

CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
JUNE 14, 2007
7:30 A. M.

The City Council of the City of Lubbock, Texas met in regular session on the 14th day of June, 2007, in the City Council Chambers, first floor, City Hall, 1625 13th Street, Lubbock, Texas at 7:30 A. M.

7:35 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

Note: Newly-elected Council Member Klein was present to participate on the agenda items, following the Swearing-In Ceremony. Mr. Klein replaced Council Member Gary O. Boren as the District 3 representative.

1. CITIZEN COMMENTS

1.1. Eric Koch will appear before the City Council to present information and request that negotiations be revisited between the Lubbock Cotton Kings and the City of Lubbock.

Citizen was not present.

- Felecisima “Tina” Betts appeared before Council to speak in opposition of the proposed name change of Canyon Lakes Drive.

1.2. Ms. Mary Beard will appear before the City Council to speak on lack of drainage along the street in front of 4015 Clovis Road.

Mary Beard appeared before Council and shared her concern on the lack of drainage along the street in front of 4015 Clovis Road.

- Robin Hughes appeared before Council to share her views on negotiations between the City of Lubbock and the Lubbock Cotton Kings.
- Others who spoke to Council in opposition of the renaming of Canyon Lakes Drive were Billie Russell and Joyce Childers.
- Those who spoke to Council in favor of the renaming of Canyon Lakes Drive were Gilbert Salinas, Jesse Rangel, and Grace Garza.
- Those who spoke to Council regarding the water restriction issue were Mikel Ward, John Smothers and Tom Adams, Deputy City Manager/Water Utilities Director.

6. REGULAR AGENDA

- 6.1. This item was considered following Item 6.8.**
- 6.2. This item was deleted.**
- 6.3. Election Resolution - City Secretary: Resolution No. 2007-R0230 to canvass the vote and declare the results of the June 9, 2007, Special Runoff Election.**

The governing body is required to canvass election results not earlier than the third day or later than the eleventh day after Election Day. Each City Council member will be provided with tabulation sheets showing the total number of votes cast for each candidate by precinct. The resolution will canvass the returns and declare the results of the Special Runoff Election for the City Council member for District 3.

The City Secretary recommended that the City Council accept the returns and act favorably on the resolution.

City Secretary Becky Garza read into the record the results from the runoff election. Todd Klein received the majority of the votes.

Motion was made by Council Member Leonard, seconded by Council Member Price to pass Resolution No. 2007-R230 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

8:10 A. M. CITY COUNCIL RECESSED

8:20 A. M. CITY COUNCIL RECONVENED

- 6.4. Swearing-In Ceremony - City Council: Swearing-in of newly elected Council Member for City Council District 3. (Reception immediately following.)**

SWEARING-IN CEREMONY

Mayor Miller presented comments and recognized Manda and John, wife and son of newly elected District 3 Council Member, Todd Klein.

Swearing in of newly elected Council Member:

Council Member Todd Klein, District 3 was sworn in by Reverend Clint Stephenson.

**8:30 A. M. CITY COUNCIL RECESSED TO RECEPTION
Committee Room 103**

9:08 A. M. CITY COUNCIL RECONVENED FROM RECEPTION

- 2. EXECUTIVE SESSION was considered following Item 6.13.**
- 3. PROCLAMATIONS AND PRESENTATIONS were considered following Item 5.22.**
- 4. MINUTES were considered following Item 3.5.**

5. CONSENT AGENDA (Items 5.1-5.9, 5.12, 5.14-5.15, 5.17, 5.19-5.21, 5.23-5.25)

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to approve Items 5.1-5.9, 5.12, 5.14-5.15, 5.17, 5.19-5.21, 5.23-5.25 on consent agenda as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.1. Zone Case No. 3080 (3718, 3720, 3722, and 3724 24th Street) Ordinance 2nd Reading - Zoning: Ordinance No. 2007-O0050 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, and to consider an ordinance.

The request is for a change of zoning from Residential-1 (R-1) to Apartment Medical (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.

- 5.2. Zone Case No. 3054-A (122nd Street and east of Indiana Avenue) Ordinance 2nd Reading - Zoning: Ordinance No. 2007-O0051 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, and to consider an ordinance.**

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 were 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. 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.

- 5.3. Zone Case No. 2995-D (6210 82nd Street) Ordinance 2nd Reading - Zoning: Ordinance No. 2007-O0052 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, and to consider an ordinance.**

The applicant needs Commercial-3 (C-3) zoning versus the current Commercial-2 (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 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.

5.4. Zone Case No. 3081 (1801 Main Street) Ordinance 2nd Reading - Zoning: Ordinance No. O0053 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, and to consider an ordinance.

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 (GO) District. First, the structure will be three stories in height; and second, the amount of parking provided is 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 being 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 not including the basement, which will be used for storage, mechanical equipment, and as a storm shelter.

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.

5.5. Zone Case No. 2374-E (1615 74th Street and 1719 South Loop 289) Ordinance 2nd Reading - Zoning: Ordinance No. 2007-O0054 Consider request of Darrell Mann (for Greasewood Holdings, LLC) for a zoning change from A-2, A-1, and C-4 to A-1 on 8.302 Acres of unplatted land out of Block E, Section 4, and to consider an ordinance.

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

- 5.6. Zone Case No. 3050-A (3814 130th Street) Ordinance 2nd Reading - Zoning: Ordinance No. 2007-00055 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, and to consider an ordinance.**

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.

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. 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.

5.7. Ordinance Amendment 2nd Reading - Water Utilities: Ordinance No. 2007-O0056 Consider an ordinance amending Chapter 6 of the Code of Ordinances to include specific directions on the proper installation of backflow devices to address quality control concerns.

Backflow and cross connection is the process by which a public drinking water supply can become contaminated or polluted due to customers on the system who fail to install the proper backflow and cross connection prevention assemblies. These customers typically work with hazardous material such as blood, medical waste, chemicals, and other hazards that, if found in the public water supply, would be hazardous and potentially fatal to other customers on the system.

This ordinance was adopted two years ago and during this time there have been many questions from backflow installers regarding the proper installation of backflow prevention assemblies. A section has been added to this ordinance to address installation concerns. In addition, according to State regulations, backflow testers may be registered to test within the city in which they work, however, no criteria exists from the state to establish the policies and procedures for registration. This criteria is established by the City. This ordinance establishes the criteria for policies and procedures.

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 second reading of this ordinance.

5.8. Contract Resolution - Water Utilities: Resolution No. 2007-R0231 authorizing the Mayor to execute a contract for the construction of the Hancock Land Application Outfall Line Remediation Project, BID 07-714-BM.

This project involves the construction of a new outfall line for Reservoir No. 3 at the Hancock Land Application Site. The current outfall line is leaking at a backflow prevention valve and has elevated the risk of a complete reservoir failure. The current configuration can drain the reservoir if the backflow prevention valve completely fails. A new design will prevent future liability and fulfill the present function of the outfall line.

The new system will include 164 feet of new 12-inch water main that will be connected to a water delivery system outside the reservoir. The new water main will deliver water over the reservoir dam to a concrete channel system capable of dissipating the energy and preventing future erosion of the dam. The concrete channel system will be connected to the water main and will be constructed to the present edge of water in the reservoir. The construction of the entire system will consist of an open cut trench for the water main and the forming of the concrete structure. Once the new outfall line is completed, the contractor will plug the existing line to remediate the current leak.

Selection criteria published in the Request for Proposals included price (50%), resumes and references (10%), recommendations to reduce project cost (10%), insurance claims and litigation (5%), construction time (15%) list of subcontractors (5%), and construction phasing (5%).

Proposals were ranked as follows:

JNI Contractors of Lubbock, Texas

\$57,699

400 points

Minnix Commercial Partners of Lubbock, Texas

\$63,849

366 points

Texas Water and Soil Company of San Angelo, Texas

\$74,485

329 points

JNI Contractors submitted the lowest price proposal with the shortest construction time.

FISCAL IMPACT

A total of \$195,000 was appropriated in the Adopted FY 2006-07 Wastewater Operating Budget, with funding available for this purpose.

Staff recommended contract award to JNI Contractors of Lubbock, Texas for \$57,699.

5.9. Contract Resolution - Storm Water: Resolution No. 2007-R0232 authorizing the Mayor to execute a contract for video inspection of storm sewers, BID 07-021-RW.

This project involves video inspection of the Lubbock storm sewer infrastructure beginning with the 80 year old downtown area. Video inspection will provide very important and useful information on pipe conditions and locations of aging infrastructure. Staff receives many requests to locate storm sewers in areas of construction and this project will provide geographic locations of all manholes and pipe invert elevations in order to determine the exact locations of the storm sewer pipes. The information gathered will be placed on the City's Geographic Information System (GIS) system.

