

**CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
MAY 24, 2007
7:30 A. M.**

The City Council of the City of Lubbock, Texas met in regular session on the 24th day of May, 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 Linda DeLeon, Council Member Phyllis Jones, Council Member John Leonard, Council Member Floyd Price

Absent: Council Member Gary O. Boren

1. CITIZEN COMMENTS

Note: Citizen Comments items are listed in the order they were addressed.

1.2. Janie Landin Ramirez will appear before the City Council to speak in favor of changing a street name to Cesar E. Chavez.

Janie Landin Ramirez appeared before City Council to speak in favor of the proposed name change of Canyon Lakes Drive to Cesar E. Chavez.

1.1. Grace Quirino Garza will appear before the City Council to discuss the proposed name change of Canyon Lakes Drive to Cesar E. Chavez.

Grace Quirino Garza appeared before City Council to speak in favor of the proposed name change of Canyon Lakes Drive to Cesar E. Chavez.

- **Other citizens who spoke in favor of the proposed name change of Canyon Lakes Drive to Cesar E. Chavez were:**

Liz Inskip-Paulk, John P. Cervantez, Frank Gutierrez, and Maggie Trejo.

- **Citizens who spoke in opposition of the proposed name change of Canyon Lakes Drive to Cesar E. Chavez were:**

Billie Russell and Joyce Childers.

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."

**7:50 A. M. CITY COUNCIL RECESSED TO EXECUTIVE SESSION
City Council Conference Room**

All council members were present, except Council Member Boren.

- 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 (City Council Staff, Finance, Police, Right-of-Way, Water Utilities, consultation with attorney regarding V.T.C.A. Government Code, Chapter 551, and public improvement districts).
- 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 (Civic Centers, Community Services, LP&L, Parks & Recreation, Right-of-Way, Solid Waste, 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, Chief of Staff) 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.

**9:35 A.M. CITY COUNCIL REGULAR MEETING RECONVENED
City Council Chambers**

Present: Mayor David A. Miller; Mayor Pro Tem Jim Gilbreath; Council Member Linda DeLeon; Council Member 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: Council Member Gary O. Boren

Mayor Miller reconvened the meeting at 9:35 a.m.

3. PROCLAMATIONS AND PRESENTATIONS

3.1. Invocation by Pastor Jerry Ramirez, Oakwood Baptist 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. Presentation of a special recognition to Goodwill Industries of Lubbock in honor of 40 years of service to the community.

Mayor Miller presented special recognition to Goodwill Industries of Lubbock in honor of 40 years of service to the community. Present to receive the special recognition were Anna Bray and Craig Finlayson.

4. MINUTES

4.1. Approval of Prior Meeting Minutes: Regular City Council Meeting, April 26, 2007

Motion was made by Council Member Price, seconded by Council Member DeLeon to approve the minutes of the Regular City Council Meeting of April 26, 2007 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

5. CONSENT AGENDA (Items 5.2, 5.4-5.7, 5.9, 5.12-5.15, 5.18-5.19, 5.21, 5.24-5.31)

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Jones to approve Items 5.2, 5.4-5.7, 5.9, 5.12-5.15, 5.18-5.19, 5.21, 5.24-5.31 on consent agenda as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

5.1. This item was moved from consent agenda to regular agenda and considered following Item 5.31.

5.2. Master Lease Resolution - Finance: Resolution No. 2007-R0197 authorizing the reassignment of the Banc of America Leasing and Capital Master Lease contract to Banc of America Public Capital Corp.

On February 9, 2006, City Council approved a contract with Banc of America Leasing & Capital, LLC of San Francisco, California for municipal master lease/purchase financing. The lessor has reassigned the contract to its subsidiary, Banc of America Public Capital Corp. This amendment authorizes the reassignment and allows the City to continue financing purchased equipment as part of the Master Lease program.

FISCAL IMPACT

No fiscal impact.

5.3. This item was moved from consent agenda to regular agenda and considered following Item 5.1.

5.4. Grant Application Resolution - Police: Resolution No. 2007-R0198 authorizing the Lubbock Police Department to file an application with the United States Department of Justice for the 2007 Edward Byrne Memorial Justice Assistance Grant.

This resolution authorizes the Police Department to submit an application with the United States Department of Justice for the 2007 Edward Byrne Memorial Justice Assistance Grant (JAG). The \$247,703 grant funds the Lubbock County Joint Enforcement Initiative Program. The JAG Program funds local government activities to prevent and control crime and improve the Criminal Justice System. The City and Lubbock County are eligible to receive funding under this grant program.

Because the County is disproportionately responsible, greater than 50%, for the cost of prosecution and incarceration of violent crimes within the City, the JAG application is for Lubbock County, rather than the City and Lubbock County separately. The City and Lubbock County have joined into an interlocal agreement for this grant as the Lubbock County Joint Enforcement Initiative Program. The Police Department will manage this grant. Each entity will receive half of grant funding \$123,851.50. The Lubbock County Joint Enforcement Initiative Program will use funds for radio and data communications infrastructure upgrades, public safety software, and technology purchases.

FISCAL IMPACT

The \$247,703 grant award will be divided evenly between the City and County. This grant program does not require a local cash match.

Staff recommended approval of this resolution.

5.5. Interlocal Agreement Resolution - Police: Resolution No. 2007-R0199 authorizing the Mayor to execute an interlocal agreement with Lubbock County to allow a joint application for the aggregate of funds allocated to Lubbock County from Bureau of Justice, Office of Justice Programs, under the 2007 Edward Byrne Memorial Justice Assistance Grant Program.

This interlocal agreement allows a joint application for the aggregate of funds allocated to Lubbock County from Bureau of Justice (BJA), Office of Justice Programs. This allocation grant is part of the 2007 Edward Byrne Memorial Justice Assistance Grant (JAG) Program. This funding will be used for local law enforcement and prosecution and other general-purpose court initiatives.

The JAG Program funds local government activities to prevent and control crime and to improve the Criminal Justice System. According to BJA, Lubbock County is a disparate jurisdiction. In this case, the disparity occurs because the City is scheduled to receive one and one-half times more federal funding than Lubbock County. However, the County is responsible for more than 50% of the expense of prosecuting and incarcerating the violent offenders within the City.

JAG dispartates are certified by the Director of BJA, based in part on input from the Texas Attorney General. By federal law, disparate jurisdictions must submit a joint application for the aggregate of funds allocated to them. Thus, the City and Lubbock County must jointly apply for and share equally in the award for the 2007 JAG grant.

FISCAL IMPACT

The \$247,703 grant award will be divided evenly between the City and the County. There are no local matching funds required.

Staff recommended approval of this resolution.

5.6. Grant Acceptance Resolution - Emergency Management: Resolution No. 2007-R0200 authorizing the City to accept funding through the Emergency Management Performance Grant.

The City has participated in the Emergency Management Performance Grant for many years. The Emergency Management Performance Grant is administered through the Governor's Division of Emergency Management. The benefits of accepting the grant funds allow the City and Lubbock County to request reimbursements as it relates to Emergency Management.

FISCAL IMPACT

The Emergency Management Performance Grant is a 50% match by the City. The maximum amount of funding the City can receive from the program is \$136,979.

Staff recommended approval of this resolution.

5.7. Interlocal Agreement Resolution - Traffic: Resolution No. 2007-R0201 authorizing the Mayor to execute a supplemental agreement to the agreement with Texas Tech University for installation and reimbursement for the operation and maintenance of traffic signals on the Texas Tech University campus.

This supplemental agreement to the November 2004 Agreement (Resolution No. 2004-RO553) provides labor and equipment for traffic signals at two new intersections (TTU Parkway Indiana and 10th Street, and TTU Parkway Indiana and Knoxville Avenue) and modifications to TTU Parkway and 18th Street. These modifications will make the intersections compatible with the City's traffic system.

FISCAL IMPACT

Texas Tech University will reimburse the City for the full cost of the materials, equipment, and labor for the new intersections and the modified intersection. Capital Project TTU Signals was established for the direct reimbursement of new construction costs.

Staff recommended approval of this resolution.

- 5.8. This item was moved from consent agenda to regular agenda and considered following Item 5.3.**
- 5.9. Grant Application Resolution - Traffic: Resolution No. 2007-R0202 authorizing the Mayor to execute an application for a Safe Routes to School Non-infrastructure Project Plan and Development FY 2007-08 grant by the Texas Department of Transportation.**

The FY 2007-08 Safe Routes to School is a 100% federally funded cost-reimbursement program managed through Texas Department of Transportation (TxDOT). Safe Routes to School (SRTS) funding incorporates Non-Infrastructure projects. This entitles applicants to apply for funding to develop a SRTS Plan. The City's partners in the development of Lubbock's SRTS Plan are Lubbock Independent School District, Frenship Independent School District, Lubbock-Cooper Independent School District, Durham School Services, Metropolitan Planning Organization, and Lubbock Police Department.

