

Brent Stewart

Planning & Zoning Commission:

Shirley Schleuse

Henry Lozada

Structural Standards Commission:

Mike Arnold (unable to attend)

Michael Martin (unable to attend)

Jimmy Pharr (unable to attend)

Robert Rodriguez (unable to attend)

Water Board of Appeals:

Dewey Shroyer

4. MINUTES

4.1. Approval of prior meeting minutes: Regular City Council Meeting, December 7, 2006

Motion was made by Council Member Price, seconded by Council Member Gilbreath to approve the minutes of the Regular City Council Meeting of December 7, 2006 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5. CONSENT AGENDA (Items 5.1-5.6, 5.8, 5.10-5.12, 5.15-5.17, 5.19-5.27)

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to approve Items 5.1-5.6, 5.8, 5.10-5.12, 5.15-5.17, 5.19-5.27) on consent agenda as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.1. Municipal Settings Designation Ordinance 2nd Reading - Environmental Compliance: Ordinance No. 2006-O0133 Consider an ordinance 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.

Historical plumes of contaminated groundwater lie beneath many industrial and commercial properties. 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 second reading of this ordinance.

- 5.2. Board Ordinance 2nd Reading - Electric Utility: Ordinance No. 2006-O0135 Consider an ordinance 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.**

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 six months to five months, which will impact future years. The amount of reserves is variable but the reduction from six months to five 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.

- 5.3. North Overton Tax Increment Financing Reinvestment Zone Fourth Amended Project Plan and Fourth Amended Finance Plan Ordinance 2nd Reading - Business Development: Ordinance No. 2006-O0136 Consider an ordinance 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, 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 at their meeting on November 20, 2006.

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 amended Capital Improvement Program will have its first reading at the January 12, 2007 City Council meeting.

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

5.4. Central Business District Tax Increment Financing Reinvestment Zone 2nd Amended Project Plan and Finance Plan Ordinance 2nd Reading - Business Development: Ordinance No. 2006-O0137 Consider an ordinance 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.

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 the second reading of this ordinance.

5.5. Right-of-Way Ordinance 1st Reading - Right-of-Way: Ordinance No. 2007-O0002 abandoning and closing a 696.90 square foot street remnant cul-de-sac being a portion of 70th Street, cul-de-sac located at 1001 70th Street.

This ordinance abandons and closes a 696.90 square foot street remnant cul-de-sac that is a part of 70th Street and that was never closed when the street was constructed. This tract of land is being platted, so the street remnant cul-de-sac needs to be closed. Since the requestor of this closure is not the original person who dedicated the street area being closed, there will be a charge for the closure. The total street area being closed is 696.90 square feet. The Right of Way Department has determined a value of \$1.10 per square foot, based on adjacent property land values, for the cost of closing the street area. The total cost of the street closure will be \$767. The Street Engineering Department, Texas Department of Transportation, and all utility companies are in agreement with closing this street.

FISCAL IMPACT

A total of \$767 of estimated revenue to the General Fund is anticipated.

Staff recommended approval of the first reading of this ordinance.

5.6. Right-of-Way Ordinance 1st Reading - Right-of-Way: Ordinance No. 2007-O0003 abandoning and closing a portion of a 20-foot drainage, underground utility and garbage service easement located in Section 27, Block AK, Lubbock County, Texas, located in the 8400 Block of Milwaukee Avenue.

This ordinance abandons and closes a portion of a 20-foot drainage, underground utility and garbage service easement in Section 27, Block AK, which is located south of 82nd Street and just west of Milwaukee Avenue. This easement was dedicated with the Monterey Addition plat and is no longer needed due to a proposed change in the plat. A new plat for Monterey Addition Lots 929-1064 will be filed with this easement closure that will replace the easement with streets and alleys. Stormwater Engineering and all utility companies are in agreement with this closure.

FISCAL IMPACT

No fiscal impact anticipated.

Staff recommended approval of the first reading of this ordinance.

- 5.7. This item was considered earlier following Citizen Comments**
- 5.8. Master Lease Resolution - Finance: Resolution No. 2007-R0001 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. Equipment listed in Exhibit "A" of the resolution will be financed 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.

FISCAL IMPACT

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

Staff recommended approval of this resolution.

- 5.9. This item was moved from consent agenda to regular agenda and considered following Item 5.27.**
- 5.10. Contract Resolution - Fleet Services: Resolution No. 2007-R0002 authorizing the Mayor to execute a Letter of Agreement with Benton Oil Company for gasoline and diesel automated fuel service, BID 06-084-MA.**

This bid establishes firm annual pricing for unleaded gasoline and diesel fuel used in City motor vehicles and other equipment. Annual average usage for unleaded gasoline is 189,000 gallons and approximately 28,000 gallons for diesel fuel from automated satellite fuel sites, which are accessible with fuel cards for City vehicles that require fuel access 24/7. The contract term is one-year and may be renewed for up to two additional one-year periods under the same terms and conditions.

Bids for unleaded gasoline and diesel fuel are expressed as a fixed amount, or adder, over the daily rack price. The rack price is the price paid at the point where tanker trucks load their fuel from a distribution terminal's loading rack.

Ten local businesses were notified of the Invitation to Bid.

FISCAL IMPACT

While the amount paid is based on usage, in the FY 2006-07 Adopted Operating Budget, \$3,312,494 was appropriated in various departments for the purchase of motor vehicle fuel.

Staff recommended bid award to Benton Oil Company of Lubbock, Texas.

- 5.11. Contract Resolution - Fleet Services: Resolution No. 2007-R0003 authorizing the Mayor to execute a Letter of Agreement with Rip Griffin Truck Service Center for gasoline and diesel bulk fuel, BID 06-085-MA.**

This bid establishes firm pricing for bulk fuel and the transportation of bulk fuel to City fueling sites. Annual average usage for bulk unleaded gasoline is 676,500 gallons and approximately 762,500 gallons for bulk diesel fuel. The

bid includes a keyed monitoring and fuel dispensing system for the Lubbock Land Application sites located in Lubbock and Wilson, Texas. The contract term is one-year and may be renewed for up to two additional one-year periods under the same terms and conditions.

Bids for unleaded gasoline and diesel fuel are expressed as a fixed amount, or adder, over the daily rack price. The rack price is the price paid at the point where tanker trucks load their fuel from a distribution terminal's loading rack.

FISCAL IMPACT

While the amount paid is based on usage, in the FY 2006-07 Adopted Operating Budget, \$3,312,494 was appropriated in various departments for the purchase of motor vehicle fuel.

Staff recommended bid award to Rip Griffin Truck Service Center, LP of Lubbock, Texas.

- 5.12. Contract Resolution - City Manager's Office: Resolution No. 2007-R0004 authorizing the Mayor to execute a professional services agreement with The Waters Consulting Group, Inc. to assist with the recruitment and selection process for the Fire Chief position.**

In order to recruit a highly experienced and motivated individual to serve as Fire Chief, staff recommended retaining a nationally recognized executive search firm to assist with the recruitment and selection process to help attract qualified candidates who have the skills, abilities, and knowledge required for the position.

