

**CITY OF LUBBOCK  
REGULAR CITY COUNCIL MEETING  
JANUARY 25, 2007  
7:30 A. M.**

The City Council of the City of Lubbock, Texas met in regular session on the 25th day of January, 2007, in the City Council Chambers, first floor, City Hall, 1625 13th Street, Lubbock, Texas at 7:30 A. M.

**7:30 A.M. CITY COUNCIL CONVENED**  
City Council Chambers, 1625 13th Street, Lubbock, Texas

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

**Absent:** No one

**1. CITIZEN COMMENTS**

**1.1. Brent Preston of Cowhouse Properties, LTD will appear before the City Council to discuss a request to de-annex certain property.**

Citizen was not present.

**1.2. Bernie Gradel of Hugo Reed & Associates, Inc. will appear before the City Council on behalf of Ransom Canyon, Texas, to discuss the City of Lubbock water rate increase.**

**This item was deleted.**

- John Gabus addressed Council regarding red light cameras and suggested things to look for in the contract before signing it.
- Charles Shue addressed Council regarding the average water use as it relates to establishing water rates.

**2. EXECUTIVE SESSION**

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

**7:39 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 (Codes, Police/Zoning, Right-of-Way, Solid Waste, Stormwater, Streets, Traffic Engineering, 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 (Water Utilities).
- 2.3. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.074 (a)(1), to discuss personnel matters (City Attorney, City Manager, City Secretary) and take appropriate action.
- 2.4. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.074(a)(1), to discuss personnel matters regarding duties, responsibilities, and/or appointments to the Structural Standards Commission, Urban Design/Historic Preservation Commission, and Zoning Board of Adjustment.
- 2.5. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.086, on the following competitive matters (Electric Utilities):
  - 2.5.1 to deliberate, vote and take final action on electric rates of Lubbock Power and Light;
  - 2.5.2 to discuss, vote and take final action on a competitive matter regarding operation, financial and capital statements and budgets, revenue and expense projections, strategic and business plans and studies of Lubbock Power and Light;
  - 2.5.3 to discuss and deliberate a competitive matter regarding the strategies, goals, funding and strategic purpose of the City of Lubbock's relationship with and membership in the West Texas Municipal Power Agency.

**9:45 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. Council Member Boren arrived at 9:53.  
Mayor Miller reconvened the meeting at 9:45 a.m.

**3. PROCLAMATIONS AND PRESENTATIONS**

**3.1. Invocation by Pastor Rodney Draggon, Martin Luther King Seventh Day Adventist Church.**

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

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

**3.3. Special Recognition commemorating Susan G. Komen Breast Cancer Foundation 25th Anniversary, and more particularly, recognizing the week of January 22, 2007, as Promise Week.**

Mayor Miller gave special recognition to commemorate Susan G. Komen Breast Cancer Foundation's 25th Anniversary. Ashley Hamm, Executive Director of the Lubbock affiliate of the Susan G. Komen for the Cure, along with Laura Vinson, joined Mayor McDougal as he recognized the week of January 22, 2007 as Promise Week. Ms. Hamm gave comments.

**3.4. Proclamation of February 2, 2007 as American Heart Association "Wear Red Day" in Lubbock.**

Allison McMillan, Corporate Marketing Director for the American Heart Association, joined Mayor Miller as he read proclamation of February 2, 2007 as American Heart Association "Wear Red Day" in Lubbock. Ms. McMillan gave comments.

**4. MINUTES**

**4.1. Approval of Prior Meeting Minutes: Regular City Council Meeting, December 19, 2006**

Motion was made by Council Member DeLeon, seconded by Council Member Price to approve the minutes of the Regular City Council Meeting of December 19, 2006 with an amendment, as proposed by Council Member Jones, to include in Item 6.8 all actions and motions made by Council. Motion carried: 7 Ayes, 0 Nays.

**5. CONSENT AGENDA was considered following Item 6.1.**

**6. REGULAR AGENDA**

**6.1. Site Plan Appeal - Planning: Consider an appeal of a decision by the Planning Commission with regard to a site plan review for the Body Works facility between Vicksburg and Slide Road on 82nd Street and approval of site plan.**

**ITEM SUMMARY**

In the original zone case, the property where the shopping area associated with the commercial development between Slide and Vicksburg, south of 82nd Street, contains a condition for site plan and building elevation approval by the Planning Commission prior to issuance of a construction permit. All of the buildings in the Lakeridge shopping area have followed that condition and

Regular City Council Meeting  
January 25, 2007

received approval. In approximately 2004, the new Body Works building processed a site plan and building elevation that was approved by the Planning Commission.

On the original plan reviewed by the Commission, an outdoor pool was requested for construction on the south side of the building with no indication of cover nor enclosed in any manner. During a staff review required of every major construction project when a contractor is requesting a permit, Body Works revised the site plan and illustrated the pool in front of the building (toward 82nd Street) surrounded by a low brick fence. During that process, a determination was made by various staff members that the minor change did not constitute a major issue, particularly with the large amount of set back of the Body Works building from 82nd Street. Again, the site plan noted the pool with a low brick fence – raising no particular concerns that would cause this new review by the Planning Commission and appeal to the Council.

After finishing the building and the business was open, a white plastic “bubble” (air supported structure similar to the cover of the Texas Tech swimming pool) was put in place. The contractor did not obtain a permit, a process that would have at least stopped the process until the Planning Commission could again review the site plan and determine the appropriateness of the structure prior to the expense of purchase and installation. The Planning and Codes Departments have received a number of calls protesting the “looks” of the “bubble”, thus a new review by the Planning Commission was prompted during the December meeting.

The Planning Commission questioned the owner of Body Works and the contractor for the structure. At least one couple spoke in opposition to the item and has submitted two letters that are in the backup materials. The discussion of the bubble structure was on the agenda as “other business”. Both that discussion and the hearing to the Council have not included mailed notice to adjacent landowners since it is not a zone case, but simply a review of a condition of the original zone case.

The Planning Commission did not reach a full consensus whether the structure is “ugly” or a detriment to the community and should not be allowed on the front of the building. The final vote was enough to not approve the amended site plan, but was not unanimous. Several members indicated their opinion that the City Council should be involved in the final decision making process as elected officials.

Mr. Rose has created that opportunity with this appeal.

Mr. Rose is requesting approval of the amended site plan with the swimming pool enclosure to be in place approximately six months per year.

Bodyworks Family Sports Centers Pool Dome Member Testimonials are provided in supplemental agenda backup available in the City Secretary's Office.

### **FISCAL IMPACT**

No fiscal impact anticipated.

As voiced during the Planning Commission meeting by Commission members, the applicant and citizens – a range of opinions regarding the appropriateness of the “bubble”. Staff opinions on the appropriateness are also mixed. Had the structure been subject to site plan review process or a permit requested, the issue could have been discussed and decided prior to the expense by Body Works. The owner and representative indicated that they had, in fact, planned the bubble when the plans went to site plan review and the staff committee – but did not show it. Their explanation was a lack of understanding that it was either an issue or that it needed a permit. The sales representative installed the Tech pool bubble, and did not need a permit because Texas Tech is exempt from City governance. He and the owner seem to have a legitimate explanation for the placement without a permit, and seemed very genuine in the fact they are sorry that they did not follow the process correctly.