The evaluation criteria published in the Request for Proposals (RFP) included substantial successful experience in similar projects within the last five years (20%), demonstrated knowledge and understanding of the project (20%), technical capabilities and professional competence (20%), methodology and approach to complete the assignment (20%), record of performance based on previous work and/or references (10%), and cost (10%).

Proposals were ranked as follows:

RJN Group, Inc. of Dallas, Texas

\$695,220

443 points

Applied Geographic Technologies of Fort Worth, Texas

\$720,181

381 points

Cleanserve, Inc. of Alvin, Texas

\$690,000

250 points

Based on the proposals, interviews, and references, the evaluation committee recommended contract award to RJN Group of Dallas, Texas.

FISCAL IMPACT

\$804,000 is appropriated in Capital Improvement Project 8070, Video Inspection of Storm Sewers with \$804,000 available for this purpose.

Staff recommended contract award to RJN Group of Dallas, Texas for \$695,220.

- 5.10. **This item was moved from consent agenda to regular agenda and considered following Item 5.25.**
- 5.11. **This item was moved from consent agenda to regular agenda and considered following Item 5.10.**
- 5.12. **Contract Resolution - Health: Resolution No. 2007-R0233 authorizing the Mayor to execute contract with the Texas Department of Criminal Justice to provide death certificates of parolees to the Texas Department of Criminal Justice by the City Health Department.**

Contract No. 696-PD-8-8-L0014 with Texas Department of Criminal Justice (TDCJ) allows the Health Department to provide death certificates of deceased parolees to TDCJ. TDCJ will pay the Lubbock Health Department \$21 per death certificate. The total amount of this contract shall not exceed \$420. The contract term ends August 31, 2008.

FISCAL IMPACT

There is no significant impact to the General Fund.

Staff recommended approval of this resolution.

- 5.13. **This item was moved from consent agenda to regular agenda and considered following Item 5.11.**
- 5.14. **Contract Amendment Resolution - Parks & Recreation: Resolution No. 2007-R0234 authorizing the Mayor execute a contract amendment with Lee Lewis Construction establishing the Guaranteed Maximum Price and Construction Cost Limitation for the Phase I Youth Sports Facility.**

The project for the Phase I Youth Sports Facility 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.

On May 24, 2007, City Council accepted the \$11.7 million Guaranteed Maximum Price Proposal from Lee Lewis Construction. This amendment establishes the Construction Cost Limitation (CCL) at \$10,541,686. The CCL is the maximum monetary amount payable to the Construction Manager for all Construction Phase services, materials, labor and other work required for completion of the Work in accordance with the Contract Documents. The CCL includes the General Conditions Costs, the Cost of the Work, the Construction Phase Fee, and the Construction Manager's Contingency. Pursuant to Article 3 of the Contract, the CCL may be adjusted by the parties of the contract for changes in scope of the project after acceptance of the Guaranteed Maximum Price Proposal.

FISCAL IMPACT

\$12,730,381 is appropriated in project 91197, Phase I Youth Sports Complex, with \$12,078,355 available for this purpose.

Staff recommended approval of this resolution.

- 5.15. Grant Application Resolution - Library: Resolution No. 2007-R0235 authorizing the Mayor to execute a grant application to the Texas State Library and Archives Commission for a Technical Assistance Negotiated Grant providing technology support for the West Texas Library System member libraries.**

The Technical Assistance Negotiated Grant has been awarded to the City of Lubbock and West Texas Library System (WTLS) since State fiscal year 2000. The purpose of the grant is to provide WTLS member libraries access to a technical advisor by phone, mail/e-mail, and on-site visits for questions concerning equipment problems, repairs, and routine maintenance of all WTLS computers and computer equipment. The technical advisor also provides training on the maintenance of equipment and operating systems, websites, and management of computer networks.

FISCAL IMPACT

The Technical Assistance Program costs \$80,000 annually, with the total cost funded through the grant program.

Staff recommended approval of this resolution.

- 5.16. This item was moved from consent agenda to regular agenda and considered following Item 5.13.**
- 5.17. Right-of-Way Ordinance 2nd Reading - Right-of-Way: Ordinance No. 2007-O0048 Consider an ordinance abandoning and closing a portion of a 20-foot alley located in Block 113, Overton Addition, alley closure located at 1707 7th Street.**

This ordinance was read for the first time at the May 11, 2007, City Council meeting as a consent agenda item. This ordinance abandons and closes the north 165-foot portion of the 20-foot alley located in Block 113, Overton Addition just south of 7th Street between Avenue Q and Avenue R. The alley is being closed for development purposes and will remain a temporary utility easement. In the re-platting process a utility and public access easement will be dedicated to replace this easement closure. Since the requestor of this closure is not the original dedicator there will be a charge for the alley closure. The total alley area being closed is 3,300 square feet and in the re-plat the owner is dedicating 4,826 square feet of street dedication and a 4,777 square foot utility easement. Therefore, there will not be a charge for this alley portion closure. All utility companies are in agreement with this alley portion closure.

FISCAL IMPACT

No fiscal impact.

Staff recommended approval of the second reading of this ordinance.

- 5.18. This item was moved from consent agenda to regular agenda and considered following Item 5.16.**
- 5.19. Contract Resolution - Citibus: Resolution No. 2007-R0236 authorizing the Mayor to execute a contract with Texas Tech University for bus service on Texas Tech University campus.**

The contract with Texas Tech University (TTU) for transit services is for a one-year period beginning September 1, 2007, and ending on August 31, 2008. TTU will pay the City \$44.65 per bus per hour and includes a fuel cost adjustment above or below \$2.40 per gallon. The price per hour covers full cost recovery for the City. Citibus has made some operational changes to make the Texas Tech University service on campus more efficient, such as operating a reduced number of buses while maintaining the same number of service hours.

Citibus has had a contract with TTU since 1968, and the fuel cost adjustment provision was added to the contract in 1981. Pursuant to the TTU contract, Citibus does not collect fares from its passengers.

The TTU Board of Regents will consider approval of the contract during their August meeting. The TTU Board of Regents requests that the City execute the contract first.

FISCAL IMPACT

Any funds spent on maintenance are reimbursed by the Federal Transit Administration at 80%, or approximately \$400,000, since the Texas Tech University service is on a breakeven option. The additional funds are used to pay for system expenses which otherwise would have to be paid by the City. Citibus anticipates receiving \$2,294,874 from TTU in FY 2008. The approval of this contract will result in no additional cost to the City.

Citibus recommended approval of this resolution.

- 5.20. Contract Resolution - Airport: Resolution No. 2007-R0237 authorizing the Mayor to execute a Certificated Passenger Airline Operating Agreement and Terminal Building Lease with American Eagle Airlines, Inc.**

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

Former Agreement Rates:

Terminal Rate:

\$16.78 per sq. ft. per year

Landing Fee:

\$0.80 per 1,000 of maximum gross landed weight

Security Police:
\$0.25 per enplaned passenger
Jetbridge Use:
\$10.00 per arrival
Trash Compactor:
\$100.00 per month
Dump Station:
\$30.00 per month
Extraordinary Electricity Usage
Operations Cost Center 4616:
\$610,650 (FY Budget 2005/06)
Non-Signatory Landing Fee:
\$1.00

The New Agreement Rates:

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

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

Extraordinary Electricity Usage

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

FISCAL IMPACT

The actual fiscal impact is difficult to determine due to changes that can occur in the airline industry. During the first year, it is estimated that the new agreement will result in approximately \$172,000 of additional revenue. The Air Freight Companies pay 125% of the airline landing fee and will produce approximately \$44,000 of additional revenue in the first year. All revenue from this agreement will remain in the Airport Fund to fund operations related to the terminal.

The Airport Board and staff recommended approval of this resolution.

5.21. Contract Resolution - Airport: Resolution No. 2007-R0238 authorizing the Mayor to execute an agreement with Integrated Airline Service, Inc to lease warehouse space at Lubbock Preston Smith International Airport.

Integrated Airline Service has leased a portion of a warehouse on the east side of the Airport for over five years. Integrated Airline Service currently has a contract with the US Postal Service for delivering mail to and from the

Federal Express freight facility. Integrated Airline Service is preparing for a new contract with the US Postal Service beginning October 2007 and has interest in occupying the building formerly occupied by Lykes Cartage located adjacent to the east ramp. Integrated Air Services will repair the roll up doors and sliding ramp doors before occupying the building.

The term of the lease will begin June 15, 2007 and terminate with no holdover on October 1, 2007. If Integrated Airline Service is awarded the US Postal Service Contract, the lease will extend for a two-year period beginning October 1, 2007, and terminating September 30, 2009, with an option to extend up to four additional one-year periods.