The Waters Consulting Group of Dallas, Texas offers comprehensive approaches to candidate recruitment, selection, and evaluation. Chris Hartung has extensive experience in the human resources field and will serve as the lead consultant.

FISCAL IMPACT

The contract amount is \$19,500 for professional services plus reimbursement for all project related expenses, excluding candidate travel, not to exceed \$10,000. The funding for this search will come from vacancy savings in the Fire Chief's position.

Staff recommended approval of this resolution.

- 5.13. This item was moved from consent agenda to regular agenda and considered following Item 5.9.**
- 5.14. This item was moved from consent agenda to regular agenda and considered following Item 5.13.**
- 5.15. Contract Resolution - Airport: Resolution No. 2007-R0005 authorizing the Mayor to execute a Certificated Passenger Airline Operating Agreement and Terminal Building Lease with Southwest Airlines Company.**

Regular City Council Meeting
January 12, 2007

This item is a result of contract negotiations that began in January 2006 with the three airlines currently serving Lubbock Preston Smith International Airport. Once executed, this agreement becomes effective October 1, 2006, for a five-year term. The airlines will be back billed for any amount due under the new rate structure. The following is an outline of the new rate structure compared to the former agreement.

Former Agreement Rates:

Terminal Rate: \$16.78 per sq. ft. per year
Landing Fee: \$0.80 per 1,000 of maximum gross landed weight
Security Police: \$0.25 per enplaned passenger
Jetbridge Use: \$10 per arrival
Trash Compactor: \$100 per month
Dump Station: \$30 per month

Extraordinary Electricity Usage

Operations Cost Center 4616: \$610,650 (FY Budget 2005-06)
Non-Signatory Landing Fee: \$1

The New Agreement Rates:

	Contracted Airlines		Non-Signatory
	Terminal Rate	Landing Fee	Landing Fee
October 1, 2006	\$20.74	\$1.00	\$1.25
October 1, 2007	\$21.36	\$1.03	\$1.29
October 1, 2008	\$22.52	\$1.12	\$1.40
October 1, 2009	\$23.19	\$1.16	\$1.45
October 1, 2010	\$23.89	\$1.19	\$1.49

Operations Cost Center 4616: \$632,380 (FY Budget 2006-07)

Extraordinary Electricity Usage

During the negotiation process, Airport staff eliminated some of the ancillary charges to the airlines and covered the expenses through the terminal rate and landing fee rate.

FISCAL IMPACT

The fiscal impact will be an increase of Airport revenue. The actual amount is difficult to determine due to changes that can occur in the airline industry. During the first year, it is estimated that the new agreements with all three airlines will bring approximately \$172,000 in additional revenue. The Air Freight Companies pay 125% of the airline landing fee and will generate approximately \$44,000 in additional revenue for the first year. The landing fee revenue will fluctuate dependent upon the number of airplanes that land and the size and weight of aircraft used.

The Airport Board and staff recommended approval of this resolution.

5.16. Contract Resolution - Airport: Resolution No. 2007-R0006 authorizing the Mayor to execute a Certificated Passenger Airline Operating Agreement and Terminal Building Lease with ExpressJet Airlines, Inc.

This item is a result of contract negotiations that began in January 2006 with the three airlines currently serving Lubbock Preston Smith International Airport. Once executed, this agreement becomes effective October 1, 2006, for a five-year term. The airlines will be back billed for any amount due under the new rate structure. The following is an outline of the new rate structure compared to the former agreement.

Former Agreement Rates:

Terminal Rate: \$16.78 per sq. ft. per year
Landing Fee: \$0.80 per 1,000 of maximum gross landed weight
Security Police: \$0.25 per enplaned passenger
Jetbridge Use: \$10 per arrival
Trash Compactor: \$100 per month
Dump Station: \$30 per month

Extraordinary Electricity Usage

Operations Cost Center 4616: \$610,650 (FY Budget 2005-06)
Non-Signatory Landing Fee: \$1

The New Agreement Rates:

	Contracted Airlines		Non-Signatory
	Terminal Rate	Landing Fee	Landing Fee
October 1, 2006	\$20.74	\$1.00	\$1.25
October 1, 2007	\$21.36	\$1.03	\$1.29
October 1, 2008	\$22.52	\$1.12	\$1.40
October 1, 2009	\$23.19	\$1.16	\$1.45
October 1, 2010	\$23.89	\$1.19	\$1.49

Operations Cost Center 4616: \$632,380 (FY Budget 2006-07)

Extraordinary Electricity Usage

During the negotiation process, Airport staff eliminated some of the ancillary charges to the airlines and covered the expenses through the terminal rate and landing fee rate.

FISCAL IMPACT

The fiscal impact will be an increase of Airport revenue. The actual amount is difficult to determine due to changes that can occur in the airline industry. During the first year, it is estimated that the new agreement will bring approximately \$172,000 in additional revenue. The Air Freight Companies pay 125% of the airline landing fee and will generate approximately \$44,000 in additional revenue for the first year. The landing fee revenue can fluctuate

depending on the number of airplanes that land and the size and weight of aircraft used.

The Airport Board and staff recommended approval of this resolution.

5.17. Contract Resolution - Public Works: Resolution No. 2007-R0007 authorizing the Mayor to execute a contract with West Texas Paving for the construction of Overton Park Paving and Storm Sewer Improvements, RFP 06-731-BM.

This project involves paving 9th Street from Avenue V to Avenue R with storm sewer from Avenue S to Avenue R and widening of Avenue U from Main Street to north of 9th Street.

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

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

Time for completion is 120 days and liquidated damages are \$110 per business day.

FISCAL IMPACT

A total of \$1.8 million was appropriated with \$1.4 million available in Capital Improvement Project 91070, Overton Park Paving and Storm Sewer Improvements.

Staff recommended bid award to West Texas Paving of Lubbock, Texas for \$686,547. This recommendation has been reviewed by Business Development.

- 5.18. This item was moved from consent agenda to regular agenda and considered following Item 5.14.**
- 5.19. Contract Amendment Resolution - Business Development: Resolution No. 2007-R0008 authorizing the Mayor to execute a second amendment to the Master Development Agreement with Garfield Traub Development, LLC regarding the design and construction of a full service hotel and conference/civic center to be located in Overton Park.**

On February 24, 2006, the City Council approved a Resolution executing a Master Development Agreement (MDA) with Garfield Traub Development (GTD) to design and construct an upscale full service hotel and conference/civic center on tract #7 in Overton Park. The City has agreed to participate in the funding of the conference/civic center. The Agreement defines the responsibilities of GTD, Hotel owners, and the City. In addition, this Agreement identifies the scope of the hotel and conference/civic center, the intended reciprocal leases between both parties and the term of the leases.