Notwithstanding the comments from the public and the letter the Council will have in backup that the “bubble” is ugly and should not be allowed, the Planning staff is reluctant to recommend denial based only on taste.

If approval by the City Council is granted, please consider a condition to the six months requested by Mr. Rose. With that, the staff would recommend approval.

Motion was made by Council Member Leonard, seconded by Mayor Pro Tem Gilbreath to approve the amended site plan, with the swimming pool enclosure to be in place approximately six (6) months per year, with condition that there be no graphics (letters/logos) put on the dome. Motion carried: 7 Ayes, 0 Nays.

### **5. CONSENT AGENDA (Items 5.1-5.8, 5.11-5.13, 5.15-5.17, 5.19-5.20, 5.22-5.24)**

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Jones to approve Items 5.1-5.8, 5.11-5.13, 5.15-5.17, 5.19-5.20, 5.22-5.24 on consent agenda as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

#### **5.1. Right-of-Way Ordinance 2nd Reading - Right-of-Way: Ordinance No. 2007-O0003 Consider an ordinance 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 was read for the first time at the January 12, 2007, City Council meeting as a Consent Agenda item. 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 just west of Milwaukee Avenue. This easement was dedicated with the Monterey Addition plat and is no longer needed due to a change in development. A new plat of the Monterey Addition Lots 929-1064 will be filed along with this

easement closure. The easement will be replaced with streets and alleys. Stormwater Engineering and all utility companies are in agreement with this closure.

### **FISCAL IMPACT**

No fiscal impact is anticipated.

The Right-of-Way Department recommended the approval of the second reading of this easement closure.

**5.2. Zone Case No. 1993-C (6402 Albany Avenue) Ordinance 2nd Reading - Zoning: Ordinance No. 2007-O0004 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.**

The request is filed as Specific Use to enable the Commission and Council to utilize the General Provision in Specific Use that allows City 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 is 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.

**5.3. Zone Case No. 3072 (9810 Slide Road) Ordinance 2nd Reading - Zoning: Ordinance No. 2007-O0005 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.**

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 is anticipated.

Staff supports the recommendation of the Planning and Zoning Commission.

**5.4. Zone Case No. 3073 (13010 Indiana Avenue) Ordinance 2nd Reading - Zoning: Ordinance No. 2007-O0006 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.**

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 is anticipated.

Staff supports the recommendation of the Planning Commission.

**5.5. Zone Case No. 1662-G (5402 Avenue L) Ordinance 2nd Reading - Zoning: Ordinance No. 2007-O0007 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.**

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.

Regular City Council Meeting  
January 25, 2007

- 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 want 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 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 is anticipated.

Staff supports the recommendation of the Planning Commission.

**5.6. Zone Case No. 2085-A (602 Avenue Q) Ordinance 2nd Reading - Zoning: Ordinance No. 2007-O0008 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.**

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 is anticipated.

The staff supports the recommendation of the Planning Commission.

**5.7. Budget Amendment Ordinance 2nd Reading - Finance: Ordinance No. 2007-O0009 Consider budget ordinance Amendment No. 5 amending the FY 2006-07 budget respecting the Grant Fund, Solid Waste Fund, Capital Improvement Program; Establishing Civil Service classifications and positions; and providing for a savings clause.**

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 A. Overall increase of \$2.45 million to be funded with Certificate of Obligation bonds.
4. Approve the required Civil Service positions as referenced in Attachment B as required by Civil Service Code and as originally adopted in the FY 2006-07 Operating Budget. Included in this table for the Police Department is the reclassification of six positions from the rank of Police Officer to three corporals and three sergeants. This will allow the Police Department to provide command staffing for the recently hired Police Officers.

**FISCAL IMPACT**

Included in item summary.

Staff recommended approval if the second reading of this ordinance.

- 5.8. This item was passed in the consent agenda and then reconsidered in regular agenda following Item 5.9.
- 5.9. This item was moved from consent agenda to regular agenda and considered following Item 5.24.
- 5.10. This item was moved from consent agenda to regular agenda and considered following Item 5.8.
- 5.11. **Interlocal Agreement Resolution - Information Technology: Resolution No. 2007-0023 authorizing the Mayor to execute an Interlocal Agreement with Lubbock-Cooper Independent School District (CISD) adding the CISD Police to the City's 800MHz Radio System.**

The City installed an 800MHz Radio System in 1995 that supplies communications to the City's Public Works and Public Safety Departments, Lubbock County Sheriff's Department, Emergency Medical Services (EMS), Red Cross, and Lubbock Independent School District.

Lubbock-Cooper Independent School District (CISD) Police needs to communicate with other Public Safety Agencies and is requesting to subscribe to the City's radio system and to purchase five radios. This will enhance communications within CISD's Police Department as well as other public safety agencies.

#### **FISCAL IMPACT**

This agreement will add five radios to Radio Shop system, and will increase estimated revenue to the Radio Fund by \$1,630 annually.

Staff recommended approval of this resolution.

- 5.12. **Memorandum of Understanding Resolution - City Manager: Resolution No. 2007-R0024 authorizing the Mayor to execute a Memorandum of Understanding defining roles and responsibilities of the City of Lubbock and the Lubbock Metropolitan Planning Organization.**

The Lubbock Metropolitan Planning Organization (MPO) and the City of Lubbock currently have a Memorandum of Understanding outlining the roles and responsibilities of each entity as they relate to the Lubbock MPO. The Memorandum of Understanding has been reviewed and updated to codify current operating procedures between the City and the Lubbock MPO.

The Lubbock MPO is the organization that is responsible for the cooperative, comprehensive, and continuing transportation planning process for the Lubbock metropolitan area. MPOs are required by federal law to be established within urban areas that have a population of 50,000 or greater (U.S. Title 23 as amended by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users.

MPOs are governed by a Transportation Policy Committee. The committee for the Lubbock MPO includes representatives from the City of Lubbock, City

of Wolfforth, Lubbock County, the Texas Department of Transportation, and Citibus.

The purpose of this Memorandum of Understanding is to define the fiscal, personnel, and property management roles and responsibilities between the MPO and the City.

The Lubbock MPO Transportation Policy Committee recommended approval of the Memorandum of Understanding.

#### **FISCAL IMPACT**

The "soft" cost of providing administrative services is budgeted as part of the Adopted FY 2006-07 Operating Budget. The MPO pays the full cost of the internal services in which they participate.

Staff supports the recommendation of the Lubbock MPO Transportation Policy Committee and recommended approval of this resolution.