A SRTS Plan is required before applicants can request funding to build sidewalks and curb ramps. The SRTS Plan developed during FY 2007-08 will be used to apply for future program requests through TxDOT.

FISCAL IMPACT

The total expected cost of the Safe Routes to School Plan is \$13,200. The City, through this application, is requesting \$10,000 TxDOT funds. The \$3,200 participation will be in-kind services primarily by the City's Traffic Engineering Department with some assistance from the school district partners.

Staff recommended approval of this resolution.

- 5.10. This item was moved from consent agenda to regular agenda and considered following Item 5.8.**
- 5.11. This item was moved from consent agenda to regular agenda and considered following Item 5.10.**
- 5.12. Grant Acceptance Resolution - Citibus: Resolution No. 2007-R0203 authorizing the Mayor to execute a Section 5304 Grant, Contract No. 07XXF7005, with the Texas Department of Transportation, to assist with Regional Coordination Planning.**

TxDOT is allocating \$60,000 of public transportation funds to the City of Lubbock for continuation of the Regional Coordination Plan. Each region in the state will receive \$60,000 to support regional planning. Recipients of the funds will not be required to provide a local match for these funds.

Citibus is the lead agency for the South Plains Region. The work conducted with the new funding includes two major focuses. The first task is a concerted effort targeting job and job training locations to assist individuals who may require transportation for access to jobs or job training; this was a previously identified weakness.

The second focus is to enhance outreach to the disabled community to identify specific measures that will enhance transportation options to this group of consumers, particularly related to job or job training trips.

The contract becomes effective when fully executed by both parties or on April 20, 2007, whichever is later. The contract shall terminate on August 31, 2008.

FISCAL IMPACT

This grant requires no local matching funds.

Citibus recommended the approval of the Section 5304 Grant, Contract No. 07XXF7005, with the Texas Department of Transportation (TxDOT).

- 5.13. Service and Assessment Plan Resolution - Business Development: Resolution No. 2007-R0204 accepting the preliminary Service and Assessment Plan for the Vintage Township Public Improvement District; setting a date for a public hearing; authorizing the Publication of Notice; and enacting other provisions relating thereto.**

The City Council at the January 12, 2007, Council Meeting approved a Resolution establishing the Vintage Township Public Improvement District (PID) at their January 12, 2007 Council Meeting. This resolution is to accept the preliminary Service and Assessment Plan for the Vintage Township PID and set the date for the public hearing. The purpose of the hearing is to allow property owners in the District the opportunity to speak in favor of or opposition to the assessment to be levied in the Vintage Township PID. The City of Lubbock is required to hold a public hearing to levy the assessments and to give notice of such hearing. A notice of Public Hearing will be published in the Avalanche Journal on June 1, 2007 and will be mailed to the property owners as required by statute.

The assessment roll is available in the City Secretary's Office.

FISCAL IMPACT

No fiscal impact.

Staff recommended approval of this resolution.

- 5.14. Street Use License Resolution - Right-of-Way: Resolution No. 2007-R0205 authorizing the Mayor to execute a street use license with The Children's Home of Lubbock to use a portion of a street for a private underground water line located in the 4100 Block of Erskine Street.**

The Children's Home of Lubbock has requested a street use license to install an underground water line across East Erskine Street just east of Idalou Road. They own an irrigation well on the south side of East Erskine Street and are piping water to their facilities to the north for irrigating purposes. The minimum charge for this 20-year license is \$50 per year, with \$250 payable in advance every five years. All utility companies are in agreement with this license.

FISCAL IMPACT

\$50 annual revenue to the General Fund.

Staff recommended approval of this resolution.

- 5.15. Contract of Sale Resolution - Right-of-Way: Resolution No. 2007-R0206 authorizing the Mayor to execute a contract of sale with the Northwest Passage Joint Venture for a new substation site in Northwest Lubbock for Lubbock Power and Light in Section 14 Block A, located at 4404 Ursuline Street.**

This contract of sale is for the acquisition of 3.758 acres of land for an LP&L northwest substation just west of Quaker Avenue on Ursuline Street. The purchase price is \$56,265, which is 0.3443 cent per square foot. The Electric Utility Board has approved the purchase of this site for the new substation in northwest Lubbock.

FISCAL IMPACT

\$56,265 is available in LP&L Capital Improvement Project 92056, Northwest Substation, for this purpose.

Staff recommended approval of this resolution.

- 5.16. This item was moved from consent agenda to regular agenda and considered following Item 5.11.**
- 5.17. This item was moved from consent agenda to regular agenda and considered following Item 5.16.**
- 5.18. Contract Resolution - Parks and Recreation: Resolution No. 2007-R0207 authorizing the Mayor to execute a contract with Brown-McKee, Inc., for McAlister Park Improvements 2007 including site preparation and earthwork, concrete slabs and sidewalks, bird blinds, horseshoe courts, fencing, picnic tables, BBQ grills and park benches, RFP 07-713-DD.**

This project involves site preparation and earthwork, concrete slabs and sidewalks, 2 bird blinds, 1 accessible concrete horseshoe court, 11 standard horseshoe courts, chain link fence, 4 picnic tables, 4 BBQ grills, and 2 park benches in McAlister Park at Milwaukee Avenue and the Marsha Sharp Freeway.

This project responds to the second highest priority established in the Lubbock Comprehensive Parks, Recreation, and Open Space Master Plan. The Five-Year Action Plan responds to the priorities established in the Needs Assessment for the City and individual zones. In 2002, the City received a \$500,000 matching grant from Texas Parks & Wildlife for McAlister Park. The grant requires the installation of the following associated amenities: playground, baseball field, basketball court, pavilion, disc golf, skate park, picnic station, horseshoes, multi-purpose trail, BMX track, and bird blinds. An additional \$1.3 million was approved by City Council as matching funds and

to complete the lighting, ADA infrastructure, parking lots, roads, and amenities.

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

Selection criteria used in this RFP includes price 40%, construction time 30%, options to shorten construction time 20%, and list of subcontractors 10%. The following general contractors submitted proposals and were evaluated and ranked in relation to the published selection criteria:

- Brown-McKee, Inc. of Lubbock, Texas proposed a project cost of \$50,709 for the Base Bid and Add Option 1 with the time for completion of 35 days, and scored 250.
- M & S Concrete Co. of Levelland, Texas proposed a project cost of \$61,450 for the Base Bid and Add Option 1 with the time for completion of 35 days, and scored 190.
- Danny Klein Construction, Inc. of Lubbock, Texas proposed a project cost of \$119,905 for the Base Bid and Add Option 1 with the time for completion of 60 days, and scored 129.

The Base Bid for the project includes site preparation and earthwork, concrete slabs and sidewalks, 2 bird blinds, 1 accessible concrete horseshoe court, 11 standard horseshoe courts, chain link fence, installation of 4 picnic tables, 4 BBQ grills, and 2 park benches (tables, benches and BBQ grills to be supplied by City). Add Option 1 includes the installation of a concrete maintenance strip beneath the chain link fence.

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 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 of this project is 35 consecutive calendar days, with liquidated damages \$25 per day.

FISCAL IMPACT

\$1.3 million is appropriated in Capital Improvement Project 91203, McAlister Park Improvements, with \$983,812 available for this purpose.

Staff recommended contract award to Brown-McKee, Inc. of Lubbock, Texas for \$50,709.

- 5.19. Contract Resolution - Parks and Recreation: Resolution No. 2007-R0208 authorizing the Mayor to execute a professional services agreement with Parkhill Smith & Cooper for design services for improvements at the Burgess Rushing Tennis Center.**

This agreement provides design services, bidding services, and administration of the construction contract for Burgess Rushing Tennis Center improvements to replace existing court 6 and court 12 with new post-tensioned concrete courts, add 4 new lighted post-tension concrete courts, and repair existing fencing with the addition of security fencing and an entrance gate. Two practice courts will be replaced with post tension concrete. Areas of broken asphalt around the courts will be removed and replaced with concrete in the viewing areas and turf in the turf areas. The site will be irrigated. The lump sum contract amount for the design, bidding and construction services is \$76,650. A user group at the Burgess Rushing Tennis Center assisted with the development of the scope for the improvements.