FISCAL IMPACT

The building is 4,890 square feet and the lease is \$2.95 per square foot per year. The annual rent will be \$14,426, or \$1,202 per month. Integrated Air Service currently leases the warehouse in Eastport for \$12,500 annually. Net increase to the airport will be \$1,926 annually. The new contract includes an annual CPI adjustment. Lease revenues from the warehouse will remain in the Airport Fund to fund Airport operations.

Airport Board and Airport Staff recommended approval of the lease agreement.

- 5.22. This item was moved from consent agenda to regular agenda and considered following item 5.18.**
- 5.23. Bylaws Amendment Resolution - Business Development: Resolution No. 2007-R0239 approving amendments to the Lubbock Economic Development Alliance, Inc. By-Laws to provide more flexibility and to provide for the expanded purpose of Tex. Rev. C. Stat., Article 5190.6 (Act), as stated in recent amendments to the Act.**

Since the inception of Lubbock Economic Development Alliance (LEDA), its primary governing statute, Tex. Rev. C. Stat., Article 5190.6 (the "Act") has continued to undergo significant changes and amendments with almost every legislative session. These statutory modifications have caused the LEDA Board of Directors to review its By-Laws to maintain compliance with its corporate purpose as mandated by the Act.

It was determined by the LEDA Board of Directors that Article VII and Article IX of the By-Laws should be amended to provide more flexibility and provide for the expanded purpose of the Act as stated in recent amendments.

The Act, as amended, has redefined the term "project" to require the support of Section 4A development corporations to incept projects that result in the "creation and retention of primary jobs." Not all projects contain this requirement. Article VII was amended to reflect this change.

Article IX was amended to require a performance agreement that at a minimum, includes the provisions that are required in the Act.

On January 22, 2007, LEDA's Board of Directors unanimously approved these amendments to Article VII and Article IX of the By-Laws.

FISCAL IMPACT

No fiscal impact.

The LEDA Board of Directors recommended approval of this resolution.

- 5.24. Public Facilities Corporation Resolution - Business Development: Resolution No. 2007-R0240 approving and authorizing the creation of the Vintage Township Public Facilities Corporation, approving Articles of Incorporation for such corporation, appointing the directors of such corporation, and approving Bylaws for such corporation.**

City Council approved a resolution establishing the Vintage Township Public Improvement District (PID) at the January 12, 2007, City Council meeting. The City will issue bonds to fund certain public improvements in the PID. In accordance with Chapter 303, Local Government Code (the "PFC Act"), bonds issued by the City to fund public improvements may be acquired by a Public Facilities Corporation (PFC) and then sold to the market. This resolution authorizes the creation of a PFC for this purpose. All costs of the PFC will be paid by the developer of the public improvements or, to the extent permitted by law, from assessments levied on property owners in the PID. Therefore, this item will not impact the City's budget. Since the PID was re-created in January 2007, it is necessary to re-authorize the creation of the PFC.

FISCAL IMPACT

No fiscal impact.

Staff recommended approval of this resolution.

- 5.25. Contract Assignment Resolution - Business Development: Resolution No. 2007-R0241 authorizing the Mayor to execute an assignment to transfer and assign to Bolton Oil Company, LTD the tax abatement agreement dated June 29, 2004, and amended on July 21, 2004, between the City of Lubbock, Chisum Travel Center, LTD, and Z8 Properties, LTD.**

Robert B. Wilson was appointed Temporary Receiver by the United States District Court in Cause No. 5-05CV0266-C, styled "Securities and Exchange Commission, Plaintiff v. Jonathan D. Nelson, et al" to act on behalf of Chisum Travel Center, LTD and Z8 Properties, LTD. The sale of Chisum Travel Center and the property at 2611 E. Slaton Road to Charles Bolton, Bolton Oil Company, was approved by the Court October 6, 2006.

Mr. Wilson requests that the tax abatement on this property be transferred to the new owner, Bolton Oil Company.

FISCAL IMPACT

No fiscal impact.

Staff recommended approval of this resolution.

6. REGULAR AGENDA (continued)

Note: Regular Agenda items, and Consent Agenda items moved to Regular Agenda, are listed in the order they were addressed (5.10-5.11, 5.13, 5.16, 5.18, 5.22).

5.10. Investment Policy and Investment Strategy Revisions Resolution - Finance: Resolution No. 2007-R0242 to approve the revised Investment Policy and Investment Strategy.

An annual review, by the City Council, of the City of Lubbock Investment Policy and Investment Strategy is required by the Public Funds Investment Act, Texas Government Code 2256.005(e). The Investment Policy and Investment Strategy has been updated to reflect changes as reviewed and recommended by the City's Audit Committee. The agenda back-up information includes a "red-lined" version of the Policy/Strategy to highlight all changes that have been made at this time.

FISCAL IMPACT

No fiscal impact.

Audit Committee has reviewed the changes and 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 Mayor Pro Tem Gilbreath, seconded by Council Member Price to pass Resolution No. 2007-R0242 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.11. Contract Resolution - Environmental Compliance: Resolution No. 2007-R0243 authorizing the Mayor to execute a contract with Louise Hopkins Underwood Center for the Arts to allow the City to enter LHUCA property necessary to perform soil and groundwater sampling activities.

The City has been ordered by the Texas Commission on Environmental Quality (TCEQ) to assess the environmental condition and remediate contamination discovered on property located at 5th Street and Avenue J. Contamination from former petroleum storage tanks has been identified on each quadrant of this intersection. The City and LP&L are responsible for contamination resulting from facilities located on the northwest, northeast, and southwest quadrants. Borden Milk Products is responsible for contamination on the southeast quadrant. Louise Hopkins Underwood Center for the Arts (LHUCA) now owns the southern half of the property, and the City controls the northern half. The City must obtain permission from LHUCA to allow City contractors to enter the property to sample soils and groundwater.

FISCAL IMPACT

No fiscal impact.

Staff recommended approval of this resolution.

Steve Claybrook, Environmental Compliance Manager, gave comments and answered questions from Council.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Jones to pass Resolution No. 2007-R0243 as recommended by staff.

Motion carried: 7 Ayes, 0 Nays.

5.13. Contract Resolution - Parks and Recreation: Resolution No. 2007-R0244 authorizing the Mayor to use the Request for Proposal alternative project delivery method as the construction project method providing the best value for the City of Lubbock for the Northwest Little League Complex and Southwest Little League Complex.

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

1. Competitive Sealed Proposals
2. Competitive Bidding
3. Construction Manager-At-Risk
4. Construction Manager-Agent
5. Design-Build
6. Job Order Contracts

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

The project being considered for Competitive Sealed Proposals is described as the construction of the Northwest Little League Complex and Southwest Little League Complex. One complex will be located at North University and Marshall Avenue on the south side of Llano Estacado Lake. The project includes the construction of three regulation little league fields, concession, restrooms, press boxes, fences, lighting, turf, irrigation, parking, sidewalks and bleachers. The other will be located at Maxey Park, 26th Street and Nashville Avenue, on the east side of the lake. The project includes the construction of two regulation little league fields, concession, restrooms, press boxes, fences, lighting, turf, irrigation, parking, sidewalks and bleachers.

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

The estimated cost of constructing the Little League complexes is approximately \$2 million.

As required by statute, staff is asking City Council to authorize and direct City staff to use the Competitive Sealed Proposals delivery method for the Northwest Little League Complex and Southwest Little League Complex as the method providing the best value for the City of Lubbock. The following information is provided to help City Council determine which delivery method provides the best value for the City.

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

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

The City must receive, publicly open, and read aloud the names of the offerors and, if any are required to be stated, all prices stated in each proposal. Not later than the 45th day after the date of opening the proposals, the City must evaluate and rank each proposal submitted in relation to the published selection criteria. The City must select the offeror that offers the best value for the City based on the published selection criteria and on its ranking evaluation. The City must first attempt to negotiate a contract with the selected offeror. The City and its engineer or architect may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification. If the City is unable to negotiate a contract with the selected offeror, the City must, formally and in writing, end negotiations with that offeror and proceed to the next offeror in the order of the selection ranking until a contract is reached or all proposals are rejected.

In determining best value for the City, the City is not restricted to considering price alone, but may consider any other factor stated in the selection criteria.