- 5.13. Property Insurance Ratification Resolution - Risk Management: Resolution No. 2007-R0025 ratifying the purchase of property insurance coverage for Montford Dam from ACE Fire Underwriters Insurance Company.**

The City's Broker of Record solicited quotations from various insurance companies that either could not support the entire policy, or were not interested because of the specialized nature of the insured item, the Montford Dam.

ACE Fire Underwriters Insurance Company provided a renewal quote at the same rate as the expiring policy. The total value of the Montford Dam with all improvements was increased by 3.7% to \$71,677,440 as an inflationary adjustment for cost of materials and labor. Therefore, the premium for \$50 million in property coverage insurance is also up by 3.7% from \$131,369 to \$144,506. The broker was also able to negotiate a flat \$2 million per occurrence deductible which is improved from the 5% wind and flood deductible on the expiring policy.

#### **FISCAL IMPACT**

Cost of the premium will be paid from the Water Utilities Enterprise Fund and is budgeted in the Adopted FY 2006-07 Operating Budget.

Staff recommended approval of this resolution.

- 5.14. This item was moved from consent agenda to regular agenda and considered following Item 5.10.**
- 5.15. Contract Resolution - Emergency Management: Resolution No. 2007-R0026 authorizing the Mayor to execute a purchase order contract with Aluma Tower Company for a regional portable radio mobile crank-up tower, RFP 06-092-RW.**

This item is for the purchase of a 75-foot trailer mounted aluminum crank-up tower to be used in conjunction with the Regional Mobile Command Vehicle. The mobile tower is being purchased with Homeland Security funds and will enhance the City's response to our region and assist in meeting interoperability requirements from the State of Texas.

The evaluation committee used the basic evaluation methods in the City Purchasing Department's Evaluation Procedures for High Technology Procurement. The evaluation criteria in the RFP included: 1) price of equipment and parts (50%), 2) vendor qualification and experience (25%), and 3) delivery time (25%). Proposals were received from the following firms and were ranked as follows:

Aluma Tower Company, Inc. of Vero Beach, FL	95
BearCom Operating LP of Dallas, TX	85

#### **FISCAL IMPACT**

\$48,975 is available for this purchase through the Homeland Security Grant Program.

Staff recommended contract award to Aluma Tower Company of Vero Beach, Florida for \$48,975.

**5.16. Contract Resolution - Business Development: Resolution No. 2007-R0027 authorizing the Mayor to execute a settlement agreement between Frito Lay, Inc. and Market Lubbock Inc. to resolve and settle the incentive payback commitments made to the City of Lubbock and Market Lubbock Inc. on December 19, 2002.**

On December 19, 2002, the City of Lubbock, Market Lubbock, Inc. and Frito Lay, Inc. entered into an incentive agreement, in which Frito Lay agreed to invest \$6 million in facility upgrades, including \$2.5 million for the installation of a wastewater primary clarifier system, and to maintain an annual payroll of \$9.5 million at the Lubbock plant from January 1, 2003 to January 1, 2010.

In this agreement, Market Lubbock agreed to provide economic development grants to Frito Lay as a job retention incentive and the City agreed to grant tax abatement and to provide Frito Lay with credits for wastewater surcharges in 2002, 2003, and 2004 to be applied against Frito Lay's annual bill for wastewater discharge. In this agreement, Frito Lay agreed that if they failed to maintain the agreed upon annual payroll of \$9.5 million until January 1, 2010, that Frito Lay would pay the City \$13.18 for every \$1,000 that the annual payroll was less than the agreed payroll.

Frito Lay closed the Lubbock plant on December 15, 2006 and will not be able to maintain the payroll to which they agreed in 2002. The City and Frito Lay would like to resolve and settle the incentive and payback commitments made to the City by Frito Lay in the 2002 agreement by:

- Allowing the estimated payroll that will be generated by the new manufacturing operation that will occupy the Frito Lay manufacturing facility to be used to pay down the commitment of Frito Lay in the 2002 agreement.
- Frito Lay will pay to the City \$171,224 with the signing of the agreement. This is the difference in the average estimated annual payroll to be generated by the new company over the three year period and the amount of the annual payroll commitment by Frito Lay in the 2002 agreement.

With this contract, the City agrees to accept the \$171,224 in satisfaction of all remedies and recapture penalties for noncompliance with the December 21, 2002, wastewater system agreement and the November 26, 2002 tax abatement agreement.

### **FISCAL IMPACT**

The \$171,224 will be returned to the Wastewater and Water Funds balance.

Staff recommended approval of the contract.

**5.17. Contract Resolution - Finance: Resolution No. 2007-R0028 authorizing the Mayor to execute a contract with Dannenbaum Engineering Corporation to provide professional services for Pass-Through Financing negotiations with TxDOT.**

This contract will engage Dannenbaum Engineering to perform engineering services for the purpose of preparing a detailed preliminary construction cost estimate to construct previously approved roadway improvements as part of the Northwest Passage. They will also assist the City in preparing the Pass-Through Financing Agreement documents. This will include meeting attendance and coordination with the City along with assistance in the preparation of the Agreement attachments. Dannenbaum will provide consultation, advice, and assistance to the City in negotiating the Agreement with TxDOT.

Pass-Through Financing is a TxDOT program enabled by House Bill 3588 and is a new financing tool the state created to allow local communities to fund upfront costs for building a state highway project. The state partially reimburses the community over time by paying a fee for each vehicle that drives on the new highway. On December 14, 2006, the TxDOT Commission approved a resolution allowing TxDOT to enter into negotiations with the City on a Pass-Through Financing Program that includes the following regional highway improvements:

- I. Widen Loop 289 to six lanes from Frankford Avenue to U.S. 84. Lanes will be 12 feet in width and will be divided by a concrete traffic barrier. The project will also include the addition of entrance and exit ramps as well as modification to the existing ramps to better accommodate traffic patterns.

- II. Widen 4th Street (FM 2255) under Loop 289 from four lanes to six lanes with left turn lanes, continuing that section on both sides of Loop 289. The project includes the construction of a new bridge on Loop 289 to accommodate the additional lanes.
- III. Construct a new grade separated interchange that will allow Erskine Street to pass under Loop 289 and the traffic patterns in this area to be improved with additional modifications.

This program allows local communities to finance and complete transportation projects faster than the traditional state program could accomplish. This program benefits the community by receiving funds from the state as travelers use the new project. If use of the facility is high, the state will repay at a faster rate. If traffic is lower than projected, repayment will occur over a longer period. Either way, the state pays for a portion of the project.

Benefits of this program include:

- a) Pass-through toll financing speeds up transportation project construction by allowing local communities to fund their own projects, knowing they will be partially reimbursed by TxDOT.
- b) Reimbursements are made based on use of the project. However, if traffic volume is less than projected, the term of the agreement will be extended until reimbursement is made.
- c) Reimbursements can be for more than the current project estimate if TxDOT determines that there will be a financial benefit to the state by building a project sooner.
- d) If a project comes in under budget, the project developer is not required to repay TxDOT the difference between the actual costs and the amount of the designated agreement.