FISCAL IMPACT

\$1,271,000 is appropriated in Capital Improvement Project 9497, Burgess Rushing Tennis Center, with \$1,044,042 available for this agreement.

Staff recommended approval of this resolution.

- 5.20. This item was moved from consent agenda to regular agenda and considered following Item 5.17.**

- 5.21. Contract Resolution - Public Works: Resolution No. 2007-R0209 authorizing the Mayor to execute a purchase order contract for asphalt, BID 07-040-MA.**

This contract establishes the annual pricing for the purchase of asphalt for the Street Department seal coat program.

SemMaterials and Armor Asphalt submitted bids. SemMaterials is the low bidder and for over 20 years has supplied this product to the City.

The contract is a unit price contract for a term of one year.

FISCAL IMPACT

A total of \$488,400 is budgeted in the Adopted FY 2006-07 Public Works Operating Budget for this purpose.

Staff recommended bid award to SemMaterials of Lubbock, Texas for \$222,500.

- 5.22. **This item was moved from consent agenda to regular agenda and considered following Item 5.20.**
- 5.23. **This item was moved from consent agenda to regular agenda and considered following Item 5.22.**
- 5.24. **Contract Resolution - Water Utilities: Resolution No. 2007-R0210 authorizing the Mayor to execute a contract for weed shredding at the Lubbock and Hancock Land Application Sites, BID 07-032-RW.**

Weed shredding is necessary to keep the land application sites free from excessive and unsightly weed growth. This contract involves shredding cropped and noncropped land on an as needed basis. Proper ground maintenance is a requirement of the City's Texas Commission on Environmental Quality Wastewater Permit. The contract is for a period of one year with an option to renew for up to two additional one year periods.

FISCAL IMPACT

\$160,484 is appropriated in the Adopted FY 2006-07 Wastewater Operating budget for Professional Services, with \$45,000 available for weed shredding services.

Staff recommended contract awarded to Abernathy Welding and Machine of Abernathy, Texas for \$26,250.

- 5.25. **Contract Resolution - Fleet Services: Resolution No. 2007-R0211 authorizing the Mayor to execute a purchase order contract for trash refuse bodies for the Solid Waste Department.**

This purchase is for ten 33 cubic-yard side load refuse bodies and one 29 cubic-yard side load refuse body for residential trash collection.

The 33 cubic-yard refuse bodies and the 29 cubic-yard refuse body are available for purchase through the Texas Local Government Purchasing Cooperative BuyBoard, Contract 208-04. The City will solicit bids for the cab and chassis to these bodies. Equipment Southwest of Irving, Texas is the BuyBoard supplier.

FISCAL IMPACT

The purchase of these bodies was included in the Approved FY 2006-07 Master Lease Program with annual payments to be funded through the Solid Waste Fund.

Staff recommended approval of purchase order to Equipment Southwest of Irving, Texas for \$777,780.

5.26. Contract Resolution - Fleet Services: Resolution No. 2007-R0212 authorizing the Mayor to execute a purchase order contract for purchase of a high compaction trash refuse body and a rear loading trash refuse body for the Solid Waste Department.

This purchase is for one 20 cubic-yard side loader refuse body and one 25 cubic-yard rear loader refuse body for residential trash collection.

The trash compactor bodies are available for purchase through the Houston-Galveston Area Council (H-GAC) Purchasing Cooperative, Contract RC 08-06. H-GAC is a regional planning commission created under Acts of the 59th Legislature, Regular Session, 1965, re-codified as a Texas Local Government Code, Chapter 391. The Purchasing and Contract Management Department will solicit bids for the cab and chassis to accommodate these bodies.

FISCAL IMPACT

The purchase of these bodies was included in the Approved FY 2006-07 Master Lease Program with annual payments to be funded through the Solid Waste Fund.

Staff recommended purchase order contract award to Heil of Texas of Irving, Texas for \$144,134.

5.27. Contract Amendment Resolution - Airport: Resolution No. 2007-R0213 authorizing the Mayor to execute Amendment No. 10 to the agreement with Parkhill, Smith & Cooper for an Environmental Assessment for the Extension of Runway 8/26.

This amendment modifies the original engineering agreement approved January 13, 2005, with Parkhill, Smith & Cooper. The amendment provides for engineering services for an environmental assessment needed for the extension of runway 8/26.

The project includes a preliminary design of the 2,275-foot runway and taxiway extension and a pavement elevation over the existing and proposed utilities. It also includes gathering information from Oneok, Canadian River Municipal Water Authority, City Water Utilities Department, state and federal agencies.

The amendment includes professional service fees for the study, report, and preliminary design for \$78,950. Sub-consultants services such as surveying and reimbursable expenses are also included for \$26,650. The total amendment is not to exceed \$105,600.

FISCAL IMPACT

\$500,000 is appropriated in Capital Improvement Project 8071, Environmental Assessment Runway 8/26, with \$355,160 available for this purpose.

The Airport Board and staff recommended approval of this resolution.

- 5.28. Settlement Agreement Resolution - City Attorney: Resolution No. 2007-R0214 approving the Settlement Agreement by and between the City of Lubbock and McWindmill Hill, L.C., a Texas limited liability company, the owners of Park Central Apartments, 5702 50th Street, relating to the property acquisition for the West 50th Street widening project.**

McWindmill Hill, L.C, the owner of Park Central Apartments located at 5702 50th Street, has accepted the City's offer to acquire a portion of their property which is needed for the 50th Street widening project from Slide Avenue to West Loop 289. This is a resolution approving a written Settlement Agreement whereby the property owner will deed over that portion of their property needed for the widening project to the City.

FISCAL IMPACT

\$10,967,000 is appropriated in Capital Improvement Project 9146, 50th Street Slide/Loop 289, with \$9,364,031 available for this purpose.

Staff recommended approval of this resolution.

- 5.29. Settlement Agreement Resolution - City Attorney: Resolution No. 2007-R0215 approving the Settlement Agreement by and between the City of Lubbock and McDougal Construction, Ltd., a Texas limited partnership f/k/a McDougal Construction, L.C., a Texas limited liability company, the owners of certain real property located at 5615 50th Street, relating to the property acquisition for the West 50th Street widening project.**

McDougal Construction, Ltd., the owners of a vacant lot located at 5615 50th Street, has accepted the City's offer to acquire a portion of their property which is needed for the 50th Street widening project from Slide Avenue to West Loop 289. This is a resolution approving a written Settlement Agreement whereby the property owner will deed over that portion of their property needed for the widening project to the City.

FISCAL IMPACT

\$10,967,000 is appropriated in Capital Improvement Project 9146, 50th Street Slide/Loop 289, with \$9,364,031 available for this purpose.

Staff recommended approval of this resolution.

- 5.30. Settlement Agreement Resolution - City Attorney: Resolution No. 2007-R0216 approving the Settlement Agreement by and between the City of Lubbock and McDominion L.C., a Texas limited liability company, the owners of The Dominion apartment complex, 5601 50th Street, relating to the property acquisition for the West 50th Street widening project.**

McDominion L.C., the owner of the Dominion apartment complex located Park Central Apartments located at 5601 50th Street, has accepted the City's offer to acquire a portion of their property which is needed for the 50th Street

widening project from Slide Avenue to West Loop 289. This is a resolution approving a written Settlement Agreement whereby the property owner will deed over that portion of their property needed for the widening project to the City.

FISCAL IMPACT

\$10,967,000 is appropriated in Capital Improvement Project 9146, 50th Street Slide/Loop 289, with \$9,364,031 available for this purpose.

Staff recommended approval of this resolution.

- 5.31. Settlement Agreement Resolution - City Attorney: Resolution No. 2007-R0217 ratifying the Settlement Agreement by and between the City of Lubbock and Mart Mariam Family Limited Partnership, the owners of certain real property located at the intersection of Frankford Avenue and Spur 327, relating to the property acquisition for a Northbound Frankford Avenue and Spur 327 right hand turn lane.**

Mart Mariam Family Limited Partnership owns a parcel of land located at the corner of Spur 327 and Frankford Avenue. The City negotiated a settlement agreement for the purchase of a portion of this property needed for a Northbound Frankford Avenue and Spur 327 right hand turn lane. This is a resolution ratifying the written settlement agreement executed by the City's Right-of-Way Agent.

FISCAL IMPACT

\$83,000 is appropriated in Capital Improvement Project 90020, Frankford/Spur 327, with \$76,780 available for this purpose.

Staff recommended approval of this resolution.