2. **Competitive Bidding.** The municipality must award a competitively bid contract at the bid amount to the bidder offering the best value to the City according to the established selection criteria. Competitive bidding is the process of selecting a general contractor where contractors compete for the same project by submitting public bids to the municipality. Each contractor is given the same set of plans and specifications. The estimating department of each contractor solicits subcontractor bids for work they do not perform with their own forces. All bids are assembled and a bid amount is arrived at and submitted to the municipality. A specific "lump sum" price is determined through competitive bidding by two or more general contractors. The work is usually awarded to the lowest responsible bidder who then manages the construction project. An outside architectural firm will need to be employed by the owner under a separate contract to prepare complete plans and specifications, called the "bid documents". The plans will show the scope of work desired, and the specifications will spell out the level of quality desired.

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

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

3. **Construction Manager-At-Risk.** A construction manager-at-risk is a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for construction, rehabilitation, alteration, or repair of a facility at the contracted price as a general contractor and provides consultation to the City regarding construction during and after the design of the facility. Before or concurrently with selecting a construction manager-at-risk, the City must select or designate an engineer or architect who must prepare the construction documents for the project. The City's engineer, architect, or construction manager-agent for a project may not serve, alone or in combination with another, as the construction manager-at-risk unless the engineer or architect is hired to serve as the construction manager-at-risk under a separate or concurrent procurement conducted in accordance with this subchapter. The City must provide or contract for, independently of the construction manager-at-risk, the inspection services, the testing of

construction materials engineering, and the verification testing services necessary for acceptance of the facility by the City. The City must select those services for which it contracts in accordance with Section 2254.004, Government Code.

The City must select the construction manager-at-risk in either a one-step or two-step process. The City must prepare a request for proposals, in the case of a one-step process, or a request for qualifications, in the case of a two-step process, that includes general information on the project site, project scope, schedule, selection criteria, estimated budget, and the time and place for receipt of proposals or qualifications, as applicable, and other information that may assist the City in its selection of a construction manager-at-risk. The City must state the selection criteria in the request for proposals or qualifications, as applicable. The selection criteria may include the offeror's experience, past performance, safety record, proposed personnel and methodology, and other appropriate factors that demonstrate the capability of the construction manager-at-risk. If a one-step process is used, the City may request, as part of the offeror's proposal, proposed fees and prices for fulfilling the general conditions. If a two-step process is used, the City may not request fees or prices in step one. In step two, the City may request that five or fewer offerors, selected solely on the basis of qualifications, provide additional information, including the construction manager-at-risk's proposed fee and its price for fulfilling the general conditions. At each step, the City must receive, publicly open, and read aloud the names of the offerors. At the appropriate step, the City must also read aloud the fees and prices, if any, stated in each proposal as the proposal is opened. Not later than the 45th day after the date of opening the proposals, the City must evaluate and rank each proposal submitted in relation to the criteria set forth in the request for proposals.

The City must select the offeror that submits the proposal that offers the best value for the City based on the published selection criteria and on its ranking evaluation. The City must first attempt to negotiate a contract with the selected offeror. If the City is unable to negotiate a satisfactory contract with the selected offeror, the City must, formally and in writing, end negotiations with that offeror and proceed to negotiate with the next offeror in the order of the selection ranking until a contract is reached or negotiations with all ranked offerors end. A construction manager-at-risk must publicly advertise and receive bids or proposals from trade contractors or subcontractors for the performance of all major elements of the work other than the minor work that may be included in the general conditions. A construction manager-at-risk may seek to perform portions of the work itself if the construction manager-at-risk submits its bid or proposal for those portions of the work in the same manner as all other trade contractors or subcontractors and if the City determines that the construction manager-at-risk's bid or proposal provides the best value for the City.

The construction manager-at-risk and the City or its representative must review all trade contractor or subcontractor bids or proposals in a manner that

does not disclose the contents of the bid or proposal during the selection process to a person not employed by the construction manager-at-risk, engineer, architect, or City. All bids or proposals must be made public after the award of the contract or not later than the seventh day after the date of final selection of bids or proposals, whichever is later. If the construction manager-at-risk reviews, evaluates, and recommended to the City a bid or proposal from a trade contractor or subcontractor but the City requires another bid or proposal to be accepted, the City must compensate the construction manager-at-risk by a change in price, time, or guaranteed maximum cost for any additional cost and risk that the construction manager-at-risk may incur because of the City's requirement that another bid or proposal be accepted. If a selected trade contractor or subcontractor defaults in the performance of its work or fails to execute a subcontract after being selected in accordance with this section, the construction manager-at-risk may, without advertising, fulfill the contract requirements itself or select a replacement trade contractor or subcontractor to fulfill the contract requirements.

If a fixed contract amount or guaranteed maximum price has not been determined at the time the contract is awarded, the penal sums of the performance and payment bonds delivered to the City must each be in an amount equal to the project budget, as specified in the request for qualifications. The construction manager must deliver the bonds not later than the 10th day after the date the construction manager executes the contract unless the construction manager furnishes a bid bond or other financial security acceptable to the City to ensure that the construction manager will furnish the required performance and payment bonds when a guaranteed maximum price is established.

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

Before or concurrently with selecting a construction manager-agent, the City must select or designate an engineer or architect who must prepare the construction documents for the project. The City's engineer or architect may not serve, alone or in combination with another person, as the construction manager-agent unless the engineer or architect is hired to serve as the construction manager-agent under a separate or concurrent procurement. This does not prohibit the City's engineer or architect from providing customary construction phase services under the engineer's or architect's original professional service agreement in accordance with applicable licensing laws.

A City must select a construction manager-agent on the basis of demonstrated competence and qualifications in the same manner as provided for the selection of engineers or architects under Section 2254.004, Government Code. A City using the construction manager-agent method must procure, in accordance with applicable law, a general contractor, trade contractors, or subcontractors who will serve as the prime contractor for their specific portion of the work. The City or the construction manager-agent must procure in accordance with Section 2254.004, Government Code, all of the testing of construction materials engineering, the inspection services, and the verification testing services necessary for acceptance of the facility by the City.

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

The City must prepare a request for qualifications that includes general information on the project site, project scope, budget, special systems, selection criteria, and other information that may assist potential design-build firms in submitting proposals for the project. The City must also prepare a design criteria package that includes more detailed information on the project. If the preparation of the design criteria package requires engineering or architectural services that constitute the practice of engineering within the meaning of The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes) or the practice of architecture within the meaning of Chapter 478, Acts of the 45th Legislature, Regular Session, 1937 (Article 249a, Vernon's Texas Civil Statutes), those services must be provided in accordance with the applicable law. The City must evaluate statements of qualifications and select a design-build firm in two phases: (1) In phase one, the City must prepare a request for qualifications and evaluate each offeror's experience, technical competence, and capability to perform, the past performance of the offeror's team and members of the team, and other appropriate factors submitted by the team or firm in response to the request for qualifications, except that cost-related or price-related evaluation factors are not permitted. Each offeror must certify to the City that each engineer or architect that is a member of its team was selected based on demonstrated competence and qualifications in the manner provided by Section 2254.004, Government Code. The City must qualify a maximum of five offerors to submit additional information and, if the City chooses, to interview for final selection. (2) In phase two, the City must evaluate the information submitted by the offerors on the basis of the selection criteria stated in the request for qualifications and the results of an interview. The City may request additional information regarding demonstrated competence and qualifications, considerations of the safety and long-term durability of the project, the

feasibility of implementing the project as proposed, the ability of the offeror to meet schedules, costing methodology, or other factors as appropriate.

The City may not require offerors to submit detailed engineering or architectural designs as part of the proposal. The City must rank each proposal submitted on the basis of the criteria set forth in the request for qualifications. The City must select the design-build firm that submits the proposal offering the best value for the City on the basis of the published selection criteria and on its ranking evaluations. The City must first attempt to negotiate a contract with the selected offeror. If the City is unable to negotiate a satisfactory contract with the selected offeror, the City must, formally and in writing, end negotiations with that offeror and proceed to negotiate with the next offeror in the order of the selection ranking until a contract is reached or negotiations with all ranked offerors end. Following selection of a design-build firm, that firm's engineers or architects must complete the design, submitting all design elements for review and determination of scope compliance to the City or the City's engineer or architect before or concurrently with construction. The City must provide or contract for, independently of the design-build firm, the inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the facility by the City. The City must select those services for which it contracts in accordance with Section 2254.004, Government Code. The design-build firm must supply a signed and sealed set of construction documents for the project to the City at the conclusion of construction. A payment or performance bond is not required for, and may not provide coverage for, the portion of a design-build contract under this section that includes design services only. If a fixed contract amount or guaranteed maximum price has not been determined at the time a design-build contract is awarded, the penal sums of the performance and payment bonds delivered to the City must each be in an amount equal to the project budget, as specified in the design criteria package. The design-build firm must deliver the bonds not later than the 10th day after the date the design-build firm executes the contract unless the design-build firm furnishes a bid bond or other financial security acceptable to the City to ensure that the design-build firm will furnish the required performance and payment bonds when a guaranteed maximum price is established.