#### **FISCAL IMPACT**

The fee for this service is not to exceed \$64,952 and can be included in the total project cost that is eligible for reimbursement. The current estimated cost of completing the eligible on-system improvements is approximately \$90 million. This figure includes construction, engineering, construction supervision, and right-of-way costs. All costs are eligible for reimbursement with the exception of right-of-way. Immediate funding for this contract will be through the Gateway Streets Fund.

Staff recommended approval of this resolution.

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

**5.19. Contract Resolutions - Solid Waste: Resolution No. 2007-R0029; Resolution No. 2007-R0030 authorizing the Mayor to execute letter agreements with Commercial Metals and Jarvis Metals for the sale of scrap metal generated at various municipal facilities, BID 06-076-RW.**

This contract establishes annual pricing for the sale of ferrous and non-ferrous scrap metal accumulated at citizen drop-off stations, landfills, and the Central Warehouse. Items include kitchen appliances, water meters, copper wire, old light poles, aluminum, and tin cans. Bid prices are quoted for various categories of scrap metal as a fixed amount either above or below the Consumer Buying Price High of the Houston market price as quoted in the American Metal Market on the date of delivery. In order to ensure adequate coverage for remote locations, the City solicited all-or-none bids as follows:

- Scrap metal delivered to the contractor's yard from the West Texas Disposal Facility at 17304 North FM 2528.
- Scrap metal picked up by the contractor from the City Warehouse at 306 Municipal Drive.
- Scrap metal delivered by the City to the contractor from the Southside Drop-off at 1631 84th Street.

In determining the highest revenue offered for scrap metal delivered by the City to the contractor from locations within the city limits and from the West Texas Regional Disposal Facility, the location of the contractor's facility affects transportation costs. For evaluation purposes, the bids were tabulated using a distance factor of \$3 per loaded mile (one way), with an average load of five tons, and using the Consumer Buying Price as quoted in the American Metal Market in effect on the close date of the bid. The distance factor was deducted from the amount of revenue bid as the cost of delivering the materials to the contractor. The bid tabulation is provided.

Bid award for scrap metal picked up by the Contractor is based on the best net revenue and/or least cost to the City. For evaluation purposes, the bids were tabulated using the Consumer Buying Price as quoted in the American Metal Market in effect on the close date of the bid. The bid tabulation is provided.

**FISCAL IMPACT**

Sale of scrap metal is a revenue source for departments that generate, accumulate, and recycle scrap metal. The actual revenue amount will depend on the quantity of scrap metal and the Consumer Buying Price on the date of delivery.

Staff recommended bid award to Commercial Metals of Lubbock, Texas for the sale of scrap metal delivered to the contractor's yard from the West Texas Disposal Facility and the sale of scrap metal picked up by the contractor from the City Warehouse, and bid award to Jarvis Metals of Lubbock, Texas for the sale of scrap metal delivered by the City to the contractor from the Southside Drop-off.

- 5.20. Contract Resolution - Traffic: Resolution No. 2007-R0031 authorizing the Mayor to execute an agreement with Texas Department of Transportation for furnishing and installing traffic signal equipment for the Marsha Sharp Freeway Phase 3-B (Chicago to Salem).**

This agreement will create a force account with TxDOT to pay the City for furnishing traffic signal equipment for temporary and permanent traffic signals between Chicago Avenue and Salem Avenue for the construction of Marsha Sharp Freeway Phase 3-B. This agreement will fund the cost of keeping the traffic signals coordinated during all phases of the construction. It also allows the traffic signal equipment at the Marsha Sharp Freeway to be fully integrated into the City's traffic signal system.

**FISCAL IMPACT**

The \$99,591 cost of this project will be funded through the revenue from this agreement. TxDOT will fully fund this project.

Staff recommended approval of this resolution.

- 5.21. This item was moved from consent agenda to regular agenda and considered following Item 5.18.**

- 5.22. Contract Amendment Resolution - Health: Resolution No. 2007-R0032 authorizing the Mayor to execute Contract Amendment No. 003A to Contract No. 2007-021282 (Legacy Contract No. 7560005906-2007-03) with the Texas Department of State Health Services for funding a Health Outreach Position.**

This contract amends Legacy Contract No. 7560005906-2007-03 between the City of Lubbock Health Department and the Department of State Health Services (DSHS) originally approved by Council on September 13, 2006, with Resolution No. 2006-R0438. The current contract No. 2007-021282 replaces the Legacy Contract No. 7560005906-2007-03. This amendment adds additional funds to implement innovative immunization promotion strategies and to fund one full-time employee ImmTrac/PICS Outreach Specialist staff.

A partial listing of the new activities associated with the additional ImmTrac/PICS Outreach Specialist staff includes:

- Increase vaccination coverage levels among children 19 through 35 months of age in the Lubbock service areas from the level measured by the DSHS and reported to be 21%.
- Transition 100% of enrolled Texas Vaccine for Children (TVFC) providers to the Pharmacy Inventory Control System (PICS) according to the schedule provided by the DSHS Program.
- Present ImmTrac information to providers, schools, and other community groups.

The contract term and the budget period is September 1, 2006 through August 31, 2007.

### **FISCAL IMPACT**

The amended contract amount of \$198,485 is \$60,221 more than originally budgeted. The additional funds will support the full cost of one additional grant funded full-time employee.

Staff recommended approval resolution.

**5.23. Contract Amendment Resolution - Health: Resolution No. 2007-R0033 authorizing the Mayor to execute Contract Amendment No. 10 to Contract No. 7560005906 2006 with the Texas Department of State Health Services for funding bioterrorism and public health preparedness.**

Council last amended the CPS-Bioterrorism Preparedness contract on September 13, 2006, with Resolution No. 2006-R0436. The past contract amendment increased the total amount by \$174,659 to a total of \$642,605 and extended the term of the contract from December 31, 2006 to August 31, 2007.

Amendment No. 10 increases the contract by \$295,824 to a new total of \$938,429 by adding Round 2 of Pandemic Flu Program (\$138,483) and the remainder of the base funding for Public Health Preparedness Program for FY 2006-07 (\$157,341) to the contract. The budget period ending remains the same through August 31, 2007.

The additional funding provides salary and benefits for six existing full-time positions, provides funds for training and travel, supplies, contractual funding for a pharmacist, and other expenses. One of the six funded positions (Strategic National Stockpile Planner) is currently vacant and can now be filled with the funding issues resolved.

A copy of the approved FY 2007-2010 Local Public Health Emergency Preparedness Workplan is attached (Exhibit B). A copy of the Project Period Pandemic Influenza Workplan for FY 2007-2009 is also attached (Exhibit C).

This program will assist Lubbock's efforts in developing a bioterrorism preparedness plan that addresses selected focus areas and the required critical capabilities. The focus areas or major outcomes being addressed in FY 07 include all hazards planning, information collection and threat recognition, laboratory testing, health intelligence integration and analysis, public health epidemiological investigations, emergency response communications, emergency public information, responder health safety, isolation and quarantine, mass prophylaxis and vaccination, medical surge, mass care, environmental health, economic and community recovery, and planning.