- 5.32. This item was moved from consent agenda to regular agenda and considered following Item 5.23.**

6. REGULAR AGENDA

Note: Regular Agenda items, and Consent Agenda items moved to Regular Agenda, are listed in the order they were addressed (Items 5.1, 5.3, 5.8, 5.10-5.11, 5.16-5.17, 5.20, 5.22-5.23, 5.32, 6.1-6.12).

- 5.1. Budget Amendment Ordinance 2nd Reading - Finance: Ordinance No. 2007-O0049 Consider budget ordinance Amendment No. 14 amending the FY 2006-07 budget respecting the Grant Fund, General Fund, Capital Improvement Program, Stormwater Fund; LP&L Fund; and establishing Civil Service classifications and positions.**

1. Accept and appropriate a \$110,717 grant from Texas Department of Housing and Community Affairs for the Low Income Home Energy Assistance Program to assist low-income persons and families with weatherizing their homes and installing energy efficiency measures. This is accomplished by funding City programs that address this issue. The

grant pays for both programmatic and administrative costs. The grant period is April 1, 2007, through March 31, 2008.

2. Accept and appropriate a \$63,977 grant from Texas Department of Housing and Community Affairs for the Department of Energy Weatherization Assistance Program. The grant funds programs to assist low-income persons and families with weatherizing their homes and installing energy efficiency measures. This is accomplished by funding City programs that address this issue. The grant pays for both programmatic and administrative costs. The grant period is April 1, 2007, through March 31, 2008.
3. Appropriate \$165,121 from General Fund balance to Capital Improvement Project 91189, Strip Paving Unpaved Streets to fund the low-to-moderate infrastructure program.
4. Establish a new Capital Improvement Project titled "Electronic Security Gates - Municipal Hill" and transfer \$40,000 from Capital Improvement Project #8525 "Water Backflow Devices" and appropriate \$40,000 from LP&L Fund Balance. The security fence provides controlled access to the storage yard at Municipal Hill, securing City assets maintained by the Water and Streets Departments and LP&L.
5. Establish a new Capital Improvement Project titled "Storm Water Department Remodel" and transfer \$250,000 from Storm Water Fund Balance. The remodel is necessary to provide adequate space for six additional personnel that were approved in the FY 2006-07 Adopted Stormwater Operating Budget to address federal inspection mandates.
6. Approve the required Civil Service positions as referenced in Attachment A as required by Civil Service Code and as originally adopted in the FY 2006-07 Operating Budget and as amended in Budget Amendment Ordinance #2007-O0009. Included in this table for the Police Department is the reclassification of one position from the rank of Police Officer to Police Sergeant. This will allow the Police Department to add a Juvenile Division Supervisor to accommodate the growth within the Police Department.
7. Amend the operating budget and Capital Improvement Program in the LP&L Fund. Specific information regarding these budgets is competitive information protected under Chapter 552.133 of the Texas Government Code.

FISCAL IMPACT

Included in item summary.

Staff recommended approval of the second reading of this ordinance.

Jeff Yates, Chief Financial Officer, and Richard Casner, First Assistant City Attorney, gave comments and answered questions from Council.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Jones to pass on second and final reading Ordinance No. 2006-00049 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

5.3. Contract Resolution - Police: Resolution No. 2007-R0218 authorizing the Mayor to execute a purchase order contract for 12 unmarked police sedans and 2 pickup trucks for the Police Department, and 1 pickup truck for Codes Enforcement, BID 07-039-MA.

This resolution authorizes the purchase of 12 unmarked police sedans, 2 pickup trucks for the Police Department and a half-ton pickup for Codes Enforcement.

The vehicles were authorized as part of the Adopted FY 2006-07 Master Lease Program.

Three local bidders submitted bids: Shamrock Chevrolet, Gene Messer Ford and Scoggin-Dickey.

FISCAL IMPACT

Funding is available through the FY 2006-07 Adopted Master Lease Program, with future annual payments funded through the General Fund.

Staff recommended bid award to Gene Messer Ford of Lubbock, Texas for \$346,126.

Police Chief Claude Jones, Leslie Cox, Communications Analyst, and Lee Ann Dumbauld, City Manager, gave comments and answered questions from Council.

Motion was made by Council Member Leonard, seconded by Mayor Pro Tem Gilbreath to pass Resolution No. 2007-R0218 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

5.8. Interlocal Agreement Resolution - Traffic: Resolution No. 2007-R0219 authorizing the Mayor to execute an interlocal agreement with Texas Department of Transportation (TxDOT) for the City to operate a Traffic Management Center at the City of Lubbock Traffic Engineering office for the operation of TxDOT's Intelligent Transportation System within Lubbock city limits.

This agreement is part of the final phase of the Intelligent Transportation System (ITS) implementation. The first three phases were approved by City Council as ITS Project Phases 1 and 2 (November 4, 2004, and January 25, 2007) and Fiber Optic Network Interconnection Agreement (November 21, 2006).

This agreement allows the Fire Department, Police Department, and Traffic Engineering Department to access the Freeway Management System, improving responses to traffic incidents on all Lubbock freeways and intersecting major streets.

FISCAL IMPACT

Funds are appropriated in the Adopted FY 2006-07 Public Works operating budget. Scheduled operation of the Traffic Management Center (TMC) is scheduled to begin in September 2007, and operating funds will be included in the FY 2007-08 Public Works operating budget.

The provision allowing the Texas Department of Transportation to charge a license fee after the first year was removed from the contract In Attachment B, TxDOT agrees to waive any monetary fee associated with the use of the Lubbock District TMC ITS Closed Circuit Television.

Staff recommended approval of this resolution.

Marsha Reed, Assistant City Engineer, gave comments and answered questions from Council.

Motion was made by Council Member Jones, seconded by Council Member DeLeon to pass Resolution No. 2007-R0219 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

5.10. Grant Application Resolution - Fire: Resolution No. 2007-R0220 authorizing the Mayor to execute a Firefighter Vehicle Acquisition grant application to the Department of Homeland Security for the acquisition of a technical rescue vehicle.

Congress reauthorized the FY 2007 Assistance to Firefighters Grant and appropriated \$547 million to the Department of Homeland Security, Office of Grants and Training. Fire departments may apply for grant funds in either or both of two categories approved for funding. The Lubbock Fire Department elected to submit an application in the category of Firefighter Vehicle Acquisition to secure one equipped technical rescue vehicle. The grant requires a 20% match of federal funds. All federal funding must be obligated by September 30, 2008.

FISCAL IMPACT

The amount of the Firefighter Vehicle Acquisition grant is \$491,662 and the City's match is \$98,332. The City will provide scheduled matching funds from the FY 2007-08 Lubbock Fire Department budget.

Staff recommended approval of this resolution.

Rhea Cooper, Interim Fire Chief, gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass Resolution No. 2007-R0220 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

5.11. Grant Application Resolution - Fire: Resolution No. 2007-R0221 authorizing the Mayor to execute a Firefighter Operations and Safety grant application to the Department of Homeland Security for the acquisition of six Jaws of Life units and five air bag systems.

Congress reauthorized the FY 2007 Assistance to Firefighters Grant and appropriated \$547 million to the Department of Homeland Security, Office of Grants and Training. Fire departments may apply for grant funds in either or both of two categories approved for funding. The Lubbock Fire Department elected to submit an application in the category of Firefighter Operations and Safety to secure six Jaws of Life units and five air bag systems. The grant requires a 20% match of the federal funds approved. All federal funding must be obligated by September 30, 2008.

FISCAL IMPACT

The amount of the Firefighter Operations and Safety grant is \$202,998 and the City's match will be \$40,599. The City will provide scheduled matching funds from the FY 2007-08 Lubbock Fire Department budget.

Staff recommended approval of this resolution.

Rhea Cooper, Interim Fire Chief, gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass Resolution No. 2007-R0221 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

5.16. Contract Resolution - Community Development: Resolution No. 2007-R0222 authorizing the Mayor to execute the contract with Texas Department of Housing and Community Affairs for the Low-Income Home Energy Assistance Program to weatherize homes and make them more energy efficient.

This contract is for the weatherization of the homes of low-income persons. Repairs include sealing, caulking of windows and doors, air infiltration, insulation, replacement of energy inefficient stoves and refrigerators, and repair or replacement of inefficient heating and cooling appliances.

The performance period is April 1, 2007, through March 31, 2008.

FISCAL IMPACT

This contract is funded through a \$110,717 grant from Texas Department of Housing and Community Affairs for the Low Income Home Energy Assistance Program. The grant requires no local matching funds.