Since the date of this Agreement, the scope of the project has increased substantially. The new budgeted cost of the project is \$59,960,000 and includes an additional 30 rooms. In addition, the floor plan of the conference center, which includes support functions, has increased from approximately 30,000 square feet to approximately 50,000 square feet. The hotel owners have agreed to charge a Conference Center User Fee (or a similarly named fee) to all hotel guests equal to one-percent of their total daily room charge for a period of twenty years from the date of opening of the hotel. This fee will be paid on a quarterly basis to the City to help amortize the municipal bonds or other obligations issued to finance construction of the conference center. Staff believes that this project will further the growth of the City, facilitate the redevelopment of the TIF District, increase the tax base, foster increased economic activity and employment opportunities within the City, and otherwise be in the best interests of the City by providing additional facilities for the promotion of tourism and conventions.

The amended portions of this amended agreement include increasing the commitment of the City's participation from \$8.4 million to \$11.4 million for the design and construction of the conference/civic center. Additionally, this agreement describes the commitment of the hotel ownership to pay the City an amount equal to one-percent of their total daily room charge for a period of twenty years from the date of opening of the hotel.

FISCAL IMPACT

The financial commitment by the City will be \$11.4 million for the conference/civic center public facility. The intent is to issue municipal bonds with the debt service being covered through revenues received from the TIF and a portion of the Hotel Motel tax collected from the hotel property.

Staff recommended the approval of this resolution.

5.20. Contract Amendment Resolution - Public Works: Resolution No. 2007-R0009 authorizing the Mayor to execute Change Order No. 1 to the contract with West Texas Paving for the 10th Street Project in the Overton Park redevelopment area.

Unplanned water utility conflicts have caused many of the contracted paving improvements to be indefinitely suspended. Due to these conflicts, this change order removes paving Mac Davis Lane and Avenue V and adds street parking along Mac Davis Lane and Avenue V, street construction along 7th Street from Avenue U to Avenue V, paving Avenues R, S, and T from 7th Street to Glenna Goodacre Boulevard.

FISCAL IMPACT

The original contract was \$609,569. Change Order #1 reduces this contract amount to \$506,845.

Staff recommended approval of this resolution.

5.21. Contract Amendment Resolution - Airport: Resolution No. 2007-R0010 authorizing the Mayor to execute Amendment #7 to the services agreement with Parkhill Smith & Cooper for the Upgrade Flight Information Display System project.

This amendment modifies the original engineering agreement with Parkhill, Smith & Cooper (PSC) to add engineering services for the upgrade of the Flight Information Display System (FIDS) at the airport.

The existing Airport FIDS in the terminal has become obsolete and is in need of replacement. This system provides flight information on arrivals and departures at the Airport to travelers throughout the terminal building. Many of the video monitors have either failed or are not legible. The upgraded FIDS will improve the ability for the airlines to enter their flight information and improve the visual dissemination of flight data to passengers.

FISCAL IMPACT

The engineering services associated with this project will be funded by passenger facility charges (PFC). The fee for these services is \$34,050 and will be paid from Capital Improvement Project 91110, Replace FIDS System.

The Airport Board and staff recommended approval of this resolution.

5.22. Contract Amendment Resolution - Airport: Resolution No. 2007-R0011 authorizing the Mayor to execute Amendment #8 to the agreement with Parkhill Smith & Cooper for the Airfield Pavement Analysis project.

This amendment modifies the original engineering agreement with Parkhill, Smith & Cooper (PSC) and the Lubbock Preston Smith International Airport to add engineering services for conducting an analysis of the airfield pavements at the Airport.

The Airport is required by the FAA as part of the federal grant assurances to perform an airfield pavement analysis. The Airport must update the pavement

analysis regularly to track the condition of the pavement and use the analysis for scheduling maintenance or rehabilitation to maximize the life of the pavement.

FISCAL IMPACT

\$91,000 is appropriated in Capital Improvement Project #8060, Airfield Pavement Analysis for this project.

The Airport Board and staff recommended approval of this resolution.

5.23. Contract Amendment Resolution - Airport: Resolution No. 2007-R0012 authorizing the Mayor to execute Amendment #9 to the agreement with Parkhill Smith & Cooper for the Entrance Road Repaving and Signage Improvement project.

This amendment modifies the original engineering agreement with Parkhill, Smith & Cooper (PSC) to add engineering design and construction phase services for the rehabilitation of Martin Luther King Boulevard (aka Terminal Drive) north of Regis Street and the replacement of informational signage that directs Airport users around the perimeter of the Airport.

The Airport entrance road is steadily deteriorating from the elements and is in need of rehabilitation and repair. The informational signs located on Airport property are several years old, faded, and are difficult to read. This project will enhance the safety of the Airport by providing clear, legible signage and a smooth, safe driving surface for Airport users.

FISCAL IMPACT

\$2,125,000 is appropriated in Capital Improvement Project #91109, Roadway and Signage Improvements for this project. The fees for this service will be \$288,600.

The Airport Board and staff recommended approval of this resolution.

5.24. Contract Amendment Resolution - Airport: Resolution No. 2007-R0013 authorizing the Mayor to approve Amendment #2 to the agreement with Parkhill Smith & Cooper for the Taxiway Lima project.

This amendment modifies the original agreement with Parkhill, Smith & Cooper for engineering services for construction/extension of taxiway Lima at the Lubbock Preston Smith International Airport.

During construction of the taxiway Lima project, site conditions created a need for additional soil testing over and above the original scope to ensure that all aspects of the project meet FAA specifications.

In addition, the reconstruction of taxiway Juliet east of runway 17R/35L uncovered extensive soil moisture damage in the pavement subgrade requiring full depth reconstruction of this portion of pavement. Additional testing was required on the subgrade layers.

FISCAL IMPACT

\$11,449,299 is appropriated in Capital Improvement Project #90351, Extend Taxiway Lima North. The original project testing budget of \$159,500 was exceeded by \$33,961. This amendment will increase the surveying and testing services for this project to \$193,461. The increase in engineering fees will be offset by a change order to the construction contract reducing the contract by \$37,307 for a quantities adjustment. The total appropriation in the project will be unchanged.

The Airport Board and staff recommended approval of this resolution.

5.25. Contract Amendment Resolution - Airport: Resolution No. 2007-R0014 authorizing the Mayor to execute Change Order #1 to the agreement with Duinick Brothers, Inc. for the construction and extension of the Taxiway Lima Project.

The construction and extension of Taxiway Lima has been completed. The only outstanding item is for the contractor to come back in the spring of 2007 and re-seed some grass areas that failed to develop an acceptable stand of grass. The re-seeding will be at no additional cost to the project.

This final change order reflects the project analysis of actual constructed quantities compared to the original bid quantities contained in the plans and specifications. This analysis has documented a credit to the project of \$37,307.

FISCAL IMPACT

This change order documents a credit to the original contract of \$37,307 and reduces the contract value by that amount in Capital Improvement Project 90351, Extend Taxiway Lima Northbound.

Airport staff has reviewed these quotes and are recommending approval of this change order.

5.26. Application Amendment Resolution - Airport: Resolution No. 2007-0015 authorizing the Mayor to execute the amendment to the Passenger Facility Charge application 04-05-C-01-LBB.