6. Job Order Contracts. A City may award job order contracts for the minor construction, repair, rehabilitation, or alteration of a facility if the work is of a recurring nature but the delivery times are indefinite and indefinite quantities and orders are awarded substantially on the basis of predescribed and prepriced tasks. The City may establish contractual unit prices for a job order contract by: (1) specifying one or more published construction unit price books and the applicable divisions or line items; or (2) providing a list of work items and requiring the offerors to bid or propose one or more coefficients or multipliers to be applied to the price book or work items as the price proposal.

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

An order for a job or project under the job order contract must be signed by the City's representative and the contractor. The order may be a fixed price, lump-sum contract based substantially on contractual unit pricing applied to estimated quantities or may be a unit price order based on the quantities and line times delivered. The contractor must provide payment and performance bonds, if required by law, based on the amount or estimated amount of any order. The base term of a job order contract is for the period and with any renewal options that the City sets forth in the request for proposals. If the City fails to advertise that term, the base term may not exceed two years and is not renewable without further advertisement and solicitation of proposals. If a job order contract or an order issued under the contract requires engineering or architectural services that constitute the practice of engineering, those services must be provided in accordance with applicable law.

FISCAL IMPACT

\$2,598,000 is appropriated in Project 91207, Northwest Little League Complex with \$2,505,766 available for this purpose. \$2.5 million is appropriated in Project 91208, Southwest Little League Complex with \$2,386,134 available for this purpose.

In reliance on the professional architectural opinions of Chapman Harvey Architects who have said that the Northwest Little League Complex and Southwest Little League Complex project architecturally meets the definition of a "facility" as defined in Local Government Code 271.111, staff recommended approval.

In November 2006, staff recommended using the Construction Manager-At-Risk method for the Little League projects (Resolution No. 2006-R0543). It is now staff's opinion, and the opinion of the project architect, that the City use the Request for Proposal method. A letter from Chapman Harvey Architects is provided.

Scott Snider, Assistant City Manager; Randy Truesdell, Parks and Recreation Manager; and Randy Henson, Director of Planning, gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass Resolution No. 2007-R0244 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.16. Contract Resolution - Police: Resolution No. 2007-R0245 authorizing the Mayor to execute a purchase order contract with Tiburon for automatic vehicle location technology.

Tiburon proprietary Automatic Vehicle Location (AVL) application software is used in conjunction with the City's computer aided dispatching (CAD) system. CAD electronically tracks and logs emergency calls and related activity in a real-time environment. The AVL system provides real-time tracking of all equipped public safety vehicles. The tracking displays the physical location of each vehicle on a GPS mapping system. AVL color codes each vehicle on the map showing their status (available, en route, and on scene).

AVL technology benefits public and officer safety. Public safety is enhanced by identifying the emergency vehicle that is closest to major scenes and assigning the closest unit. Officer safety is enhanced by identifying the location of each emergency vehicle and sending rapid assistance if required by emergency personnel. AVL technology is also used for internal investigations where supervisors can easily monitor police officer and fire fighter activities throughout their shifts.

Tiburon AVL software product is the only software application that can be used with Tiburon products to allow for proper functioning in productive use by the City and under the Software License Agreement is Tiburon Proprietary. There are no third-party vendors authorized by Tiburon to provide application software support for this software product. Tiburon is the sole qualified and authorized provider of extended support services for its proprietary software products. Consequently, this is a sole source procurement exempt from competitive bidding pursuant to Texas Local Government Code 252.022(a)(7)(A).

FISCAL IMPACT

The initial \$49,800 cost will be funded with \$25,000 from Homeland Security Grants and \$24,800 from the Local Law Enforcement Block Grant program. The annual \$4,100 maintenance fee will be funded from the Police and Fire Departments annual operating budgets.

Staff recommended approval of this resolution.

Claude Jones, Police Chief, and Mark Yearwood, Assistant City Manager, gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass Resolution No. 2007-R0245 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.18. Contract Resolution - Public Works: Resolution No. 2007-R0246 authorizing the Mayor to execute a contract for paving improvements on Avenue P from 74th Street to 82nd Street, BID 07-720-BM.

Avenue P north of 82nd Street is designated as a collector street. Paving improvements on Avenue P have been constructed in a number of small sections as development has occurred. As a result, there are numerous leave outs in the paving adjacent to undeveloped areas. The inconsistency in the paving is a hazard to traffic, and the roadway is inadequate to serve Roberts Elementary School at 80th Street and Avenue P, which is planned to open in August 2007. This project includes curb and gutter, asphalt paving, and construction of a concrete dip section to complete the full width street.

One proposal was received from Allen Butler Construction of Lubbock, Texas for \$164,915.

Time for completion is 30 working days and liquidated damages is \$200 per day.

FISCAL IMPACT

\$450,000 is appropriated in Capital Improvement Project 91189, Paving of Unpaved Streets, with \$291,519 available for this purpose.

Staff recommended contract award to Allen Butler Construction of Lubbock, Texas for \$164,914.90.

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

Motion was made by Council Member Price, seconded by Council Member Jones to pass Resolution No. 2007-R0246 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.22. Contract Resolution - Solid Waste: Resolution No. 2007-R0247 authorizing the Mayor to execute a purchase order contract for an explosion proof aerosol can and pail crusher, BID 07-044-FO.

This bid is for the purchase of an explosion proof aerosol can and pail crusher for the recycling process of tin aerosol cans. The equipment captures the contents of aerosol cans for the proper disposal and crushes the cans for recycling.

The equipment allows the Solid Waste Department to accept aerosol cans for processing and recycling. This provides Lubbock residents a choice to recycle and divert aerosol cans from the landfill waste stream.

The City received bids from TeeMark Corporation of Altkin, Minnesota for \$34,208 and PPG/Monarch Paint Company from San Antonio, Texas for \$25,007.

FISCAL IMPACT

The \$25,007 purchase is funded through a grant from the South Plains Association of Governments.

Staff recommended bid award to the lowest bidder, TeeMark Corporation of Altkin, Minnesota for \$25,007.

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 Price to pass Resolution No. 2007-R0247 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

Note: Other regular agenda items were considered following Item 4.1.

3. PROCLAMATIONS AND PRESENTATIONS

3.1. Invocation by Rev. Jerry Wilson, Southcrest 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 Women's Protective Services recognizing its efforts to end domestic violence.

Mayor Miller presented special recognition to the Women's Protective Services to recognize their efforts to end domestic violence. Present to accept the special recognition was Fritz Cates, Executive Director of the Women's Protective Services.

3.4. Presentation of a special recognition to the U.S. Department of Housing and Urban Development and the City of Lubbock Community Development Department designating June 2007 as Homeownership Month.

Mayor Miller presented special recognition to the United States Department of Housing and Urban Development and the City of Lubbock Community Development Department, designating June 2007 as Homeownership Month. Wanda C. Merritt and Miguel C. Rincon of the U.S. Department of Housing and Urban Development were present to accept the special recognition.

3.5. Presentation of a special recognition to World Changers volunteers for their work to repair and refurbish sub-standard homes.

Mayor Miller presented special recognition to World Changers volunteers, which is a national volunteer mobilization organization that was founded in 1991 as a ministry of the Southern Baptist Convention with a vision of eliminating substandard housing in the United States, for their work to repair and refurbish sub-standard homes. Bill Howerton, Director of Community Development, along with Cory O'Guinn, Larry Williams, and volunteers were

present to accept the special recognition. Mr. O'Guinn and Mr. Williams gave comments.

4. MINUTES

4.1. Approval of Prior Meeting Minutes: Special City Council Meeting, May 8, 2007; Regular City Council Meeting, May 11, 2007; Special City Council Meeting, May 17, 2007

Motion was made by Council Member Jones, seconded by Council Member Leonard to approve the minutes of the Special City Council Meeting of May 8, 2007, the Regular City Council Meeting of May 11, 2007, and the Special City Council Meeting of May 17, 2007 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6. REGULAR AGENDA (continued) (Items 6.10, 6.6-6.8, 6.1, 6.9. 6.11-6.15) Items 6.2, 6.5 were deleted.

6.10. Certificates of Obligation Issuance Ordinance - 1st and Only Reading - Finance: Consider an ordinance providing for the issuance of City of Lubbock, Texas, Tax and Waterworks System Surplus Revenue Certificates of Obligation, Taxable Series 2007 in an amount not to exceed \$12 million; levying a tax and pledging surplus waterworks system revenues in payment thereof; approving the official statement; approving execution of a purchase contract; and enacting other provisions relating thereto.

This item was continued until the June 26, 2007 City Council meeting.