Staff recommended approval of this resolution.

Bill Howerton, Director of Community Development, gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Jones to pass Resolution No. 2007-R0222 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

- 5.17. Contract Resolution - Community Development: Resolution No. 2007-R0223 authorizing the Mayor to execute the contract with Texas Department of Housing and Community Affairs for the Department of Energy Weatherization Assistance Program to weatherize homes and make them more energy efficient.**

This contract is for the weatherization of the homes of low-income persons. Repairs include sealing, caulking of windows and doors, air infiltration, insulation, replacement of energy inefficient stoves and refrigerators, and repair or replacement of inefficient heating and cooling appliances.

The performance period is April 1, 2007, through March 31, 2008.

FISCAL IMPACT

This contract is funded through a \$63,977 grant from Texas Department of Housing and Community Affairs Department for the Energy Weatherization Assistance Program. The grant requires no local matching funds.

Staff recommended approval of this resolution.

Bill Howerton, Director of Community Development, gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Jones to pass Resolution No. 2007-R0223 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

- 5.20. Resolution Amendment - Civic Center: Resolution No. 2007-R0224 authorizing the Mayor to amend Resolution 4972 to delete the following named areas within the Buddy Holly Plaza: The Buddy Holly "Walk of Fame" and the Buddy Holly "Terrace."**

ITEM SUMMARY

City Council adopted Resolution 4972, on September 28, 1995, which named the area east of Avenue Q, north of 8th Street (now Glenna Goodacre Blvd), west of Avenue O, and south of 7th Street the "Buddy Holly Plaza." The resolution specified that the Buddy Holly "Walk of Fame" and the Buddy Holly "Terrace" be located within the Buddy Holly Plaza.

Civic Lubbock Inc., which operates the "Walk of Fame" program and the "Terrace" program, voted in March 2007 to change the name of the programs to the "West Texas Walk of Fame" and the "West Texas Terrace" respectively. With these changes, Civic Lubbock is requesting that these names be removed as named areas within the Buddy Holly Plaza. This amendment is in response to their request.

FISCAL IMPACT

There is no cost to the General Fund to remove these named areas from the Buddy Holly Plaza. Civic Lubbock Inc. will be responsible for the cost of changing the names of the programs.

Staff recommended approval of this resolution.

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

Motion was made by Council Member DeLeon, seconded by Council Member Jones to pass Resolution No. 2007-R0224 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

5.22. Contract Resolution - Public Works: Resolution No. 2007-R0225 authorizing the Mayor to execute a contract for drainage improvements to provide all-weather access to Parkway and Bowie Elementary Schools, RFP 07-717-BM.

At the Parkway and Bowie Elementary Schools, there is a need for sidewalks and adequate drainage to provide all-weather access. In response, City Council authorized funding for sidewalk and drainage improvements. This contract includes sidewalk and drainage improvements for Parkway Elementary School and Bowie Elementary School. Additional school areas will be addressed with future contracts.

Proposals were ranked as follows:

Concrete Connections of Plainview, Texas

\$64,641
Score 433

M & S Concrete of Levelland, Texas

\$103,645
Score 313

Evaluation criteria included price (60%), Superintendent's resume and references (15%), Items that could reduce the cost (5%), Insurance claims and litigation (5%), Construction time (5%), and Subcontractors (10%).

Concrete Connections has not performed any work for the City but the reference checks were all favorable. M&S Concrete has successfully performed similar concrete and paving work for the City of Lubbock in the past.

The time for completion is 40 days, with \$200 per day liquidated damages.

FISCAL IMPACT

\$689,928 is appropriated in Capital Project 91053, Curb Ramps Sidewalk Installation with \$531,328 available for sidewalks. \$1,136,000 is appropriated in Capital Project 90025, Drainage Improvements with \$856,536 available for drainage improvements.

Staff recommended contract award to Concrete Connections of Plainview, Texas for \$64,641.

Larry Hertel, City Engineer; Marsha Reed, Assistant City Engineer; and Victor Kilman, Director of Purchasing and Contract Management, gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Jones to pass Resolution No. 2007-R225 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

5.23. Contract Amendment Resolution - Public Works: Resolution No. 2007-R0226 authorizing the Mayor to execute Change Order No. 3 with West Texas Paving for the Overton Park redevelopment project.

This is a change order for the Overton Park Wal-Mart paving and drainage improvement contract. Quantity overruns due to elements encountered in the field require an adjustment to the contract for the following items: concrete, laying of hot mix, and demolition of concrete slabs.

FISCAL IMPACT

\$2,575,157 is appropriated in North Overton TIF Capital Project 91065, Wal-Mart, with \$507,277 available for this purpose.

Staff recommended approval of this resolution.

Larry Hertel, City Engineer, gave comments and answered questions from Council.

Motion was made by Council Member Jones, seconded by Council Member Leonard to pass Resolution No. 2007-R0226 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

5.32. Rate and Tariff Structure Amendment Resolution - Lubbock Power & Light: Resolution No. 2007-R0227 amending the rate and tariff structure of Lubbock Power & Light, the City of Lubbock's municipally owned electric utility, by restructuring and defining new rates and tariffs for all rate and tariff classes, defining charges for ancillary services and amending the general terms and conditions of the rate and tariff schedules for all customers within the certificated territory of Lubbock Power & Light.

Southwestern Public Service (SPS) implemented new electric rates as of April 1, 2007. Their new rate structure is not compatible with LP&L's existing structure resulting in rate inequity between rate classes and even between customers within the same rate class. This has complicated LP&L's ability to be competitive.

LP&L proposes to implement a new rate structure, modify existing terms and conditions, increase certain existing fees, and implement new fees. The new rate structure is more simple and easy to understand, which is better for LP&L customers.

FISCAL IMPACT

Annual revenue increase of approximately 3.1%.

LP&L Board recommended approval of this resolution.

Chris Sims, Public Information Officer for LP&L, and Gary Zheng, Chief Executive Officer/President of LP&L, gave comments.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to pass Resolution No. 2007-R0227 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

6.1. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2007-O0050 Zone Case No. 3080 (3718, 3720, 3722, and 3724 24th Street) Hold a public hearing to consider request of Jim Green (for Elias Ghandour) for a zoning change from R-1 to AM on Lots 10-13, Block 2, Park Manor Addition.

Mayor Miller opened the public hearing at 10:24 a. m. No one appeared on behalf of Elias Ghandour. No one appeared in opposition. Mayor Miller closed the hearing at 10:25 a. m.

The request is for a change of zoning from R-1 to AM in an area that is within the Medical Policy District as established by the Comprehensive land Use Plan.

Adjacent land uses:

N – medical and residential

S – medical and residential

E – residential

W – medical

The proposal is among a growing number of rezoning requests along the 24th Street corridor; the two parcels on the south side of 24th Street and one on the north of 24th Street to the west are developed as medical. About ten years ago, the Planning Commission expanded the area south of 19th Street between Indiana Avenue and Quaker Avenue to the alley south of 24th Street as a “policy area” that is defined on the Comprehensive Land Use Plan as an area in transition from residential to medical use. Much of the property north of about 22nd Street is already zoned AM. Most of the owners of parcels south of 22nd Street that have been proposed for redevelopment have asked to change from R-1 to AM zoning only when a project is eminent. The existing R-1 is left alone until a project is proposed. The former policy district went to 23rd Street.

The request is consistent with the Comprehensive Land Use Plan and will comply with the zoning code when construction is proposed.

The proposal should have no more than the anticipated impact on the thoroughfare system.

The Planning and Zoning Commission recommended approval of the request.

FISCAL IMPACT

No fiscal impact.

The staff supports the recommendation of the Planning and Zoning Commission.

Randy Henson, Director of Planning, gave comments and answered questions from Council.

Motion was made by Council Member Jones, seconded by Council Member Price to pass on first reading Ordinance No. 2007-O0050 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

6.2. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2007-O0051 Zone Case No. 3054-A (122nd Street and east of Indiana Avenue): Hold a public hearing to consider request of Nolan Greak (for Nolan Greak Self-Directed Profit Sharing Plan) for a zoning change from T to IHC on the east 592.41 feet of Tract A; east 155 feet of Lots 8, 9, 11, and 13; east 185 feet of Lot 14; all of Lots 15, 16, 17, 18, 19, 20, and 21; Huntington Business Park Addition.

Mayor Miller opened the public hearing at 10:24 a. m. No one appeared on behalf of Nolan Greak Self-Directed Profit Sharing Plan. No one appeared in opposition. Mayor Miller closed the hearing at 10:25 a. m.