Passenger Facility Charge (PFC) Application 04-05-C-01-LBB will be amended to reflect budget changes to project 5-5, Upgrade Access Control/CCTV project. The amendment increases the Impose and Use Authority by \$517,000 from \$4,763,392 to \$5,280,392.

The action to amend the PFC collection amount is due to higher than anticipated construction costs.

During the design phase, it was found that additional equipment for the access control and CCTV systems is needed to provide the proper communications between access points and the central control office. Additionally, it was determined that additional CCTV cameras are needed for the exterior of the terminal building to provide adequate visual control of

access points onto the airport operations area. These changes along with increased construction costs account for the difference in the proposed PFC budget and the actual bid amount.

FISCAL IMPACT

The financial impact of the amendment will be a \$517,000 increase to the PFC Application.

The Airport Board and staff recommended approval of this resolution.

- 5.27. Highway Improvements Ratification Resolution - Public Works: Resolution No. 2007-R0016 ratifying, adopting, and confirming the execution of the plans by the Mayor for the highway improvements on U.S. 82 from Chicago Avenue to west of Salem Avenue.**

The Texas Department of Transportation (TxDOT) routinely asks for the Mayor of the City of Lubbock to sign the cover sheet of any proposed highway improvement project, indicating concurrence with the project, for planned improvements within the City. This plan cover sheet is for U.S. 82 from Chicago Avenue to west of Salem Avenue, also known as Phase 3-B of the Marsha Sharp Freeway project.

The Mayor has previously signed this cover sheet of the plans, at the request of TxDOT.

This resolution ratifies the signature of the Mayor, on behalf of the action of the City Council.

FISCAL IMPACT

No fiscal impact anticipated.

Staff recommended approval of this resolution.

- 5.28. Lease Agreement Resolution - Health Benefits: Consider a resolution authorizing the Mayor to execute an agreement with Covenant Health System to lease a health clinic facility located at 3620 I-27, Lubbock, Texas, to be used for the City of Lubbock On-site Clinic.**

This item was deleted.

6. REGULAR AGENDA

Note: Regular Agenda items and Consent Agenda items moved to Regular Agenda are listed in the order they were addressed (Items 5.9, 5.13-5.14, 5.18, 6.1-6.13).

- 5.9. Cultural Arts Grant Recommendation Resolution - Civic Center: Resolution No. 2007-R0017 approving recommendation from the Cultural Arts Grant Review Committee and Civic Lubbock, Inc. Board of Directors for the second of two grant periods for the 2006 Cultural Arts Grant Program using Hotel Occupancy Tax funds collected during FY 2004-05.**

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On April 13, 2006, the Lubbock City Council approved an agreement with Civic Lubbock, Inc. to administer the City of Lubbock's Cultural Arts Grant Program and to pay Civic Lubbock, Inc. \$164,523 to be used for this program. The term of the agreement commenced on April 13, 2006 and continues without interruption until March 31, 2007. The agreement stipulated that funds are to be used in making grant awards to cultural arts organizations for the encouragement, promotion, improvement, and application of the arts and the promotion of tourism in the Lubbock community. The funds represent 5.71429% of the hotel/motel tax collected during FY 2004-05. Civic Lubbock, Inc. elected to absorb any administrative expense in administering this program; therefore, the entire allocation of \$164,523 was available for the two granting periods in 2006.

In reviewing requests and developing funding recommendations for each application, the Cultural Arts Grants Review Committee followed the guidelines that were approved as part of the April 13, 2006, agreement. A Grant Workshop was held on November 2, 2006, for all organizations wanting to apply for a Cultural Arts Grant. Workshop presenters included representatives from the Lubbock Convention and Visitors Bureau, the Lubbock Hotel Motel Association, and the City Attorney's office. Fourteen applications were received by the December 1, 2006, deadline. The Cultural Arts Grant Review Committee met on December 5, 2006, and after a thorough review and evaluation of the applications, 14 were recommended for partial funding.

The Cultural Arts Grant Review Committee, comprised of appointments by City Council and representatives of the Civic Lubbock, Inc. Board of Directors, submitted their grant award recommendations to the full Civic Lubbock, Inc. Board at their December 12 meeting and the recommendations were approved as presented. These recommendations are now being presented to City Council for approval.

The Cultural Arts Grant Review Committee and the Civic Lubbock, Inc. Board of Directors are requesting City Council approval of \$78,723 in grant awards for the second of two granting periods of the 2006 Cultural Arts Grant Program. This amount is the remaining balance of the Hotel Occupancy Tax allocated pursuant to the contract for the 2006 Program after the deduction of the first grant (June 2006) funding cycle.

Provided is a listing of the recommendations and detailed support and comments from the Cultural Arts Grant Review Committee.

FISCAL IMPACT

No fiscal impact anticipated.

The Cultural Arts Grant Review Committee and the Civic Lubbock, Inc. Board of Directors recommended approval of this resolution.

Dan Burns, Chairman of the Civic Lubbock, Inc. Board of Directors, gave comments and answered questions from Council.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to pass Resolution No. 2006-R0017 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

Council Member Jones recused herself.

5.13. Contract Resolution - Parks and Recreation: Resolution No. 2007-R0018 authorizing the Mayor to execute a Construction Manager at Risk contract with Lee Lewis Construction, Inc. for the construction of Phase One of the Youth Sports Facility, RFP 07-700-BM.

This project involves the construction of Phase One of the Youth Sports Facility on the northeast corner of the FM 1585 and Milwaukee Avenue intersection located in Lubbock County, Texas. The work will include the construction of parking lots, driveways, 12 softball fields, 4 baseball fields, and associated support buildings and infrastructure.

Subchapter H, Section 271 of the Local Government Code provides for alternative project delivery methods for certain projects during the November 7, 2006, City Council meeting, City Council approved use of the Construction Manager at Risk delivery method for the Lubbock Youth Sports Complex as the alternative project delivery method that provides the best value for the City. .

Selection criteria published in the RFP included:

Respondent's statement of qualifications and availability to undertake the project (3%)

Respondent's ability to provide construction management services (5%)

Qualifications of Construction Manager at Risk Team (6%)

Respondent's past performance on representative CM-R projects (8%)

Respondent's past performance on City of Lubbock projects (8%)

Respondent's ability to establish budgets and control costs on past projects (9%)

Respondent's ability to meet schedules on past projects (9%)

Respondent's knowledge of current construction methodologies, technologies, and Best Practices (3%)

Respondent's ability to identify and resolve problems on past projects (3%)

Respondent's Pre-construction Phase Services and Project Execution Plan for this Project (7%)

Respondent's Construction Phase Services and Project Execution Plan for this Project (7%)

Respondents estimating and cost control measures for this project (7%)

Respondents project planning and scheduling for this project (3%)

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Respondent's quality control and commissioning program for this project (3%)

Respondent's general understanding of the City of Lubbock's CM-R agreement (2%)

Respondent's job site safety program for this project (3%)

Respondent's warranty and service support program for this project (3%)

Respondent's pricing and delivery proposal (9%)

Execution of offer (2%)

Lee Lewis Construction, Inc. of Lubbock, Texas and Landscapes Unlimited, LLC of Lincoln, Nebraska submitted proposals for this project.