On April 26, 2007, the City Council approved the first step in the issuance process of City of Lubbock, Texas, Tax and Waterworks System Surplus Revenue Certificates of Obligation, Taxable Series 2007. Resolution No. 2007-R0175 was approved for the purpose of allowing the reimbursement of bond-funded construction costs expected to be incurred prior to the issuance of bonds. On May 11, 2007, City Council approved and authorized the publication of a notice of intention to issue the certificates of obligation. The notices were published on May 16, 2007, and again on May 23, 2007.

Today, the City Council is asked to approve the bond ordinance as a "parameters ordinance", which delegates authority to the City's Chief Financial Officer (CFO) to authorize the timing, terms, and interest rates of the bond issuance. The ordinance designates certain parameters to which the CFO must conform while executing the bond sale, and expires after a 60 day period. This designated authority will allow the City to attain the most attractive rates or terms by timing the issuance under the best market conditions. In accordance with Section 7.1(a) of the Ordinance, the following conditions with respect to the Bonds must be satisfied in order for the Authorized Officer to act on behalf of the City in selling and delivering the Bonds to the Underwriter:

- (a) the price to be paid for the Bonds shall be not less than 95% of the aggregate principal amount of the Bonds;

- (b) the Bonds shall not bear interest at a rate greater than the maximum rate allowed by Chapter 1204, Texas Government Code, as amended;
- (c) the aggregate principal amount of the Bonds authorized to be issued for the purposes described in Section 3.1 shall not exceed the maximum amount authorized in Section 3.1;
- (d) the maximum maturity for the Bonds shall not exceed forty years; and
- (e) the Bonds to be issued, prior to delivery, must have been rated by a nationally recognized rating agency for municipal securities in one of the four highest rating categories for long term obligations.

At a future Council meeting, the Council will be asked to approve a resolution which authorizes the Mayor to execute a Design-Build Agreement between Garfield Traub Development, LLC., Turner Lee Lewis, and the City of Lubbock to design and construct a conference/civic center adjacent to a separately-owned upscale hotel located on Tract 7, Overton Park. The proceeds of this issue will provide the City's participation in the conference/civic center. These certificates will not be sold until that contract has been executed and approved by the City Council.

On the date of execution, the City will sell these certificates on a negotiated basis. The City and RBC Capital Markets, the City's Financial Advisor, will negotiate a purchase price for the certificates with the City's chosen underwriter, Morgan Stanley.

Senate Bill 1759 of the 77th Legislative Session amends Subchapter B, Chapter 1201, of the Texas Government Code under Section 1201.028(3) allowing the authorization of a public security with only one reading of the ordinance. Therefore, this will be the only reading of this ordinance that authorizes the issuance of these certificates. The ordinance provided in the agenda backup excludes certain information that is unknown as of the printing of the backup material. Examples of this information include: annual principal & interest amounts and maturity dates. Once the negotiations have concluded, the information will be completed and a revised ordinance will be made available to the Council.

FISCAL IMPACT

The ordinance authorizes the bonds not to exceed \$12 million. The amount of the debt issuance will be approximately \$11.7 million, which provides \$11.4 million in construction proceeds and approximately \$0.3 million in associated bond issuance costs.

The debt service payments on these obligations are funded from hotel/motel tax collections related to the hotel, contractual payments from the owners of the Hotel, and North Overton Tax Increment Financing Reinvestment Zone revenues.

The annual debt service payments will be approximately \$1 million.

Staff recommended approval of the first reading of this ordinance.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Jones to continue this item until the June 26, 2007 Regular City Council meeting. Motion carried: 7 Ayes, 0 Nays.

6.6. Contract Resolution - Police: Resolution No. 2007-R0248 authorizing the Mayor to execute a purchase order contract with Dialogic Communications Corporation for hardware and software upgrade to the Police Department telephone notification system.

The telephone notification system that was originally purchased for the Police Department from Dialogic Communication Corporation (DCC) is outdated and in need of replacement and upgrade. Upgrading the equipment to DCC NXT Communicator and GeoCast will make the system web-based, login controlled, and accessible through the Internet and the City's intranet. Mass notification capability will be upgraded to as many as 60,000 notifications per hour to all current forms of electronic communication (land phones, cell phones, alpha pagers, blackberries, e-mail, etc.). The system makes notifications based on 9-1-1 calling data, and the upgrade will provide a link to the City's Internet website allowing citizens with no data in the 9-1-1 database, such as cell phones, to register their communication devices with the system. This important upgrade will help notify citizens of all types of emergency situations and general information in a rapid and communication-compatible manner based on the citizen's location or group and type of communication device. Authorized communications, police, fire, and emergency management personnel will be able to log in from any Internet-ready site and activate a mass notification based on pre-built groups or geographically based groups.

This purchase will be made through Houston-Galveston Area Council (H-GAC) contract number EC07-05. H-GAC is a regional planning commission created under Acts of the 59th Legislature, Regular Session, 1965, recodified as Texas Local Government Code, Chapter 391. The H-GAC program was established pursuant to the Texas Interlocal Cooperation Act that allows governmental and qualifying non-profit entities to use the Act to obtain commonly needed products and services. H-GAC purchases conform to the requirements of Texas competitive bid statutes.

FISCAL IMPACT

The \$50,623 software license will be funded from Homeland Security Grant Funds.

Staff recommended approval of this resolution.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass Resolution No. 2007-R0248 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.7. Contract Resolution - Fleet Services: Resolution No. 2007-R0249; Resolution No. 2007-R0250; Resolution No. 2007-R0251; authorizing the Mayor to execute a purchase order contract for light duty pickup trucks, sport utility vehicles, and a flat bed trailer for various City departments, BID 07-037-MA.

This bid involves the purchase of 5 utility vehicles, 32 pickup trucks, 1 van, and 1 trailer for Radio Shop, Water Utilities, Solid Waste, and Aviation as shown on the bid tabulation.

Bids were received from Shamrock Chevrolet, Gene Messer Ford, Scoggin-Dickey Chevrolet Buick, and American Equipment & Trailer. The bid tabulation is provided.

FISCAL IMPACT

The purchase of these vehicles is funded through the approved FY 2006-07 Master Lease Program.

Staff recommended bid award to American Equipment & Trailer Inc. of Lubbock, Texas for \$13,900; Gene Messer Ford of Lubbock, Texas for \$206,576; Scoggin-Dickey Chevrolet Buick of Lubbock, Texas for \$444,527; and Shamrock Chevrolet of Lubbock, Texas for \$150,979.

City Manager Lee Ann Dumbauld asked Deputy City Manager Tom Adams to explain or clarify the vehicles to be purchased or replaced. Mark Yearwood, Assistant City Manager, and Leslie Cox, Communications Analyst, gave comments and answered questions from Council. Ms. Dumbauld told Council that a report on the progress of downsizing City vehicles would be brought back to Council.

Motion was made by Council Member Price, seconded by Council Member Jones to pass Resolution No. 2007-R0249; Resolution No. 2007-R0250; Resolution No. 2007-R0251 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.8. Contract Resolution - Water Utilities: Resolution No. 2007-R0252 authorizing the Mayor to execute a purchase order contract for 18-inch PVC sewer pipe, BID 07-050-FO.

This bid is for the purchase of 18-inch sewer pipe for installation in the North Overton Tax Increment Finance (TIF) to serve the hotel and convention center.

Pursuant to Texas Local Government Code 271.9051(b), in purchasing under this title any real property, personal property that is not affixed to real property, or services, if a municipality receives one or more competitive sealed bids from a bidder whose principal place of business is in the municipality and whose bid is within five percent of the lowest bid price received by the municipality from a bidder who is not a resident of the municipality, the municipality may enter into a contract with (1) the lowest bidder; or (2) the bidder whose principal place of business is in the

municipality if the governing body of the municipality determines, in writing, that the local bidder offers the municipality the best combination of contract price and additional economic development opportunities for the municipality created by the contract award, including the employment of residents of the municipality and increased tax revenues to the municipality.

This section does not prohibit a municipality from rejecting all bids and does not apply to the purchase of telecommunications services or information services, as those terms are defined by 47 U.S.C. Section 153.

In order to receive consideration of the location of the bidder's principal place of business for bid award, bidders are required to submit an Affidavit of Eligibility. The \$25,256 bid from Morrison Supply Company of Lubbock, Texas is within 5% (\$848 or 3.5%) of the \$24,408 low bid from Municipal Water Works Supply of Royce City, Texas. An Affidavit of Eligibility from Morrison Supply Company is provided to assist City Council in determining the local bidder's eligibility for contract award pursuant to Local Government Code 271.9051(b)(2).

FISCAL IMPACT

\$110,000 is appropriated in Capital Project 91063, Tract 7, with \$110,000 available for this purpose.