This is a request to complete Interstate Commercial (IHC) zoning on the balance of a subdivision that was annexed in 2002 and was zoned IHC. In 2005, the east portion of the subdivision was annexed and this zone change will complete the City Council's commitment to the business park developer to zone the area with a level of zoning is compatible with the majority of the businesses occupying the area and allow vacant parcels to continue development with construction permits. Some of the occupants are businesses that will become nonconforming because the businesses do not comply with all of the IHC standards, but they were constructed or under substantial construction when the annexations were proposed.

Adjacent land uses:

N – vacant

S – vacant

E – vacant

W – commercial

The addendum for the Comprehensive Land Use Plan for the annexed areas has not been completed due to staff shortages and other technical issues. As the addendum is completed, this subdivision will be illustrated as “commercial” to complete City Council's commitment adequate zoning.

The proposal will have little additional impact on the thoroughfare system.

The Planning Commission recommended approval by the City Council.

FISCAL IMPACT

No fiscal impact.

Staff supports the recommendation of the Planning and Zoning Commission.

Randy Henson, Director of Planning, gave comments and answered questions from Council.

Motion was made by Council Member Jones, seconded by Council Member Price to pass on first reading Ordinance No. 2007-O0051 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

6.3. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2007-O0052 Zone Case No. 2995-D (6210 82nd Street) Hold a public hearing to consider request of Tierra West LLC (for Discount Tire) for a zoning change from C-2 to C-3 on approximately 1.004 acres (43,750 square feet) of unplatted land out of the southern part of Section 29, Block AK.

Mayor Miller opened the public hearing at 10:24 a. m. No one appeared on behalf of Discount Tire. No one appeared in opposition. Mayor Miller closed the hearing at 10:25 a. m.

The applicant needs C-3 zoning versus the current C-2 zoning to accommodate the proposed use of a Discount Tire store.

Adjacent land uses:

N – vacant

S – commercial

E – commercial

W – vacant

The proposal is consistent with the Comprehensive Land Use Plan that illustrates “commercial” in the area along 82nd Street. The applicant will comply with zoning policy when the facility is constructed.

Discount Tire intends to build a store very similar to the recently constructed Discount Tire store at 82nd Street and Avenue X. Building elevations and a site plan are a part of the conditions proposed by staff and are included in backup. The store at 82nd Street and Avenue X provides a visual of what the new store will look like. The renderings show a somewhat nicer style, but renderings are prepared in a manner to look their best.

The project should have little impact on the thoroughfare system.

The Planning Commission recommended approval with the following requirement:

1. Tied to the building elevation and site plan as presented.

FISCAL IMPACT

No fiscal impact.

Staff supports the recommendation of the Planning and Zoning Commission.

Randy Henson, Director of Planning, gave comments and answered questions from Council.

Motion was made by Council Member Jones, seconded by Council Member Price to pass on first reading Ordinance No. 2007-O0052 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

6.4. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2007-O0053 Zone Case No. 3081 (1801 Main Street) Hold a public hearing to consider request of John A. Sellers (for I & S Investments) for a zoning change from R-3 to GO Specific Use, for reduced parking and a 3-story office building with a basement on Lots 1 & 2, Block 120, Overton Addition.

Mayor Miller opened the public hearing at 10:24 a. m. No one appeared on behalf of I & S Investments. No one appeared in opposition. Mayor Miller closed the hearing at 10:25 a. m.

The applicants have requested the ability to construct an office building at the corner of Main Street and Avenue R. The request is submitted as Specific Use to deal with two issues not found in the ordinary development standards of the Garden Office District. First, the structure will be three stories in height; and second, the amount of parking provided is less somewhat less than the 1/200 normal GO requirement.

Adjacent land uses:

N – vacant, will be commercial

S – commercial and a residence on Broadway

E – commercial

W –vacant

The existing zoning for these two parcels is R-3, which in 1975 was converted to A-2, a heavy apartment district. The proposal is in concert with the amended Comprehensive Land Use Plan for the Overton North area with Main Street a mixture of high density residential and offices.

As noted, the case is filed as Specific Use because of two deviations from the Garden Office requirements:

- The structure is three stories, GO normally allows a maximum of two.
- The parking is proposed as 29 spaces and the proposed number is 29 without including the basement, which will be used for storage, mechanical equipment, and as a storm shelter.

As an added comfort level for not parking the basement, if the project was on Broadway (across the alley) after Broadway is zoned CB-1, which was constructed specifically for Broadway during the construction of the four new CBD districts, the parking ratio would be 1/300 versus the GO ratio of 1/200. Then, only the third story would be the topic of the Specific Use Permit.

Otherwise the project will meet the development requirements of the Garden Office District and will provide a new, attractive anchor on the east end of Main Street at the entrance to the redeveloped North Overton area. Several adjacent residents reviewed the file prior to the Commission meeting and seemed pleased with the proposal.

The project will have little impact on the thoroughfare system. The location is one-half block north of Broadway and one block west of Avenue Q.

The Planning Commission recommended the request with the following condition:

1. Tied to the site plan and proposed building elevation.

FISCAL IMPACT

No fiscal impact.

Staff supports the recommendation of the Planning and Zoning Commission.

Randy Henson, Director of Planning, gave comments and answered questions from Council.

Motion was made by Council Member Jones, seconded by Council Member Price to pass on first reading Ordinance No. 2007-O0053 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

6.5. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2007-O0054

Mayor Miller opened the public hearing at 10:24 a. m. No one appeared on behalf of Greasewood Holdings, LLC. No one appeared in opposition. Mayor Miller closed the hearing at 10:24 a. m.

The applicant is seeking to amend the zoning on a parcel that has a mixture of C-4 with conditions, A-2 with conditions (for a church), and A-1 with conditions (limited to duplex construction).

Adjacent land uses:

N – commercial

S – residential

E – commercial

W – residential

The project is consistent with the Comprehensive Land Use Plan, at least for the west portion of the parcel that is already zoned A-1 and A-2. The east portion south of 74th Street, and east to Avenue P for approximately 900 feet, is zoned C-4 commercial that backs up to the single family to the south. That relationship does not meet the criteria now established by the Comprehensive Land Use Plan with heavy commercial abutting single family, with no buffer. As noted, the area along south of 74th Street (south of the two RV dealers on Loop 289) and some vacant property has the C-4 designation. The balance of about 400 feet along the south side portion is currently zoned A-1 with a condition limiting the area to quadraplexes. A parcel that fronts Loop 289 west of Avenue S is zoned A-2 limited to church use.

With regard to zoning policy, the project will meet A-1 development standards when constructed. The one standard required when A-1 is adjacent to single family, that may be of greatest interest to the single family owners to the south, is that any 2-story structure in A-1 must meet a 50-foot setback

from the south property line, which in this case is a requirement already because a drainage easement occupies that 50 feet. The applicants can use the 50 feet for parking. One letter of opposition indicated a concern for a reduction of property value, and that resident may not be aware of the 900 feet of heavy commercial that exists today. Another letter of support was in direct contrast to the person that objected, illustrating the variety of opinion that can exist on any proposed project.

The project should have little impact on the thoroughfare system with direct access to Avenue P as a collector and Loop 289 on Avenue S.

The Planning commission recommended the request with one condition:

1. The screening fence on the west along Avenue S and on the south shall be a brick pier with wooden insert fence, with no curb cuts on Avenue S.

FISCAL IMPACT

No fiscal impact.

Staff supports the recommendation of the Planning and Zoning Commission.

Randy Henson, Director of Planning, gave comments and answered questions from Council.

Motion was made by Council Member Jones, seconded by Council Member Price to pass on first reading Ordinance No. 2007-O0054 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

6.6. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2007-O0055 Zone Case No. 3050-A (3814 130th Street) Hold a public hearing to consider request of ADC, Inc. (for First Presbyterian Church) for a zoning change from GO, R-2 Specific Use & R-1 Specific Use to A-2 limited to church and church related uses on proposed Tract A, First Presbyterian Addition.

Mayor Miller opened the public hearing at 10:24 a. m. No one appeared on behalf of First Presbyterian Church. No one appeared in opposition. Mayor Miller closed the hearing at 10:25 a. m.

The applicant is the First Presbyterian Church, and the proposal will limit the zoning to church and church related use. The original application indicated a request for C-2. Staff inquired with the applicant and the response was unclear regarding why C-2 is listed on the application. The case is amended to A-2 limited to the church use. The staff would not have supported an open C-2 case in this location as it is not a thoroughfare corner site.