Lee Lewis, Inc. submitted a Pre-Construction Phase Fee of \$0.00, an Estimated Construction Fee of \$426,800, and a General Conditions Cost of \$554,840.

Landscapes Unlimited, LLC submitted a Pre-Construction Phase Fee of \$57,180, an Estimated Construction Phase fee of \$530,641, and a General Conditions Cost of \$963,463.33.

The proposals were evaluated and ranked in relation to the criteria published in the Request for Proposals. Committee evaluation scores are summarized as follows:

Lee Lewis, Inc. of Lubbock, Texas - 449 points.

Landscapes Unlimited, LLC of Lincoln Nebraska - 312 points.

The evaluation committee recommended contracting with the highest-ranking respondent, which is Lee Lewis, Inc. of Lubbock, Texas.

Upon approval of the Construction Manager at Risk contract, the Construction Manager at Risk will develop the Guaranteed Maximum Price for the project. The 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. The minor work may be included in general conditions. The Construction Manager at Risk may seek to perform portions of the work 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.

FISCAL IMPACT

\$12,730,381 is appropriated in Capital Improvement Project #91197, Youth Sports Complex Phase I for the construction of this project.

Staff recommended contract award to Lee Lewis, Inc. of Lubbock, Texas for \$981,640.

Lee Ann Dumbauld, City Manager, and Victor Kilman, Director of General Services, gave comments and answered questions from Council.

Motion was made by Council Member Boren, seconded by Council Member Jones to pass Resolution No. 2006-R0018 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.14. Contract Resolution - Facilities Management: Resolution No. 2007-R0019 authorizing the Mayor to execute a contract with Stiles, Wallace & Associates to serve as the City's architect representative for the Animal Shelter & Adoption Center design-build project.

The City is in the process of soliciting statements of qualifications and proposals for the design-build of a new Animal Shelter and Adoption Center. Chapter 271.119(b), Texas Local Government Code, requires the City to 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. The purpose of this contract is to engage Stiles, Wallace & Associates to serve as the City's representative for the project. Stiles, Wallace & Associates will be responsible for review determination of all design elements from the design-build firm's engineers or architects before or concurrently with construction. Stiles, Wallace & Associates was selected on the basis of demonstrated competence and qualifications as provided by Section 2254.004, Government Code.

FISCAL IMPACT

\$1,045,000 is appropriated in Capital Improvement Project #91158, Animal Shelter Facility. Additional funding may be needed for this project pending the results of the Request for Proposal for the design-build. Should additional funding be needed, a request will be made via budget amendment at that time.

The fee for professional services is two-percent of total cost of construction. If no suitable design-build proposals are received, no expenditures will be made on this contract.

Staff recommended approval of this resolution.

Lee Ann Dumbauld, City Manager, and Scott Snider, Assistant City Manager, gave comments and answered questions from Council.

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

5.18. Contract Resolution - Public Works: Resolution No. 2007-R0020 authorizing the Mayor to execute a contract with West Texas Paving, Inc. for the construction of an entrance road to City of Lubbock Cemetery, RFP 06-728-DD.

As part of the new mausoleum being constructed at the City of Lubbock, a new entrance road on the east side of the cemetery was approved for construction. The new entrance road will provide access to the cemetery and the mausoleum from the Canyon Lakes Road.

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

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

Proposals were ranked as follows:

West Texas Paving of Lubbock, TX	228 points
Lone Star Dirt and Paving of Lubbock, TX	223 points
Pharr Construction Company of Lubbock, TX	204 points
Earthco of Big Spring, TX	131 points

Time for completion of this project is 90 consecutive calendar days and liquidated damages is \$25 per day.

FISCAL IMPACT

A total of \$250,000 is appropriated and available in Capital Improvement Project 91213, Second Cemetery Entrance.

Staff recommended contract award to West Texas Paving of Lubbock, Texas for \$78,090.

Lee Ann Dumbauld, City Manager, and Scott Snider, Assistant City Manager, gave comments and answered questions from Council.

Motion was made by Council Member Price, seconded by Council Member Jones to pass Resolution No. 2006-R0020 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.1. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2007-O0004 Zone Case No. 1993-C (6402 Albany Avenue): Hold a public hearing to consider request of Robert Clark (for Asken Properties) for a zoning change from A-1 to GO Specific Use for a three story office building on a portion of Tract B, Sentry Park Addition.

Mayor Miller opened the public hearing at 10:10 a. m. No one appeared on behalf of Asken Properties. No one appeared in opposition. Mayor Miller closed the hearing at 10:10 a. m.

The request is filed as Specific Use to enable the Commission and Council to utilize the General Provision in Specific Use that allows the Council to vary development requirements “to allow flexibility for modern urban planning and design”. In this instance, Garden Office guidelines allow for a two-story maximum. The change to the standards that are contained in this Garden Office Specific Use request is that the applicant wants to construct a two-story office building above a ground floor of parking, making the structure three stories.

Adjacent land uses:

N – Loop 289

S – Apartments

E – Apartments

W – Apartments

A site plan imposed on an aerial of the site indicates that the applicant can “fit” the proposed building on the portion of the apartment site that is now occupied by tennis courts and not encroach into more than two of the existing apartment parking spaces.

As noted, the request meets the intent of two stories for Garden Office development but not the permitted height in the GO District because of the parking underneath. The project is consistent with the Comprehensive Land Use Plan in that GO is a buffer the same as the current apartment zoning. The proposal is considered by some adjacent owners as an “odd” addition to the area, and is noted by one adjacent owner as inconsistent with current construction. The proposed square footage of the new building would have a total of approximately 6,000 square feet of office space in the two levels above, with parking in the space available under the building after supports are provided for the structure.

The proposal will be limited to no access to the service road of Loop 289. Since the property is owned by the same individual the proposed building is going to be accessed by easement through the parking lot of the Metropolitan

Apartments. If the case is approved, the proposed conditions would request recording dedication of that easement by separate instrument, and a requirement that the property be replatted if it is sold from the parent apartment tract.

Again, the placement of the building meets a majority of the development requirements of the Garden Office District with the exception of the three story height. Since both the Garden Office and A-1 and A-2 Districts are comparable in terms of the Comprehensive Plan, the Planning Commission seemed of the opinion that if the addition of the office building can be “proved up” with additional site and civil engineering design, they had no opposition for approval of the request.

The Planning Commission recommended approval of the request subject to the following condition:

1. The project will be tied to the proposed site plan.
2. An easement from the new parking lot to the adjacent curb cut shall be dedicated.
3. If the parcel is sold in separate pieces, the entire property will be subject to a replat.

FISCAL IMPACT

No fiscal impact anticipated.

Subject to the objections of adjacent owners (they did not appear at the Planning Commission meeting so there is no evidence that the opposition is credible or not), the staff finds no issue supporting the recommendation of the Planning Commission.