Bioterrorism Preparedness is one of the essential public health services that no other entity in Lubbock can provide. Essential public health services are population-based and are geared towards protecting the health of the public as a whole. Bioterrorism preparedness activities are public health efforts and are not health services for the needy or other select groups of people—they serve everyone and benefit the whole population. Essential public health services, or

the lack of it, have the potential to affect every single person in Lubbock and Texas.

**FISCAL IMPACT**

Change No. 10 increases the contract by \$295,824 to a new total of \$938,429 by adding Round 2 of Pandemic Flu Program (\$138,483) and the remainder of the base funding for Public Health Preparedness Program for FY 2006-07 (\$157,341) to the contract. There is no anticipated impact to the General Fund.

Staff recommended approval of this resolution.

**5.24. Contract Amendment Resolution - Airport: Resolution No. 2007-R0034 authorizing the Mayor to execute Change Order No. 1 to a contract with Duinck Brothers, Inc. for additional work on the Airport Terminal Parking Lot Renovation project.**

Except for a few final punch list items still under construction, the Parking Lot Renovation project is finished and operations are back to normal. As with any major construction project, during the course of construction, bid quantities change and additional work items become apparent. A change order is the accepted methodology to accommodate these changes.

Change Order No. 1 contemplates four action items which are detailed below:

1. Presents final constructed quantity adjustments for all bid items. In that regard, the project will have a \$21,341.40 credit on Base Bid changes and a \$42,273 credit on all Alternate Bid changes for a total savings to the project of \$63,614.40.
2. Assesses liquidated damages accumulated during each phase of construction. \$107,100 has accrued to the project as a result of these changes.
3. Authorizes additional work items. The additional work includes:

Truss extension @ exit 1 & 2	\$3,000
Installation of wheel stops	2,458
Chain link fence removal	7,425
Additional pipe rail fence	35,700
Stairwell replacement @ covered parking	60,000
Stucco @ exit booths	10,000
Substitute 10' barrier for 30' barrier	4,750
8 additional loop detectors	4,800
3 additional safety bollards	1,800
Repair damaged pipe rail	1,100
Replace vault lid	1,127
<b>TOTAL ADDITIONAL WORK ITEMS</b>	<b>\$132,160</b>

4. Releases all the retainage that has been withheld on all work items that have been satisfactorily completed prior to final payment. Retainage equal to the value of all outstanding work of \$2,000 to be completed will continue to be withheld until the work is complete.

In summary, the proposed Change Order No. 1 authorizes additional work on the Parking Lot project. It also funds the additional work with savings that resulted from final adjusted bid quantities and liquidated damages that accrued to the project and returns a net savings to the project of \$38,554.40. The time allowed to complete the additional work is 120 days and liquidated damages for the additional work are specified at \$776 per day for each day beyond the allotted 120 days.

#### **FISCAL IMPACT**

Change order no. 1 will result in a \$38,554 savings in Capital Project 90403, Terminal Parking Lot Renovation.

The Airport Board and staff recommended approval of this resolution.

- 5.25. This item was moved from consent agenda to regular agenda and considered following Item 5.21.**

#### **6. REGULAR AGENDA (continued)**

**Note: Regular Agenda items and Consent Agenda items moved to Regular Agenda are listed in the order they were addressed (Items 5.9, 5.8, 5.10, 5.14, 5.18, 5.21, 5.25, 6.2-6.6).**

- 5.9. Reimbursement Resolution - Finance: Resolution No. 2007-R0035 expressing intent to finance expenditures to be incurred.**

It is anticipated that the City will issue bonds in late spring/early summer 2007 to fund various projects that were identified by the Citizens Advisory Committee in association with the bond election that was approved by Lubbock voters in May 2004. The projects that will be included in this bond issuance have been approved by the City Council in the FY 2006-07 Capital Improvement Program Budget. These projects are identified on Exhibit A.

It is also anticipated that the City will issue bonds in late spring/early summer 2007 to fund various projects that were approved by the City Council in the FY 2006-07 Capital Improvement Program Budget. These projects are listed on Exhibit B.

For authorized construction projects, there may be design and engineering costs incurred prior to delivery of the bond proceeds in order that the projects may be completed within prescribed timeframes. The City must declare its intent to reimburse bond-funded construction costs that are incurred prior to the bond issuance for the costs to be eligible for reimbursement with bond proceeds.

**FISCAL IMPACT**

This resolution allows reimbursement of authorized costs incurred in advance of the bond issuance in order that the projects may be completed within prescribed timeframes. The total amount of projects to be funded by general obligation bonds is \$7,019,000 and the total amount of projects to be funded by certificates of obligation is \$55,654,198.

Staff recommended approval of this resolution.

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

Motion was made by Council Member Jones, seconded by Council Member Price to pass Resolution No. 2006-R0035 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

At this time, motion was made by Council Member Leonard, seconded by Mayor Pro Tem Gilbreath to reconsider Item 5.8, which had been approved as part of consent agenda. Motion carried: 7 Ayes, 0 Nays.

**5.8. Master Lease Resolution - Finance: Resolution No. 2007-R0036 approving equipment to be purchased as part of the Master Lease Program for FY 2006-07.**

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

This resolution will approve the list of equipment shown on Exhibit A.

**FISCAL IMPACT**

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

Staff recommended approval of this resolution.

Lee Ann Dumbauld, City Manager; Jeff Yates, Chief Financial Officer; Mark Yearwood, Assistant City Manager; Andy Burcham, Fiscal Policy and Strategic Planning Director; Victor Kilman, Director of General Services; Dale Holton, Assistant Police Chief; and Leslie Cox, Communications Analyst, gave comments and answered questions from Council.

Council Member Price asked to be provided with detailed specifications for the LP&L trucks. Mayor Miller asked that Council be updated quarterly, once the vehicles have been purchased, on the actual amounts spent.

Motion was made by Council Member Leonard, seconded by Council Member DeLeon to pass Resolution No. 2006-R0036 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**5.10. Lease Agreement Resolution - Health Benefits: Resolution No. 2007-R0037 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.**

The City entered into an agreement with Covenant Medical Group and Covenant Health System to operate a City of Lubbock on-site clinic for use by members of the City's health care plan. Pursuant to the agreement, the City is required to provide an appropriate location for the operation of the clinic. The City was unable to obtain the lease at the 1606 Avenue N clinic location and needs to provide an alternate location.

Covenant Health System is the owner of a health clinic located at 3620 I-27 and desires to lease 1,368 square feet of the clinic to the City for the purpose of operating the City of Lubbock on-site clinic. The cost of the lease is \$18.80 per square foot per year which is equivalent to \$2,143.20 per month and \$25,718.40 annually. This rate includes cost of utilities, janitorial services, interior and exterior maintenance, and insurance.

The location of this lease is convenient for members of the City's health plan.