Adjacent land uses:

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

The proposal is consistent with the Comprehensive Land Use Plan where policy for church locations requires they be located on the perimeter of neighborhoods adjacent to thoroughfares for easy ingress and egress.

When developed, the church will meet the development requirements for A-2.

The project will have little impact on the thoroughfare system; TxDOT governs the allowance for driveways along F.M. 1585.

The Planning Commission recommended the request with the following condition:

1. That the use of the parcel is limited to church and church related uses.

FISCAL IMPACT

No fiscal impact.

Staff supports the recommendation of the Planning and Zoning Commission.

Randy Henson, Director of Planning, gave comments and answered questions from Council.

Motion was made by Council Member Jones, seconded by Council Member Price to pass on first reading Ordinance No. 2007-00055 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

6.7. Public Hearing 10:00 a.m. - Zoning: Zone Case No. 3082 (7903 19th Street) Hold a public hearing to consider request of Andy R. Hernandez for a zoning change from R-1 to C-4 on 1 acre of unplatted land out of Section 41, Block AK.

Mayor Miller opened the public hearing at 10:24 a. m. No one appeared on behalf of Andy R. Hernandez. No one appeared in opposition. Mayor Miller closed the hearing at 10:25 a. m.

Mr. Hernandez has requested a delay to the June 14th agenda. Since the advertisement was published before staff received the request City Council will need to consider accommodating his request. The applicant purchased a parcel that is the former location of Wrigley's Rentals after the business moved out of the downtown area to this location. The business was on a parcel outside the city limits at the time of the relocation. The collection of materials on the parcel remains staggering, but it is a legal nonconforming use until it has been vacated for one year. The applicant is the caretaker of Mr. Wrigley who now lives in a rest home. Mr. Hernandez is in the process of clearing the lot and does not intend to continue the rental business. The applicant is requesting C-4 and has not expressed an indication of what the proposed use would be other than the desire of placing a billboard on the lot. After the staff discussed at length the background of the West 19th Street Policy described below and the fact that billboards have traditionally been an excluded use, Mr. Hernandez chose to continue the request. Even without the billboard, the zone change will make the property marketable to a large number of permitted uses once the rental facility is cleared.

Adjacent land uses:

N – 19th Street and vacant

S – the horse arena of the homeowner to the south

E – commercial

W – commercial

The proposed zoning is within a geographic area that has developed over the years as being subject to an informal “West 19th Street Corridor” zoning policy. The conditions that will be proposed for this parcel have been attached to a majority of zone cases by the Planning Commission and City Council for C-4 zoning requests along 19th Street west of Loop 289. Following the informal policy, the recommendations exclude a number of list of C4 permitted uses that have been eliminated during zone cases on the four miles west of the Loop inside the City. The policy evolved since the 1960s on land outside the Loop adjacent to 19th Street because the street is a State Highway and many heavy commercial uses and industrial uses were inherited as the area was annexed (as well as the fact that the Comprehensive Land Use Plan recommended that C-4 be limited to major highways and expressways). However, several C-4 uses were identified during the evolution of numerous zone cases as not the most compatible with the major entry portal to Lubbock represented by 19th Street. Thus, the request with conditions meets both the Comprehensive Land Use Plan and zoning policies. The project will have no additional impact on the thoroughfare system. TxDOT governs driveways to 19th Street.

The Planning Commission recommended the request which includes the following “strikes” as permitted uses:

Prohibited uses:

- Automobile body shops
- Billboards
- Commercial private clubs and teenage clubs
- Dancehall
- Used furniture store
- Game room except as an incidental use, pool, billiard and/or domino parlor
- Motorcycle shop
- Second hand goods store or pawn shop
- Used car lot
- Nightclubs

FISCAL IMPACT

No fiscal impact.

Staff supports the recommendation of the Planning and Zoning Commission.

Randy Henson, Director of Planning, informed Council that Mr. Hernandez requested this item be delayed until the June 14, 2007 City Council meeting.

Motion was made by Council Member Jones, seconded by Mayor Pro Tem Gilbreath to continue this item until the June 14, 2007 City Council meeting. Motion carried: 6 Ayes, 0 Nays.

6.8. Public Hearing - 10:00 a.m. - City Secretary: Hold a public hearing to consider request of Michele Horton (for Murphy's Pub, Inc.) for a noise permit of variance for exterior loudspeaker use one day per week (day varies) from May 2007 through October 2007 during the hours of 12:00 p.m. to 12:00 a.m. at 3502 Slide Road, and to consider resolution to either grant or deny the request.

Mayor Miller opened the public hearing at 10:27 a. m. Barry Comiskey, representative of West Star Property Management, appeared in favor, with the exception of not having amplified sound before 6:30 p.m. due to a daycare center being next door to Murphy's Pub. Jill Clodfelter, Manager of Murphy's Pub, appeared on behalf of Murphy's Pub, Inc., and agreed with the 6:30 pm. start time, except Saturdays and Sundays. No one appeared in opposition. Mayor Miller closed the hearing at 10:47 a. m.

Sec. 18-4.5(b) of the Code of Ordinances states, "No permit of variance may be issued for greater than a 24-hour period except by action of the City Council. Before such action may be taken, notice of consideration of an extended variance permit for greater than 24-hour period shall be sent to all owners of real property lying within 300 feet of the property on which the noise will be generated and stating the length of the requested variance."

Extended variance permits must be for a term determined by City Council. If a permit is not approved, any individual who is aggrieved by the denial of a permit of variance by the City Council may appeal in writing, within 30 days after the denial, to the State District Court for relief.

Notice of the public hearing was sent to all property owners within the 300-foot area on April 30, 2007. As of May 12, 2007, 5 of the 18 notices have been completed and returned with four indicating opposition.

FISCAL IMPACT

No fiscal impact.

Staff recommended Council take action of either granting or denying the request.

A concern from Council was that the day of the week for the use of the loudspeaker would vary. Council asked Ms. Clodfelter to talk to the property owners that submitted letters in opposition.

Randy Henson, Director of Planning, and City Secretary Becky Garza gave comments and answered questions from Council. City Attorney Anita Burgess also gave comments.

Motion was made by Council Member Jones, seconded by Mayor Pro Tem Gilbreath to continue this item until the June 14, 2007 City Council meeting. Motion carried: 5 Ayes, 1 Nay. Council Member Price voted Nay.

6.9. Ordinance Amendment 1st Reading - Water Utilities: Ordinance No. 2007-O0056 amending Chapter 6 of the Code of Ordinances to include specific directions on the proper installation of backflow devices to address quality control concerns.

These changes amend Chapter Section 6-82, Section 6-100.1, Section 6-100.2, and Section 6-100.3 of the Code of Ordinances and include specific directions on the proper installation of backflow devices and address quality control concerns of backflow device testers and installers.

This ordinance is mandated by the Texas Commission on Environmental Quality. The Model Codes and Construction Advisory Committee and the Lubbock Water Advisory Board recommended approval.

FISCAL IMPACT

No fiscal impact.

Staff recommended approval of the first reading of this ordinance.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member DeLeon to pass on first reading Ordinance No. 2007-O0056 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

6.10. Guaranteed Maximum Price Proposal Resolution - Parks and Recreation: Resolution No. 2007-R0228 authorizing the Mayor to accept the Guaranteed Maximum Price Proposal, from Lee Lewis Construction, for the Youth Sports Complex.

On January 12, 2007, City Council approved a Construction Manager At Risk Contract with Lee Lewis Construction for the Youth Sports Complex. On February 4, 2007, Lee Lewis Construction publicly advertised and received bids for the project. On February 27, bids were open. The pricing exceeded available funding. The Construction Manager at Risk process allowed the City to direct the consultants to redesign the project. MWM Architects and Hugo Reed and Associates then prepared plans and specifications for a revised plan. The revised plan removed the concept of the championship field in the center of the sports complex, and four complexes were relocated to the northwest area of the property. The redesign reduced the site grading and excavation from 160 acres to approximately 60 acres. The revised plan includes a reduction in paving, concrete, and irrigation. Upon completion of the revised construction documents, Lee Lewis Construction repriced the project.

The project includes the construction of four four-field complexes, including twelve youth softball fields, three little league fields, and one junior league field. Parking, irrigation, restrooms, concession buildings, turf, and a maintenance facility are included.