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

6.2. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2007-O0005 Zone Case No. 3072 (9810 Slide Road): Hold a public hearing to consider request of Parkhill, Smith & Cooper (for First Bank & Trust) for a zoning change from T to C-2A on 1.15 acres of unplatted land out of Section 25, Block E-2.

Mayor Miller opened the public hearing at 10:10 a. m. No one appeared on behalf of First Bank & Trust. No one appeared in opposition. Mayor Miller closed the hearing at 10:10 a. m.

The request is located at the southwest corner of Slide and 98th Street.

Adjacent land uses:

N – convenience store
S – vacant
E – commercial
W – vacant

The applicant is requesting C-2A zoning for a structure that will be a commercial modular building and will be placed on a portion of the lot for the near term. A long term development plan is in progress for the balance of the site, and a new permanent building will be placed on the parcel.

The request meets both the Comprehensive Land Use Plan and Zoning Policies, and should have no significant impact on the thoroughfare system. The Planning Commission recommended the request as submitted.

The Planning Commission recommended approval of the request.

FISCAL IMPACT

No fiscal impact anticipated.

Staff supports the recommendation of the Planning and Zoning Commission.

Motion was made by Council Member Leonard, seconded by Council Member Boren to pass on first reading Ordinance No. 2006-O0005 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.3. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2006-O0006 Zone Case No. 3073 (13010 Indiana Avenue): Hold a public hearing to consider request of Bobby McQueen (for Jeanette Lubenau and Barbara Johnson) for a zoning change from T to C-3, and C-4 Specific Use for a veterinary clinic with a partially unenclosed kennel and all unconditionally permitted C-3 uses on 6.582 acres of unplatted land out of Section 18 Block E-2.

Mayor Miller opened the public hearing at 10:10 a. m. No one appeared on behalf of Jeanette Lubenau and Barbara Johnson. No one appeared in opposition. Mayor Miller closed the hearing at 10:10 a. m.

The applicant is requesting zoning on a 6.5 acre lot that exists on the northwest corner of 114th Street and Indiana. The parcel is surrounded on the north and west by a public golf course.

Adjacent land uses:

N – existing golf course clubhouse
S – vacant
E – vacant
W – existing golf course

The application is split into two parts:

1. The corner parcel just over five acres is requested as C-3, which is “shopping center zoning” and is a policy zone case.

2. The north parcel just in excess on one acre is proposed as C-4 Specific Use as a veterinary clinic that will operate in conjunction with a forty animal kennel.

The vet clinic requires that a Specific Use Permit be considered and the format of the proposed kennel caused the staff to ask that it be included in the Specific Use portion because of the unique design. Normally, the kennel would be a permitted C-4 use – but the Code requires the entire operation to be inside a building. In this instance, the kennel building will include a roof that covers the outside runs that will be connected to the interior portion of each room that will accommodate an animal. The single aspect not in the current description for “kennel” in C-4 is the inclusion of the small outdoor runs associated with the indoor areas. The animals will be allowed access to the out of doors in an enclosed chain link area, and the animals will be able to access the adjacent “indoor” part of the kennel – depending on their preference or the weather.

The applicants have proposed a screening fence entirely around the portion of the structure of the buildings that will be the outdoor runs and the back of the vet clinic. Since there is a golf course to the north and west, with the proposed C-3 to the south, the outside nature of the animal runs should not affect any adjacent residential area.

The project will have no significant impact on the thoroughfare system.

The Planning Commission recommended the request with the following conditions:

1. For the C-4 Specific Use portion, the project will be tied to the proposed site plan.
2. The entire kennel and veterinary operation, with the kennel being constructed first and the entire proposed screening fence, shall be completed within two years of the effective date of the ordinance.

FISCAL IMPACT

No fiscal impact anticipated.

Staff supports the recommendation of the Planning Commission.

Motion was made by Council Member Leonard, seconded by Council Member Boren to pass on first reading Ordinance No. 2006-O0006 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

- 6.4. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2007-O0007 Zone Case No. 1662-G (5402 Avenue L): Hold a public hearing to consider request of Dave Kirk (for T-Mobile) for a zoning change from C-4 to C-4 Specific Use for a 100-foot monopole communications tower and associated ground equipment compound on 900 square feet out of the east part of Tract L, CN Hodges Addition.**

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Mayor Miller opened the public hearing at 10:10 a. m. No one appeared on behalf of T-Mobile. No one appeared in opposition. Mayor Miller closed the hearing at 10:10 a. m.

The Zoning ordinance requires a Specific Use Permit be processed on any proposed cell tower application that is not in an industrial district and that a specific set of findings be made during the decision making process.

The following bullets are established by the Federal Communications Act for consideration of any PCS, TV, or cellular tower case:

- Reasonableness – Local governments may not discriminate between carriers nor use zoning provisions that effectively prohibit the provision of service.

The intent of Congress is not to deny localities the flexibility to treat similar service providers differently on the basis of varying setback, height or safety requirements when proposals are in different zoning districts. IE: A request in residential can be considered with a different perspective than one in commercial or industrial.

- Timeliness – The hearing process must occur within a reasonable time frame.
- Documentation – A denial by the Planning Commission or City Council must be in writing and substantiated by evidence contained in written records. The application should be detailed in writing, and a written evaluation of the application by staff should be presented. The minutes should reflect in detail any opposition or support for the request.
- Siting Criteria – The effect of the electromagnetic field created by cellular or PCS may not be a factor in the consideration of a tower. Presumably, FCC guidelines are in effect which provide a safe electromagnetic atmosphere in the immediate vicinity of towers.
- Court jurisdiction – Challenges to denied zone cases must be filed in state or federal court.

Staff Review of stated purpose/goals for towers [Section 29-30(b)(8)]:

1. Encourage the location of towers in non-residential areas and minimize the total number of towers throughout the community.

One guideline for towers is that the setback from adjacent off-site residential structures be greater than the height of the pole. This proposed site has no adjacent residential.

2. Encourage strongly the joint use of new and existing tower sites.

The company has not provided documentation that there are no existing towers that the engineers for this company indicate will provide adequate service in the “service ring” targeted for these antennae. If the case is approved, a proposed condition will be that a letter outlining the lack of alternatives be provided before the Council hearing.

3. Require users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal.

This is the toughest aspect of tower requests. Except in remote areas of the community, adjacent owners often express considerable objection for new tower locations. Contrast this to the demand by the overall public for consistent, clear phone communications and the situation is diametric. Staff wants clear phone signals but do not want the towers.

One aspect staff have illustrated in past cases is the number of tall items in our community that seem to not create great concern, although general reference to them may be as “ugly” in the same context as cell towers:

- The light standards on 19th Street and University Avenue are at least 90 feet tall
- The typical major electrical transmission towers along Flint and 34th Street are approximately ninety feet tall.
- The light standards of Loop 289 and major intersections are approximately one hundred feet tall.
- The television tower south of the Loop at University is in excess of 1400 feet tall.