**FISCAL IMPACT**

The annual cost of the lease is \$25,718. Funds are budgeted and available in the Adopted FY 2006-07 Health Benefits Operating Budget.

Staff recommended approval of this resolution.

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

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass Resolution No. 2006-R0037 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**5.14. Contract Resolution - Emergency Management: Resolution No. 2007-R0038 authorizing the Mayor to execute a Memorandum of Understanding with Lubbock County and Lubbock Hospital District to hire a consultant as it relates to a combined communications center.**

This resolution authorizes the City to partner with the County and the Hospital District to hire a consultant to explore options of combining resources in order to establish and maintain a combined communications center for greater efficiency, the elimination of service duplications, greater cost savings, and better use of new technology.

**FISCAL IMPACT**

The consultant will be hired jointly by the City, Lubbock County, and Lubbock Hospital District. The City will fund 50%, with the County and Lubbock Hospital District each funding 25%. The total estimated contract amount will be \$100,000 with the City's estimated contribution of \$50,000. The City's contribution will be funded through the MMRS grant.

Staff recommended approval of this resolution.

Kevin Overstreet, Emergency Operations Center Director; Lee Ann Dumbauld, City Manager; Bill McCay, Lubbock County Commissioner, Precinct 1; Dale Holton, Assistant Police Chief; Rhea Cooper, Interim Fire Chief; Paul Scarborough, Lubbock County Sheriff-Chief Deputy; and John Geist, Vice President of Corporate Compliance at University Medical Center, gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Jones to pass Resolution No. 2006-R0038 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**5.18. Contract Resolution - Public Information: Resolution No. 2007-R0039 authorizing the Mayor to execute a contract with Lubbock Audio Visual, Inc. for purchase and installation of cameras and related equipment, RFP 06-049-RW.**

This contract involves replacement of old analog equipment for Channel 2 with digital equipment. This equipment includes new cameras in both the City Council Chamber and Committee Room 103, as well as related equipment needed in the Channel 2 studio to run the cameras and record meetings in both rooms.

Existing cameras in the City Council Chamber and Committee Room 103 were installed in 1999 and are security cameras, exactly like those found in a convenience store. The expected life span on the camera gyroscopes is 3 to 4 years with a total maximum camera life expectancy of 7 years. There is a danger that these cameras could fail at any time and jeopardize the recording of City Council meetings. The new cameras are broadcast quality and will enhance on-air viewing by Lubbock residents.

**FISCAL IMPACT**

The \$150,000 will be funded through the City's Master Lease Program, with annual payments made from Information Technology Fund.

Staff recommended contract award to Lubbock Audio Visual of Lubbock, Texas for \$149,593.

Mark Yearwood, Assistant City Manager; Jeff Yates, Chief Financial Officer; and Victor Kilman, Director of General Services, gave comments and answered questions from Council. Mayor Miller asked that, in the future, along with the bids, there be a price comparison included in Council backup.

Motion was made by Council Member Price, seconded by Council Member DeLeon to pass Resolution No. 2006-R0039 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**5.21. Contract Amendment Resolution - Traffic: Resolution No. 2007-R0040 authorizing the Mayor to execute Amendment No. 1 to the Advanced Funding Agreement with the Texas Department of Transportation for the design and construction of an Intelligent Transportation System within the city limits of the City of Lubbock.**

The original agreement was approved by the City Council on November 4, 2004. The concept for this project was also included in the Regional ITS Architecture and Deployment Plan approved by City Council on June 23, 2005. Amendment #1 increases the budget for Phase 1 by \$190,886, and adds \$171,008 for Phase II funding. Phase II Fiber Optic Integration provides for a jointly funded fiber optic network project from Municipal Square to the TxDOT District Office along Avenue Q, with the route going through City Hall, and adds connections to I-27 along 19th, 34th, and 50th Streets replacing the 24 year old traffic signal copper cable.

The Fiber Optic Network Sharing Agreement approved by City Council in November 2006 allowed the sharing of the cable with TxDOT, and this amendment provides the funding. The original project approved November 4, 2004, was based on a preliminary estimate. The costs have increased primarily due to rock excavation where Phase 1 crosses the Marsha Sharp Freeway near Buddy Holly Avenue. The City's cost has been capped at the amount of the current capital project funding.

**FISCAL IMPACT**

This amendment to the advance funding agreement with TxDOT adds an additional \$361,894 of funding for the Intelligent Traffic System (ITS). Funding for the ITS is appropriated in the Adopted FY 2006-07 through FY 2010-11 Capital Improvement Program. The following budget amendments will take place with the adoption of Budget Amendment No. 6 to establish the proper funding for this partnership.

Amend Capital Improvement Project #90379, Signal System Communications, which is the first phase of the Intelligent Traffic System (ITS) capital project from the 2004 bond election. TxDOT is providing an additional \$190,886 for construction costs. This funding, along with a \$34,000 transfer from the second phase of the project (CIP project #91100, Signal Communication Phase 2), will provide a total appropriation of \$374,886. The transfer of funding is necessary to purchase splicing equipment needed for both phases of the project. This equipment was not eligible for TxDOT funding.

Amend Capital Improvement Project #91100, Signal System Communications Phase 2, which is the second phase of the Intelligent Traffic System (ITS) capital project from the 2004 bond election. As part of the advance funding agreement, TxDOT is funding \$171,008 of construction costs. The additional funding and the transfer increases the total appropriation for this phase to \$382,101.

Staff recommended approval of this resolution.

Jere Hart, Traffic Engineer, gave comments and answered questions from Council.

Motion was made by Council Member Price, seconded by Council Member DeLeon to pass Resolution No. 2006-R0040 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**5.25. Application Resolution - Environmental Compliance: Resolution No. 2007-R0041 authorizing the Mayor to execute Part A Hazardous Waste Permit Application; Part B Hazardous Waste Permit Application; Compliance Plan Renewal Application; and Permit Modifications for Property Transfers, regarding the former Reese Air Force Base.**

The City acquired ownership of certain real property within the boundaries of former Reese Air Force Base (the "Base"). The Base contains significant areas of contamination and is now under remediation activities dictated by regulatory agencies. As an owner of real property in the Base, the City is required to execute permit amendments and compliance plans.

As an owner of real property containing contamination, issues regarding liability and remediation responsibilities may have arisen at the time of acquiring title to the subject property.

Part A Hazardous Waste Permit Application, Part B Hazardous Waste Permit Application, Compliance Plan Renewal Application, and Permit Modifications for Property Transfers are provided in supplemental agenda backup available in the City Secretary's Office.

**FISCAL IMPACT**

No fiscal impact is anticipated.

Staff recommended approval resolution.