When the parties to the contract agree that the design of the project is sufficiently developed and documented to allow detailed pricing of its construction, Article 7 of the contract requires the Construction Manager to prepare and submit a Guaranteed Maximum Price (GMP) Proposal to the City

(Owner). In submitting the GMP Proposal, the Construction Manager represents that it will provide every item, system or element of work that is identified, shown, or specified in the GMP Proposal, unless specifically excepted by the City. Upon City's acceptance of the GMP Proposal, the Construction Manager shall not be entitled to any increase in the GMP due to the continued refinement of the Construction Documents or the absence or addition of any detail or specification that may be required to complete the construction of the Project as described in and reasonably inferable from the GMP Proposal or the supporting documents used to establish the GMP.

The City may accept or reject the GMP or attempt to negotiate its terms with the Construction Manager. Upon acceptance by the City, the GMP and supporting documents shall become part of the Contract between the Owner and the Construction Manager. If the City rejects the GMP or the parties are unable or unwilling to agree on a GMP, the Owner may terminate the Agreement.

Lee Lewis Construction has submitted a GMP Proposal of \$11.7 million. The GMP does not include \$87,264 for sports lighting on the Junior League Field.

FISCAL IMPACT

\$12,730,381 was approved in project 91197, Youth Sports Complex, for the construction of Phase I, with \$12,078,355 available for this purpose.

Staff recommended approval of this resolution.

Scott Snider, Assistant City Manager; Randy Truesdell, Parks and Recreation Manager; and Lee Ann Dumbauld, City Manager, gave comments and answered questions from Council. Stephen Faulk, President of MWM Architects, gave a presentation. Liz Lonngren of Lee Lewis Construction was also present to give comments.

Motion was made by Council Member DeLeon, seconded by Council Member Jones to pass Resolution No. 2007-R0228 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

6.11. Gas Franchise Ordinance 1st Reading - Finance: Ordinance No. 2007-O0057 granting a franchise to West Texas Gas, Inc. to conduct a gas utility business and to occupy the public streets and right-of-way.

West Texas Gas of Midland, Texas, is interested in obtaining a franchise from the City to operate a retail natural gas system in the new developments of Lubbock. West Texas Gas serves approximately 35,000 customers in 24 incorporated municipalities, the largest of which has approximately 2,800 meters. They also have a wholesale gas marketing business where they supply approximately 50 municipalities with wholesale gas. West Texas Gas is expanding their business and would like to serve new developments in the metropolitan area of Lubbock. The Proposed Tariff for Gas Services for the West Texas Gas Distribution Systems is provided and is essentially the same as Atmos Energy.

This ordinance allows West Texas Gas to use the City's right-of-ways for purposes of operating a gas utility company. West Texas Gas will pay a franchise fee of 5% of its total annual gross revenues from its sale of natural gas within the City of Lubbock. The term of the franchise is for a period of 15 years.

The term "gross revenues" means all revenue derived or received, directly or indirectly, by West Texas Gas from or in connection with the operation of the Gas System and for its services and related services provided by West Texas Gas to residential, commercial, industrial, governmental and municipal customers located within the corporate limits of the City and including, without limitation:

- (a) All revenues received by West Texas Gas from the sale of gas within the City to all customers within the City; and
- (b) All revenues received by West Texas Gas from the transportation of gas through the pipeline system of West Texas Gas within the City to commercial and industrial customers within the City.
- (c) Gross revenues shall not include: (1) the revenue of any affiliate or subsidiary of West Texas Gas; (2) taxes imposed by law on customers that West Texas Gas is obligated to collect and which West Texas Gas passes on, in full, to the applicable tax authority or authorities; (3) any investment income earned by West Texas Gas, or (4) revenues from the sale, distribution or transportation of natural gas to or for governmental or municipal customers located within the corporate limits of the City to the extent any franchise fees payable to the City on account of such gross revenues are not recoverable, whether by applicable law or otherwise, by West Texas Gas through its service rates, surcharge or line-item billing.

The ordinance grants West Texas Gas a non-exclusive franchise and rights to conduct in the City the business of acquiring (by purchase, lease, or otherwise), maintaining, constructing, laying, repairing, removing, replacing, installing, operating, and disposing of (by sale, lease, or otherwise) a gas system, as hereinafter defined, for the sale, transportation, delivery, and distribution of natural gas within the municipal boundaries of the City and to the residents and businesses located therein for light, heat, power, and any other purpose during the term of the franchise. Such franchise and rights shall include, but not be limited to, the right to use the present and future streets, roads, highways, alleys, public ways, and other real property owned by or under the control of the City for purposes of maintaining, constructing, laying, repairing, removing, replacing, installing, and operating any and all components of the gas system, together with access, at all times and from time to time, to such streets, roads, highways, alleys, public ways, and other real property during the franchise term.

FISCAL IMPACT

Five percent of West Texas Gas gross revenue for services within the corporate limits of Lubbock. 60% of the future revenue will go to the General Fund with the remaining 40% going to the Gateway Streets Fund to support Gateway streets project.

Staff recommended approval of the first reading of this ordinance.

Jeff Yates, Chief Financial Officer; Matthew Wade, Assistant City Attorney; J.J. King with West Texas Gas; and Gary Gregory with Atmos Energy, gave comments and answered questions from Council. Mr. King informed Council that West Texas Gas has no desire to start any affiliate to not pay franchise fees.

Motion was made by Council Member Leonard, seconded by Council Member Price to pass on first reading Ordinance No. 2007-O0057 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

6.12. Board Appointments - City Secretary: Consider three appointments to the Audit Committee.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member DeLeon to reappoint Jim Brunjes, R.J. Givens, and John Zwiacher to the Audit Committee. Motion carried: 6 Ayes, 0 Nays.

7. WORK SESSION

7.1. This item was considered following Council reconvening at 1:50 p.m.

7.2. This item was considered following Item 7.1.

7.3. Bond Rating Upgrade Presentation - Finance: Presentation on bond rating upgrade. Jeff Yates, Chief Financial Officer.

Jeff Yates, Chief Financial Officer, gave a presentation on the City of Lubbock's bond rating upgrade. Yates explained that this upgrade comes from Standard and Poors Rating Service. Ratings are an evaluation of default risk, and the City's "AA Stable" rating indicates the ability to meet its financial commitment. Stable outlook indicates the City's rating position is not likely to change in the near future. The rating also indicates to the financial markets that the City is a strong credit. Yates went on to say that the upgrade drivers were strong financial management practices, which included appropriate fund balance policies, comprehensive financial modeling, commitment to the daily financial management of the City, long-term, detailed capital planning, and following through on financial plans. The City of Lubbock is ranked as "strong", the highest possible ranking. Yates then answered questions from Council. City Manager Lee Ann Dumbauld also gave comments and answered questions from Council.

12:05 P.M. CITY COUNCIL RECESSED TO EXECUTIVE SESSION

1:50 P.M. CITY COUNCIL RECONVENED

Council Member Phyllis Jones and City Attorney Anita Burgess were absent.

7.1. Final Presentation of the North University Avenue Mercado Design - Business Development: Final Presentation of the North University Avenue Mercado Design by the Local Chapter of the American Institute of Architects.

Final Presentation of the North University Avenue Mercado Design was presented to Council by Brian Griggs, representative of the Local Chapter of the American Institute of Architects (AIA). The Mercado Charrette and design process is part of a national campaign celebrating the sesquicentennial anniversary of the founding of the American Institute of Architects. Council Member DeLeon presented a certificate to the AIA. Jim White, AIA President, gave comments.

7.2. Department Presentation - Public Works: Presentation of Street Maintenance Improvement Plan. Marsha Reed, Assistant City Engineer and Kevin Lair, Street Superintendent.

Marsha Reed, Assistant City Engineer, introduced Kevin Lair, Street Superintendent, who gave a presentation of Street Maintenance Improvement Plan. Lair explained that this plan includes routine, preventive, and reactive maintenance. Preventive maintenance preserves the system, delays deterioration, and maintains or improves the functional condition of the system. Reactive maintenance are activities that must be done in response to events that are beyond our control, such as patching potholes and repairing base failures, spreading salt for ice/snow, repairing utility cuts and ditch failures, and cleaning up large debris from streets. Lair stated that the goal of the Street Department is to start performing routine maintenance on our excellent and very good-rated streets, resurface our good streets, rehabilitate our fair streets, and reconstruct our poor, very poor and failed streets. City Manager Lee Ann Dumbauld, and Chief Financial Officer Jeff Yates gave comments and answered questions from Council.

City Attorney Anita Burgess arrived at 2:45 p.m.

3:34 P. M. COUNCIL ADJOURNED

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