Staff recommended bid award to the low bidder, Municipal Water Works Supply of Royce City, Texas for \$24,408, or such alternative action as the City Council may deem appropriate. Morrison Supply Company of Lubbock, Texas submitted a \$25,256 bid that is within 5% of the low bid from a non-resident bidder and is eligible for contract award pursuant to Local Government Code 271.9051(b)(2).

Victor Kilman, Director of Purchasing and Contract Management, and Wood Franklin, Interim Chief Engineer, gave comments and answered questions from Council. Consensus from Council was to award the bid to the local bidder, Morrison Supply Company of Lubbock, Texas.

Motion was made by Council Member Leonard, seconded by Mayor Pro Tem Gilbreath to pass Resolution No. 2007-R0252 as recommended by staff. Motion carried: 4 Ayes, 3 Nays. Council Members DeLeon, Jones, and Price voted Nay.

- 6.1. Public Hearing 10:00 a.m. - Business Development: Ordinance No. 2007-O0058 Hold a Public Hearing for the City Council to receive public comment on the proposed assessments to be levied against property within Vintage Township Public Improvement District (the "District") pursuant to the provisions of Chapter 372 of the Texas Local Government Code, as amended (the "Act") and consider Ordinance Approving the Service and Assessment Plan and Assessment Roll and levying assessment.**

Mayor Miller opened the public hearing at 10:28 a. m. No one appeared on behalf of the proposed assessments within the “District”. No one appeared in opposition. Mayor Miller closed the hearing at 10:41 a. m.

The purpose of this hearing is to allow the opportunity for property owners in the proposed District to speak in favor of or opposition to the assessment to be levied in the Vintage Township Public Improvement District. The Vintage Township PID District is a defined assessment area providing specific types of public improvements. The Council approved the calling of a Public Hearing at their May 24, 2007 meeting. A notice of Public Hearing was published in the Avalanche Journal on Friday, June 1, 2007 and notices were mailed to the property owners on Friday, June 1, 2007 as required by statute.

FISCAL IMPACT

As per the Master Development Agreement approved by the Council on November 7, 2005, and amended on February 24, 2006, the developer has agreed to pay all the City’s cost and expenses relating to the development and establishment of this PID. In addition, the construction and expenses that are identified in the PID Service Plan will be funded through an assessment to the property owners and the improvements will be maintained by the Vintage Township HOA.

Staff recommended the public hearing be held at 10:00 a.m. on June 14, 2007 and that the ordinance approving the Service and Assessment Plan and Assessment Roll and levying assessments be adopted by the City Council.

Andy Burcham, Director of Fiscal Policy and Strategic Planning, gave a presentation on the service and assessment plan for the Vintage Township PID, and answered questions from Council. Burcham introduced Paul Stell of Stellar Development, and Jennifer Taffe of Vince & Elkins.

Motion was made by Council Member Leonard, seconded by Mayor Pro Tem Gilbreath to pass on first reading Ordinance No. 2007-00058 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

- 6.2. 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.**

This item was deleted.

- 6.3. This item was moved from regular agenda and considered earlier in the morning, following Citizens Comments.**
- 6.4. This item was considered following Item 6.3.**

- 6.5. Transfer of Surplus Property Resolution - Purchasing: Consider a resolution authorizing the transfer of surplus cellular telephones to Women's Protective Services of Lubbock.**

This item was deleted.

- 6.9. Contract Amendment Resolution - Parks and Recreation: Resolution No. 2007-R0253 authorizing the Mayor to execute Change Order No. 1 with Craig Wallace Construction, Inc. for Miller Park Improvements 2007 Project.**

In March 2007, City Council approved a contract with Craig Wallace Construction for the Miller Park Improvements 2007 Project. This contract change order involves the construction of an approximately 1,900 linear foot walking track on the east side of Andrews Park along Memphis Avenue. A six-foot wide concrete track will connect to the walking track in Miller Park to the north and to 82nd Street to the south. The back of curb walk will be constructed on 76th Street, down Memphis Avenue to 82nd Street adjacent to the Park. The change order includes modifications to 3.5 acres of irrigation system. Twenty-one days will be added to the construction time for the project with a new completion date of October 15, 2007, excluding weather days.

FISCAL IMPACT

Funding for this contract will come from multiple Capital Improvement Projects as follows:

- 1) \$95,000 is appropriated in Capital Improvement Project 92074, Andrews Park Project, with \$27,660 available for this purpose.
- 2) \$4,589,040 is appropriated in Capital Improvement Project 91007, Water Line Change Outs, with \$28,456 available for this purpose.
- 3) \$264,500 is appropriated in Capital Improvement Project 91217, Elmore Park Grading and Irrigation, with \$40,000 available for this purpose.
- 4) \$3,597,000 is appropriated in Capital Improvement Project 90015, Irrigation Automation, with \$7,432 available for this purpose.

The total amount of the change order is \$103,548.

Staff recommended approval of this resolution.

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

Motion was made by Council Member Jones, seconded by Council Member Price to pass Resolution No. 2007-R0253 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.11. Budget Amendment Ordinance 1st Reading - Finance: Ordinance No. 2007-O0059 Amendment #15 amending the FY 2006-07 budget respecting the General Fund, Sewer Fund, Storm Water Fund, Solid Waste Fund, Capital Improvement Program, North Overton Public Improvement District, and the Master Lease Program.

1. Establish a Capital Improvement Project and appropriate \$109,000 for Hodges Baseball Field improvements funded with \$30,000 of Wastewater Fund fund balance, \$63,500 from General Fund fund balance, and \$15,500 participation from Trinity School. The improvements funded with this project include the installation of a perimeter fence and restroom and all related infrastructure.
2. Establish a Capital Improvement Project and appropriate \$58,981 for Traffic Signals on Spur 327 at Frankford and Milwaukee funded with \$58,981 from TxDOT participation. The project will provide for the rehabilitation of two existing signals at the intersections at Spur 327 and Frankford Avenue and at Spur 327 and Milwaukee Avenue.
3. Establish a Capital Improvement Project and appropriate \$114,000 for Traffic Signals at 82nd Street and Avenue P funded with \$114,000 from previously issued unallocated bond proceeds. The project will provide for the construction of one traffic signal at the intersection of 82nd Street and Avenue P near the newly constructed school, Roberts Elementary.
4. Establish a Capital Improvement Project and appropriate \$998,100 for Airport Industrial Area Sewer System Improvements funded from \$860,000 of FY 2007 Wastewater Certificates of Obligation and \$140,000 of revenues from LEDA. This project will provide for improvements to the wastewater system for the Lubbock Rail Port Area.
5. Amend Capital Improvement Project 92115, Airport Industrial Area Water System Improvements, by appropriating an additional \$3.2 million of FY 2007 Water Certificates of Obligation. The project will loop and increase the size of the water line and construct Pump Station No. 13 in an area previously designated by Water Utility Engineering. The total appropriation for this project, including this amendment, is \$3,691,081.
6. Amend Capital Improvement Project 91040, Sewer Tap Replacements, by transferring \$160,000 from Capital Improvement Project 90346, Lift Station Rehabilitation. The reallocation is necessary to continue repairing and replacing sewer line connections for service in alleys and easements. The total appropriation for this project, including this amendment, is \$1,385,000.
7. Amend Capital Improvement Projects in the North Overton Tax Increment Financing Reinvestment Zone by transferring appropriations between projects as reflected in Exhibit A. The total appropriations for projects in the North Overton Tax Increment Financing Reinvestment Zone will not change.

8. Appropriate \$140,000 of North Overton Public Improvement District fund balance for increased expenses related to landscaping maintenance.
9. Establish a Capital Improvement Project and appropriate \$3.8 million for the Street Maintenance Program funded with \$1.3 million of previously appropriated General Fund revenues and \$2.5 million of unappropriated pre-paid paving funds. The project is for the pavement repair of City streets including seal coat, asphalt milling, asphalt milling and overlay, full or partial depth pavement repair, crack sealing, patching, concrete joint sealing, brick street repair, and other activities necessary for the routine maintenance of the street network. The project includes the development of a new pavement management system. Portions of this project will be performed by City personnel.
10. Transfer six full-time positions from the General Fund to the Storm Water Fund for improved storm sewer maintenance, as part of the new Street Maintenance Program. These positions will be funded with efficiency savings for the remainder of the fiscal year.
11. Appropriate \$175,000 of General Fund Master Lease Program proceeds for the acquisition of one (1) backhoe at \$75,000 and one (1) asphalt zipper. Each of these items will be financed for a period of ten years.
12. Appropriate \$1,225,000 of Solid Waste Fund Master Lease Program proceeds for the acquisition of one (1) roller at \$130,000, one (1) motor grader at \$135,000, one (1) heavy construction loader at \$150,000, two (2) dump trucks at \$160,000, one (1) rock crusher at \$500,000, and one (1) grad-all at \$150,000. Each of these items will be financed for a period of ten years.
13. Appropriate \$808,533 of Storm Water Fund Master Lease Program proceeds for the acquisition of one (1) Vac-Con truck at \$270,000, one (1) roll-off truck at \$166,189, and two (2) street sweepers at 372,344. The Vac-Con truck and roll-off truck will be financed for a period of ten years. The street sweepers will be financed for a period of six years.