Dan Dennison, Environmental Compliance Manager, gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Jones to pass Resolution No. 2006-R0041 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**10:55 A.M. CITY COUNCIL RECESSED**

**11:00 A.M. CITY COUNCIL RECONVENED**

**6.2. Ordinance Amendment 2nd Reading - Water Utilities: Ordinance No. 2007-O0010 Consider an ordinance 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 providing these services. In addition to the cost of service issues, the study also proposed a change to the Average Winter Consumption (AWC)

Regular City Council Meeting  
January 25, 2007

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 in this ordinance 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. After discussions were had on average water consumption and rate structure, Council Member Jones asked Mr. Adams to also look at how the average water consumption during the months of September through December would affect the rate structure.

Motion was made by Council Member Leonard, seconded by Mayor Pro Tem Gilbreath to continue this item until the February 6, 2007 Regular City Council meeting. Motion carried: 7 Ayes, 0 Nays.

### **6.3. Ordinance Amendment 2nd Reading - Water Utilities: Ordinance No. 2007-O0011 Consider ordinance 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 providing these 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 in this ordinance 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 second and final reading Ordinance No. 2006-O0011 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

At this time, Council Member Boren gave recognition to City Secretary Rebecca Garza and her staff. Boren went on to say that she has been the City Secretary since 2001; a Texas registered Municipal Clerk, certified in 2003; an instructor at the 2007 Election Law Seminar for Municipal Clerks; co-author of Chapter 15 of Professional Etiquette and Protocol in Texas Clerk's Handbook, Eighth Edition; serves on the Certification Committee of Texas Municipal Clerks Association, and has also served on the Finance Committee. Ms. Garza has become an expert in election law issues and open government. Ms. Garza gave comments and recognized her staff, including Tommy Combs, Deputy City Secretary, and Assistants to the City Secretary Linda Hart, Jane McDaniel, and Stephanie Lee.

**6.4. Ordinance Amendment 2nd Reading - Police: Ordinance No. 2007-O0012 Consider an ordinance 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 City's 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 which the Fifth Circuit scrutinized and upheld as lawful.

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**

No fiscal impact is anticipated.

Staff recommended and requests the City Council express its approval and support for the proposed ordinance.

City Attorney Anita Burgess stated she caused to be delivered to the Council secondary impact studies with regard to the sexually oriented businesses, as well as a statement from Detective Bill Bates for Council's consideration. Ms. Burgess asked that the two documents be appended to the record to show that they were placed with Council for the opportunity to review them. Mayor Miller asked City Secretary Rebecca Garza to place the documents in record.

Motion was made by Council Member Jones, seconded by Council Member Leonard to pass on second and final reading Ordinance No. 2006-00012 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.5. Contract Resolution - Traffic: Consider a resolution authorizing the Mayor to execute a contract with Redflex Traffic Systems, Inc. for an automated red light camera enforcement program, RFP 06-089-RW.**

On December 19, 2006, City Council determined that an automated red light camera enforcement program is an effective deterrent to disregarding red light signals in the City and enacted an automated red light camera enforcement ordinance to regulate traffic by means of traffic control devices for the protection of the health, life, and property of Lubbock citizens (Ordinance 2006-O0131). U.S. Department of Transportation and Texas Transportation Institute statistics indicate that fatal automobile accidents at intersections with traffic signals increased by 13 percent between 1993 and 2003 and that the number of persons killed or injured as a result of red-light running accidents in Texas increased 79 percent between 1975 and 1999. Certain intersections within the City are subject to a high proportion of drivers disregarding red light indications based on information supplied by the Citizens Traffic Safety Commission and the City's Traffic Engineering Department. When a motor vehicle facing a steady red indication for its direction of travel proceeds into the intersection regardless of the signal, such action endangers the occupants of that vehicle, the occupants of other vehicles and pedestrians, and such action further interferes with the traffic flow through the intersection and increases the number of accidents to which public safety personnel must respond at the expense of the City taxpayers.

The City solicited proposals to furnish, deliver, install, maintain, upgrade, operate, and repair a city-wide digital automated red light enforcement program operating 24 hours a day, 7 days a week, 365 days a year. The purpose of the program is to provide safety on public streets by the enforcement of red light violations.

The evaluation committee included Municipal Court Judge Robert Doty, Assistant City Manager Mark Yearwood, Assistant City Manager James Loomis, Assistant City Engineer Marsha Reed, City Traffic Engineer Jere Hart, and Citizens Traffic Commission representative Lubbock Police Department Sergeant Mike Steen. Proposals were evaluated using the criteria published in the Request for Proposal as required by Local Government Code 252.042(a). The evaluation criteria included: 1) back office performance and overall customer services including financial reports and tracking (15%); 2)

Overall cost of the program (25%); 3) technology and hardware performance and conformance to technical specifications (15%); 4) experience and success on current and past projects, ratio of violations to citations issued, and ratio of citations issued to citations collected (10%); project termination plan including any costs to the City (10%), and implementation plan (including timeline), good faith effort plan, and public information plan (25%). Proposals were received from the following firms and were ranked as follows:

Redflex Traffic Systems, Inc. of Scottsdale, Arizona	88
American Traffic Solutions, Inc. of Scottsdale, Arizona	83
ACS State & Local Solutions, Inc. of Washington, D.C.	76
Nestor Traffic Systems, Inc. of Providence, Rhode Island	50

The evaluation committee interviewed representatives from the top two ranked companies on December 18, 2006, and the proposal from Redflex Traffic Systems, Inc. was determined to be the most advantageous and was selected for contract negotiation. The contract term is for five years after the date of installation with an option to extend the term for up to three additional consecutive two-year periods. The contract includes all necessary services except police review and approval, adjudication hearing officer and location, municipal court judge appeal, and media public service announcement play cost. The number of cameras is to be determined by the City. Cameras will be installed at 12 designated intersection approaches initially, and the contract allows up to 24 intersection approaches. All locations will be reviewed and approved by the Citizens Traffic Commission, Traffic Engineering Department, and the Lubbock Police Department. Prior to the installation date of the Photo Red Light Program, the contract requires Redflex Traffic Systems to open and maintain a local customer service office for walk-in payment of fines and a local mailing address in the Lubbock metropolitan area to accept payment by mail.

The City may terminate the contract immediately if (i) state or local statutes are amended to prohibit or substantially change the operation of photo red light enforcement systems; or (ii) any court having jurisdiction over the City rules, or a state or federal statute or judicial decision declares, that results from the Redflex System of photo red light enforcement are inadmissible in evidence.

#### **FISCAL IMPACT**

The City will be invoiced \$4,780 per month for each designated intersection approach. The City's obligation to pay the monthly amount will be limited to those revenues generated by the program, collected by Redflex, and received by the City. If there is insufficient revenue in any month to pay the monthly invoice, the deficit in payment to the contractor will be carried to the next month and so forth for the life of the contract.

Staff recommended contract award to Redflex Traffic Systems, Inc. of Scottsdale, Arizona.

Jere Hart, Traffic Engineer; Victor Kilman, Director of General Services; Lee Ann Dumbauld, City Manager; Marsha Reed, Civil Engineer, and City Attorney Anita Burgess gave comments and answered questions from Council.