These comparisons all illustrate that staff overlook many tall items because staff recognize their necessity, although staff may not care for their aesthetic appeal. The same applies to cell towers when alternate structures do not exist, staff have to live with their presence if staff demand the phone service.

Two aspects that may constitute the primary opposition for the request are property values and aesthetics. While these are viable discussion items for determination by the Planning Commission, opinions from citizens that are not substantiated with data or “expert” verification is suspect if a denial is challenged in court.

4. Require users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas.

The applicant understands that at least two users will be allowed on the tower. Most recent towers have attempted to maximize the number of users since they can generate revenue, and the community will have fewer towers. In the early days of cell development, many companies would not let competitors on their tower – that outlook has changed because of increased regulation and revenue sources.

Planning and Zoning Commission recommended the request subject to the following conditions:

1. The site plan will be adopted as part of the ordinance.
2. A letter from the technical and “land” personnel of this company shall be provided to illustrate evidence that no alternative economical sites exist in

this area (with provision of this letter at first reading, if the case is approved number 2 can be eliminated from the final).

FISCAL IMPACT

No fiscal impact anticipated.

Staff supports the recommendation of the Planning Commission.

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

6.5. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2007-O0008 Zone Case No. 2085-A (602 Avenue Q): Hold a public hearing to consider request of Hugo Reed and Associates, Inc. (for Minerva Partners) for a zoning change from A-2 to C-3 on Lots 1-10, Block 110, Overton Addition.

Mayor Miller opened the public hearing at 10:10 a. m. No one appeared on behalf of Minerva Partners. No one appeared in opposition. Mayor Miller closed the hearing at 10:10 a. m.

The applicant is requesting the rezoning of a site currently zoned for a lodge (the Scottish Rite). The building was one of the original public schools in Lubbock before it was sold to the Scottish Rite, it had not been used in years.

Adjacent land use:

N – commercial

S – commercial

E – commercial

W – apartments or vacant

The application is in concert with the revised Comprehensive Land Use Plan for the Overton North redevelopment area, and will be in accord with zoning policy when the structure is built.

As noted before, all the recent redevelopment in this area is going to have a significant impact on the thoroughfare system, but Avenue Q is a designated thoroughfare and part of the U.S. Highway System. In addition, three blocks north the future Marsha Sharp Freeway are under full construction and eventually should greatly reduce congestion in this area.

The Planning Commission recommended approval of the request.

FISCAL IMPACT

No fiscal impact anticipated.

The staff supports the recommendation of the Planning Commission.

Motion was made by Council Member Leonard, seconded by Council Member Boren to pass on first reading Ordinance No. 2006-O0008 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.6. Public Hearing 10:00 a.m. - Business Development: Hold a public hearing on the dissolution of the Vintage Township Public Improvement District (PID), which covers a portion of an area from 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.

Mayor Miller opened the public hearing at 10:11 a. m. No one appeared on behalf of Vintage Township PID. No one appeared in opposition. Mayor Miller closed the hearing at 10:11 a. m.

The City created the Vintage Township Public Improvement District (PID) at the 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. A petition to dissolve the existing Vintage PID was received by the City. The petition 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.

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

Once the public hearing has been held, the next step is to consider a resolution dissolving the Vintage Township Public Improvement District. The resolution to dissolve the current Vintage Township PID 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 holding the public hearing at 10:00 a.m. on January 12, 2007, on the dissolution of the existing Vintage Township PID.

6.7. Dissolution of Public Improvement District Resolution - Business Development: Resolution No. 2007-R0021 dissolving the Vintage Township Public Improvement District (PID) which covers a portion of an area from 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 created the Vintage Township Public Improvement District (PID) at the 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.

A petition to dissolve the existing Vintage PID was received by the City. The petition 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.

The public hearing to consider the dissolution of the Vintage Township Public Improvement District pursuant to the Public Improvement District Assessment Act was held prior to this item.

If the resolution calling for the dissolution of the Vintage Township PID is approved by the City Council, the next step will be to publish the Resolution in the Lubbock Avalanche Journal for it to become effective.

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 approval of this resolution.

Motion was made by Council Member Boren, seconded by Council Member Price to pass Resolution No. 2006-R0021 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.8. Public Hearing 10:15 a.m. - Business Development: Hold a Public Hearing on the formation of a Vintage Township Public Improvement District (PID) which covers a portion of an area from 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.

Mayor Miller opened the public hearing at 10:11 a. m. No one appeared on behalf of Vintage Township PID. No one appeared in opposition. Mayor Miller closed the hearing at 10:11 a. m.

The City has received a petition from Stellar Land Company, Ltd. and Vintage Land Company, Ltd. requesting that the City 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 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.

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.

The dissolution public hearing will be held and the dissolution resolution for the existing Vintage Township PID will be considered prior to this item. Once the creation public hearing has been held, the next step is to consider a

resolution creating the new Vintage Township Public Improvement District. The creation resolution 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 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.

6.9. Vintage Township Public Improvement District Creation Resolution - Business Development: Resolution No. 2007-R0022 making findings and authorizing establishment of the Vintage Township Public Improvement District (PID) which covers a portion of an area from 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 has received a petition from Stellar Land Company, Ltd. and Vintage Land Company, Ltd. requesting that the City 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 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.

The Public Hearing 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 was held prior to this item.

If the resolution calling for the creation of the Vintage Township PID is approved by the City Council, the next step will be to publish the resolution in the Lubbock Avalanche Journal for it to become effective.

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 approval of the resolution creating the Vintage Township PID.

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

6.10. Budget Amendment Ordinance 1st Reading - Finance: Ordinance No. 2007-O0009 Amendment #5 amending the FY 2006-07 budget respecting the Grant Fund, Solid Waste Fund, and Capital Improvement Program.

1. Accept and appropriate a contract amendment to the Public Health/Bioterrorism Preparedness grant (#81049) in the amount of \$295,824 through the Texas Department of State Health Services for continued planning and capacity building activities related to Pandemic Influenza, Bioterrorism and other potential Public Health Emergencies. This contract amendment includes the remainder of the base funding for Public Health Preparedness for FY 2006-07 in the amount of \$157,341 and also includes the second round of funding for Pandemic Influenza planning in the amount of \$138,483. With estimated grant revenues increased accordingly.
2. Appropriate \$50,000 of Solid Waste Fund Balance to protect City assets by constructing a security fence at the Fleet operations and Solid Waste Facility on Municipal Drive. This recommendation is consistent with the Internal Auditor's recommendation following the annual September 30 inventory count.
3. Amend North Overton TIF Capital Improvement Projects as outlined in attachment. Overall increase of \$8.1 million to be funded with Certificate of Obligation bonds.

FISCAL IMPACT

Included in item summary.

Staff recommended approval of the first reading of this ordinance.

Jeff Yates, Chief Financial Officer; Lee Ann Dumbauld, City Manager; Kevin Overstreet, Emergency Operations Center Director; Cheryl Brock, Business Research Specialist; and Tommy Camden, Health Director, gave comments and answered questions from Council.