FISCAL IMPACT

Included in item summary.

Staff recommended approval of the first reading of this ordinance.

Motion was made by Council Member Jones, seconded by Council Member Price to pass on first reading Ordinance No. 2007-O0059 as recommended by staff.

Discussions were had, and a friendly amendment was offered by Mayor Pro Tem Gilbreath to vote on Items 1 through 10 separately from Items 11 through 13. The friendly amendment was accepted by Council Member Jones but not by Council Member Price.

Motion was then made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to amend the original motion and vote on Items 1-10 separately from Items 11-13. Motion carried: 5 Ayes, 2 Nays. Council Members DeLeon and Price voted Nay.

Vote was taken on passing first-reading Ordinance No. 2007-O0059, Items 1-10, which carried: 7 Ayes, 0 Nays.

Vote was then taken on passing first-reading Ordinance No. 2007-O0059, Items 11-13, which carried: 4 Ayes, 3 Nays. Mayor Pro Tem Gilbreath, Council Members Leonard and Klein voted Nay.

6.12. Gas Franchise Ordinance 2nd Reading - Finance: Ordinance No. 2007-O0057 Consider an ordinance 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 desires to serve new developments in the Lubbock metropolitan area. 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.

First reading of this franchise ordinance was on May 24, 2007. From discussions during first reading of the ordinance, Section 1.2(c)(1) on page 2 clarifies the definition of gross revenues not subject to the franchise fee. The new definition states, "Gross revenues shall not include: (1) the revenue of any affiliate or subsidiary of West Texas Gas operating solely outside the corporate limits of the City or is not operating a Gas System." In addition, the term "receipts" is changed to "revenue" in Section 4.1(a) on page 3. West Texas Gas is in agreement with these changes to the franchise ordinance. The revised franchise ordinance is provided.

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 second reading of this ordinance.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to pass on second and final reading Ordinance No. 2006-O0057 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.13. Rate Application Resolution - Finance: Resolution No. 2007-R0254 of the City of Lubbock sitting as the regulatory authority pursuant to Section 103.001 of the Texas Utilities Code approving or denying a rate application filed by West Texas Gas.

Pursuant to Section 103.001 of the Texas Utilities Code, the City has exclusive original jurisdiction over the rates, operations, and services of a gas utility operating within the corporate limits of the City. West Texas Gas (WTG) filed a Tariff for Gas Services for the WTG Distribution Systems (the "Proposed Tariff") on May 30, 2007. Approval of the rate application will entitle WTG to place into effect for usage on and after July 5, 2007, WTG's proposed Tariff for Gas Services rates reflected on the tariffs and schedules provided.

FISCAL IMPACT

No fiscal impact anticipated.

Jeff Yates, Chief Financial Officer, and J.J. King with West Texas Gas, gave comments and answered questions from Council.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to pass Resolution No. 2007-R0254 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

2. EXECUTIVE SESSION

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

**11:25 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 (Civic Centers, Finance, Police, Stormwater, 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 (Animal Services, Civic Centers, Information Technology, Right-of-Way, 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, First Assistant City Attorney) and take appropriate action.**
- 2.4. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.086, on the following competitive matters (Electric Utilities):**
 - 2.4.1 to deliberate, vote and take final action on electric rates of Lubbock Power and Light;**
 - 2.4.2 to discuss, vote and take final action on a competitive matter regarding operation, financial and capital statements and budgets, revenue and expense projections, strategic and business plans and studies of Lubbock Power and Light;**
 - 2.4.3 to discuss and deliberate a competitive matter regarding the strategies, goals, funding and strategic purpose of the City of Lubbock's relationship with and membership in the West Texas Municipal Power Agency.**

2:35 P. M. CITY COUNCIL RECONVENED

City Manager Lee Ann Dumbauld was not present.

- 6.14. Public Hearing 2:30 p.m. - Planning: Hold a public hearing to consider the request of Texland Petroleum for an oil drilling permit on a tract of land located approximately 1,040 feet south and 1,200 feet east of the northwest corner of Section 5, Block A, Lubbock County, Texas, and to consider a permit. Designation of well is Lubheirs No. 25.**

Mayor Miller opened the public hearing at 2:35 p. m. Doug Bratcher appeared on behalf of Texland Petroleum. No one appeared in opposition. Mayor Miller closed the hearing at 2:35 p. m.

The City is a partial royalty owner of a tract of land located approximately 1,040 feet south and 1,200 feet east of the northwest corner of Section 5, Block A, Lubbock County, Texas. Texland Petroleum proposes earth sludge pits and no landscaping at the well site. The blow-out protector has a minimum rating of 3,000 psi. Disposal of waste materials is proposed at a Texas Railroad Commission approved dump site in Lubbock County. Access to the drill site is proposed from Guava Avenue on private property along routes built to other producing wells on the property. The storage site is an existing facility on Guava Avenue north of Loop 289.

A minimum impact is expected for the short term because the area is uninhabited and current use is agricultural and oil production. The well and storage site are remote from any existing residential development. The closest residential area is over 1,000 feet to the west.

Although the land area surrounding and including this lease is designated as residential on the Comprehensive Land Use Plan, no subdivision activity has

ever been proposed. At least nine existing wells are in the immediate area. The South Plains Food Bank is to the south at Martin Luther King Boulevard and Loop 289. With no known prospects for development in this square mile, few long-term negative impacts are anticipated.

FISCAL IMPACT

No fiscal impact.

Staff recommended approval subject to the following conditions:

No hydrocarbon lubricant, or waste oil, shall be used to free-up the hole during drilling until after the first series of surface casing has been set to 400 feet or greater.

The permittee shall require that a first series of casing be set when drilling reaches a depth of 400 feet. The permittee shall notify the Lubbock office of the Texas Railroad Commission for the intended dates for casing the well.

The first and, if used, the second series of casing of the well shall be in compliance with applicable portions of Rule 13 of the Texas Railroad Commission.

The permittee shall meet all other conditions of Section 14, Article VI, of the Lubbock Code and those specifications indicated within the application of Texland Petroleum for Lubheirs No. 25.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to approve the permit as recommended by staff. Motion carried: 5 Ayes, 0 Nays.

Council Members DeLeon and Jones were not present.

2:39 P. M. CITY COUNCIL RECESSED TO EXECUTIVE SESSION

5:28 P. M. CITY COUNCIL RECONVENED

Mayor Pro Tem Gilbreath was not present.

6.15. Public Hearing 5:30 p.m. - Community Development: Hold a Public Hearing for consideration of the Community Development and Services Board recommendations for the program funding of the FY 2007-08 Community Development Block Grant, Home Investment Partnership Program, and Emergency Shelter Grant Program and previously generated program income.

Bill Howerton, Director of Community Development, introduced Peter Laverty, Chairman of the Community Development and Services Board. Laverty gave comments, presented the FY 2007-08 recommendations from the Board, and introduced board members that were present.

Mayor Miller opened the public hearing at 5:34 p. m. No one appeared in favor or in opposition of the FY 2007-08 program funding. Mayor Miller closed the hearing at 5:34 p. m.

According to the U.S. Department of Housing and Urban Development, the City is eligible to receive a FY 2007-08 consolidated formula allocation. These funds plus previously generated program revenue bring the total available for allocation to \$3,999,329. The City received 38 applications this year for CDBG, HOME, and ESG funds with requested amounts totaling over \$6 million.

Lubbock citizens participated in this year's funding process through presentations to subcommittees of the Community Development and Services Board. In making recommendations, the Board considered the goals of the City Council and the Consolidated Plan priorities.

The recommendation of the CDSB for spending federal dollars has been published since May 27, 2007. This Public Hearing allows citizens to participate in the process by addressing comments to City Council. The recommendations from the CDSB are provided.

FISCAL IMPACT

Federal funds from the Community Development Block Grant, Home Investment Partnership Program and Emergency Shelter Grant are available for this purpose. The maximum to be allocated to these projects and activities is \$3,999,329.

Staff recommended approval of the CDSB recommendations.

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

5:35 P. M. COUNCIL ADJOURNED

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