Points of discussion from Council included American Traffic Solutions (ATS) being the low bidder and the most advantageous to the City, considering the relative importance of price and the other evaluation factors, such as availability of local representatives. After further discussion, consensus from Council was to go ahead and vote on this item and negotiate a contract, instead of bringing all offerors back with a contract.

Council Member Leonard requested to include as part of the contract that the City would retain control of the timing of the lights, there would be no minimums or quotas be placed on the City for the numbers of citations issued, there would be an "out" for the City, in case legislature bans the cameras, and that the City of Lubbock retains full ownership of videos taken at the lights.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price finding that the proposal of American Traffic Solutions, Inc. of Scottsdale, Arizona was the most advantageous to the City of Lubbock, considering the relative importance of price and other factors. Motion carried: 4 Ayes, 3 Nays. Mayor Miller and Council Members Jones and Leonard voted Nay.

Note: Action taken on this item is recorded as minuted action; therefore, a resolution document does not exist.

**6.6. Budget Amendment Ordinance 1st Reading - Finance: Ordinance No. 2007-O0013 Amendment No. 6 amending the FY 2006-07 budget respecting the General Fund, Special Revenue Fund (Community Development), Grant Fund, and Capital Improvement Program.**

1. Amend Capital Improvement Project #90379, Signal System Communications, which is the first phase of the Intelligent Traffic System (ITS) capital project from the 2004 bond election. TxDOT is providing an additional \$190,886 for construction costs through an advance funding agreement as a partner with the City in the ITS program. This funding, along with a \$34,000 transfer from the second phase of the project (CIP project #91100, Signal Communication Phase 2), will provide a total appropriation of \$374,886. The transfer of funds is necessary to purchase splicing equipment needed for both phases of the project. This equipment was not eligible for TxDOT funding. This budget amendment makes the necessary appropriations and transfers to amend this project.
2. Amend Capital Improvement Project #91100, Signal System Communications Phase 2, which is the second phase of the Intelligent Traffic System (ITS) capital project from the 2004 bond election. As part

of the advance funding agreement, TxDOT is funding \$171,008 of construction costs with the City as a partner in the ITS program. The additional funding and the transfer shown in Item 1, increases the total appropriation for this project to \$382,101. This budget amendment makes the necessary appropriations to amend this project.

3. Establish a new Capital Improvement Project Traffic Signals – Marsha Sharp 3-B and appropriate \$99,591 from a TxDOT advance funding agreement, with estimated revenues increased accordingly. TxDOT will pay the full cost for the City to furnish traffic signal equipment for temporary and permanent traffic signals between Chicago and Salem during the construction of Marsha Sharp Freeway Phase 3-B.
4. Amend Capital Improvement Program Project #91074, North Overton TIF Public Facilities, by appropriating an additional \$3 million of FY 2007 Taxable Bonds, the total appropriation for the project will be \$11.4 million. A Master Development Agreement with Garfield Traub Development, LLC was approved at the January 12, 2007, City Council meeting that incorporated the larger size and design of the conference/civic center located in Overton Park.
5. On June 8, 2006, City Council approved a \$233,712 allocation from the City's Community Development Block Grant program for a Property Maintenance Inspection program through the Codes Enforcement Department. This program focuses on CDBG eligible areas and provides heightened codes inspections and enforcement. The original allocation funded four inspectors. After a review of the budgeted and available funds, staff is requesting an additional inspector position. The estimated cost of the additional position is \$38,164. This budget amendment authorizes the additional grant funded full-time position in Codes Enforcement.
6. Accept and appropriate a \$520,994 grant from Texas Department of Housing and Community Affairs for the Comprehensive Energy Assistance Program (CEAP) an energy assistance program. This grant will fund programs to assist low-income persons and families with energy assistance and energy efficiency.
7. Accept and appropriate a \$390,000 grant from Texas Department of Housing and Community Affairs for the Community Services Block Grant (CSBG). The grant will fund programs to assist low-income persons and families with self-sufficiency, information, and referral.

#### **FISCAL IMPACT**

Included in item summary.

Staff recommended approval of the first reading of this ordinance.

Motion was made by Council Member DeLeon, seconded by Council Member Boren to pass on first reading Ordinance No. 2006-O0013 with an amendment to add:

8. Amend Capital Improvement Project No. 90406, Visitors Information Center, by appropriating an additional \$1 million for a total project appropriation of \$1.31 million. The funding sources for this project will be composed of \$70,000 from the Hotel/Motel Funds, which have been previously expended, and \$1.24 million of Certificates of Obligation, Series 2007, with annual debt payments funded from Hotel/Motel Tax revenues. The additional appropriation will be used to purchase property for a future Visitors Information Center and any demolition, asbestos abatement, or related costs.

Motion carried: 7 Ayes, 0 Nays.

**6.7. Board Appointments - City Secretary: Consider one appointment to Appointments Advisory Board, one appointment to Market Lubbock, Inc. Board of Directors, one appointment to Structural Standards Commission, three appointments to Urban Design/Historic Preservation Commission, and four appointments to Zoning Board of Adjustment.**

Motion was made by Council Member DeLeon, seconded by Council Member Price to appoint Duke Holmes to the Appointments Advisory Board. Motion carried: 7 Ayes, 0 Nays.

Motion was made by Council Member DeLeon, seconded by Council Member Price to appoint Rob Meyer to the Market Lubbock, Inc. board of Directors. Motion carried: 7 Ayes, 0 Nays.

Motion was made by Council Member DeLeon, seconded by Council Member Price to appoint Richard Obenhaus to the Structural Standards Commission. Motion carried: 7 Ayes, 0 Nays.

Motion was made by Council Member DeLeon, seconded by Council Member Price to appoint Evelyn Davis, and reappoint Jone Fisher and James White to the Urban Design/Historic Preservation Commission. Motion carried: 7 Ayes, 0 Nays.

Motion was made by Council Member DeLeon, seconded by Council Member Price to appoint Billie Caviel to alternate position and Glen Robertson to member position, and reappoint Kevin Bass and Elizabeth Lonngren to the Zoning Board of Adjustment. Motion carried: 7 Ayes, 0 Nays.

**12:17 P.M. CITY COUNCIL RECESSED**

**1:05 P.M. CITY COUNCIL RECONVENED**

**7. WORK SESSION**

**7.1. Bicycle Transportation - Public Works: Presentation on bicycle transportation within the City. Larry Hertel, City Engineer**

Larry Hertel, City Engineer, gave a presentation on bicycle transportation within the city of Lubbock. He discussed bicycle transportation options available (bike routes, lanes, and trails or paths); past bicycle route planning; design changes made on thoroughfare streets; existing bicycle routes in place;

Regular City Council Meeting  
January 25, 2007

Canyon Lakes Master Plan and Linkage Corridor Plan in Southwest Lubbock. Mr. Hertel also discussed rough estimated costs to deliver additional bicycle improvements. He then answered questions from Council.

**1:44 P. M. COUNCIL ADJOURNED**

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