Motion was made by Council Member Price, seconded by Council Member Jones to pass on first reading Ordinance No. 2006-O0009 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.11. Ordinance Amendment 1st Reading - Water Utilities: Ordinance No. 2007-O0010 amending Chapter 28-52 and 28-53 of the Code of Ordinances in regard to water rates.

A cost of service study was completed recently for both the water and sewer services in order to establish the appropriate rates to reflect the cost of the services. In addition to the cost of service issues, the study also proposed a change to the Average Winter Consumption increasing block rate to encourage greater water conservation. This study was completed and results were provided to the Lubbock Water Advisory Commission on November 16, 2006.

The recommended rates are revenue neutral. Increases in rates for budgetary purposes are considered with the annual budget. The changes proposed here are revenue neutral and reflect cost of service changes only.

Prior to 1990, the City had a decreasing block rate. This means that as a customer used more water, the rate per 1,000 gallons dropped for the additional use. In 1991 the City adopted a uniform water rate. Under this plan, the rate per 1,000 gallons used remains unchanged. It is now proposed that the City adopt an increasing block rate plan in order to encourage greater conservation. Under this plan, the rate per 1,000 gallons will increase for the additional use.

The specific plan proposed is called the AWC plan or Average Winter Consumption plan. Under this plan, the volume of water included in Block 1 for residential use is determined differently for each customer based upon the amount of water used by that customer in November, December, January and February. The volume that can be used in Block 2 for residential customers is 25,000 gallons. Block 3 would be for use over and above Block 1 and Block 2 use.

For commercial, multifamily and public entities, the volume allowed under Block 1 is again determined by the customer's average winter consumption. Block 2, however is not set on a specific use amount like residential. It is set on 150% of the average winter consumption. Block 3 again would be for use over and above the Block 1 and Block 2 volumes.

For irrigation service, there is no Block 1 volume. Single family residential irrigation service would have a Block 2 volume of 25,000 gallons, while non residential service would have a Block 2 based upon 150% of the average

winter consumption. Block 3 again would be for use over and above the Block 2 volume.

Under the proposed rates, the monthly base charge would decrease for almost all customers. Residential would decrease by \$4.30 or 38.7% for ¾" water meters. This decrease continues with as much as 52% to 73% reductions in the monthly base charge based upon the size of the meter.

The increasing block rate proposed would be uniform for almost all customers as follows on a per 1,000 gallon basis:

Block 1 - \$2.06

Block 2 - \$2.58

Block 3 - \$4.52

The current uniform rate for residential customers is \$2.03 per 1,000 gallons of water used. Previous multi family rates were \$1.73 per 1,000 gallons while Commercial, Public, and Municipal rates were at \$1.88 per 1,000 gallons. All customers will receive a savings on the monthly base charge, but the cost per 1,000 gallons will decrease to encourage greater conservation.

Customers who use less water will see a water decrease. As an example, a customer at the average of 7,000 gallons would see a 14.8% decrease. A customer with a 25,000 gallon use would see an 8.6% increase. The goal is to encourage all to save water.

FISCAL IMPACT

The recommendation is revenue neutral for the City. There are no proposed increases or decreases in revenues for the Water Fund as a result of this recommended change in water rates.

The Lubbock Water Advisory Commission has reviewed the recommendations and has approved it for consideration by the City Council. City staff also recommended the proposed changes in order for rates to reflect the cost of service.

Tom Adams, Deputy City Manager/Water Utilities Director, gave comments and answered questions from Council. Rick Giardina, representative from Red Oak Consulting, briefed Council on the City of Lubbock Water and Sewer Rate Study. He also answered questions from Council. The projected start date for the rate change is March 7, 2007.

Council Member DeLeon would like to get the public educated, especially the low-income sector, in regard to water rates. Mayor Miller asked to have bilingual inserts sent out with the monthly billing, to make sure everyone understands what is taking place.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Jones to pass on first reading Ordinance No. 2006-O0010 as recommended by staff. Motion carried: 6 Ayes, 1 Nay. Council Member DeLeon voted Nay.

6.12. Ordinance Amendment 1st Reading - Water Utilities: Ordinance No. 2007-O0011 amending Chapter 28 of the code of Ordinances in regard to sewer rates.

A cost of service study was completed recently for both the water and sewer services in order to establish the appropriate rates to reflect the cost of the services. This study was completed and results were provided to the Lubbock Water Advisory Commission on November 16, 2006.

The recommended rates are revenue neutral. Increases in rates for budgetary purposes are considered with the annual budget. The changes proposed here are revenue neutral and reflect cost of service changes only.

As a result of the study, the monthly base charge for sewer service will increase 17.3% or \$0.68 for three-quarter-inch meter services (including most residential service). The monthly base charge for larger meters, between one-inch and 10-inch, will decrease from 38.8% to 86.4%. The dollar amount of this change in monthly base fees for larger meters will vary between \$3.57 and \$758.44. This change again reflects cost of service and rate changes are recommended accordingly.

A flow rate increase of 1.2% \$0.02 per 1,000 is also recommended as part of the study.

FISCAL IMPACT

The recommendation is revenue neutral for the City. There are no proposed increases or decreases in revenues for the Sewer Fund as a result of this recommended change in sewer rates.

The Lubbock Water Advisory Commission has reviewed the recommendations and has approved it for consideration by the City Council. City staff also recommended the proposed changes in order for rates to reflect the cost of service.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to pass on first reading Ordinance No. 2006-O0011 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.13. Ordinance Amendment - Police: Ordinance No. 2007-O0012 amending the Code of Ordinances of the City of Lubbock, by amending Chapter 14, Article IX, entitled Sexually Oriented Businesses.

The Fifth Circuit Court of Appeals in Fantasy Ranch v. City of Arlington recently upheld provisions in one of that ordinances intended to alleviate the negative secondary effects that may result from contact between customers of sexually oriented businesses and nude or semi-nude employees of those businesses.

The proposed ordinance amending Chapter 14, Article IX of the Code contains provisions very similar to those that the Fifth Circuit scrutinized and upheld as lawful.

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The intent of the proposed amendment is to reduce negative secondary effects locally by restricting the contact that customers of sexually oriented businesses may lawfully have with specified employees of such businesses.

FISCAL IMPACT

Unknown at this time.

Staff recommended and requests the City Council express its approval and support for the proposed ordinance, submitted by the Lubbock Police Department.

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

Motion was made by Council Member Boren, seconded by Council Member Leonard to pass on first reading Ordinance No. 2006-O0012 with amending it wherever the word "employee" appears in the ordinance, add "employee or contractor/contracted agent". Motion carried: 7 Ayes, 0 Nays.

11:55 A.M. CITY COUNCIL RECESSED TO EXECUTIVE SESSION

1:28 P.M. CITY COUNCIL RECONVENED

Mayor Miller, Mayor Pro Tem Gilbreath, and Council Members Price and DeLeon were present

Mayor Miller reconvened in regular session. He then stated that Council would recess to Overton Centre, where under Item 2.5, an announcement would be made (in open session) as it relates to business development.

2:50 P.M. COUNCIL ADJOURNED

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