

**CITY OF LUBBOCK  
REGULAR CITY COUNCIL MEETING  
JULY 26, 2007  
7:30 A. M.**

The City Council of the City of Lubbock, Texas met in regular session on the 26th day of July, 2007, in the City Council Chambers, first floor, City Hall, 1625 13th Street, Lubbock, Texas at 7:30 A. M.

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

**Present:** Mayor David A. Miller, Mayor Pro Tem Jim Gilbreath, Council Member Linda DeLeon, Council Member Phyllis Jones, Council Member Todd R. Klein, Council Member John Leonard, Council Member Floyd Price

**Absent:** No one

**1. CITIZEN COMMENTS**

- Gilbert Salinas addressed Council regarding the Citizens Advisory Committee's recommendations as they relate to needs in East Lubbock.
- 1.1. Lucile Redus will appear to discuss funding for a new animal shelter.**  
Lucile Redus appeared before Council to speak in favor of the animal shelter and the site selection for the shelter.
- 1.2. Mary Hatfield will appear to discuss funding for a new animal shelter.**  
Mary Hatfield appeared before Council to share her appreciation and speak in favor of the new animal shelter.
- John P. Cervantez addressed Council regarding the Citizens Advisory Committee's recommendations as they relate to needs in East Lubbock.
- Debi Hill addressed Council in favor of the proposed Visitors Center.
- Those who addressed Council regarding the Northwest Little League Baseball Complex were Lala Chavez and Gilbert A. Flores. Mayor Miller requested Item 5.25 be addressed at this time. Assistant City Manager Scott Snider, and Parks and Recreation Manager Randy Truesdell answered questions and explained the funding needed for constructing the third field. Item 5.25 was considered again following Item 6.15.
- Rudy Rosalez, Michael Sulaica, and Martin Pena addressed Council regarding the proposed name change of Canyon Lakes Drive to Cesar E. Chavez Drive.

**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.”**

**8:10 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 (City Council Staff, Economic Development, Electric Utilities, Finance, 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 (Business Development, Finance, Fire Department, 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, City Council Chief of Staff) and take appropriate action.**
- 2.4. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.086, on the following competitive matters (Electric Utilities):**
  - 2.4.1 to deliberate, vote and take final action on electric rates of Lubbock Power and Light**
  - 2.4.2 to discuss, vote and take final action on a competitive matter regarding operation, financial and capital statements and budgets, revenue and expense projections, strategic and business plans and studies of Lubbock Power and Light**

**9:45 A.M. CITY COUNCIL REGULAR MEETING RECONVENED  
City Council Chambers**

**Present: Mayor David A. Miller; Mayor Pro Tem Jim Gilbreath; Council Member Linda DeLeon; Council Member Phyllis Jones; Council Member Todd R. Klein; Council Member John Leonard; Council Member Floyd Price; Lee Ann Dumbauld, City Manager; Anita Burgess, City Attorney; and Rebecca Garza, City Secretary**

**Absent: No one**

**Mayor Miller reconvened the meeting at 9:45 a.m.**

**3. PROCLAMATIONS AND PRESENTATIONS**

**3.1. Invocation by Pastor Daniel Echols, St. John's United Methodist 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.

**4. MINUTES**

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

Motion was made by Council Member DeLeon, seconded by Council Member Price to approve the minutes of the Regular City Council Meeting of June 26, 2007 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**5. CONSENT AGENDA was considered following Item 6.13.**

**6. REGULAR AGENDA was considered following Item 7.1.**

**7. WORK SESSION**

**7.1. Presentation 9:30 a.m. - Lubbock Arts Alliance: State of the Arts Annual Report on arts in the community. Greg McAlister, Lubbock Arts Alliance and Dan Burns, Civic Lubbock Inc.**

**The presentation was made at 9:46 a.m.**

Greg McAlister, Vice-President of the Lubbock Arts Alliance, and Dan Burns, Chairman of Civic Lubbock, Inc. presented Council with a State of the Arts annual report, which covered the positive accomplishments, plans, and contributions made by the Lubbock arts and cultural community. Council was thanked for their past and on-going support through investments in the arts with cultural grants, in-kind services, and the use of City-owned facilities, which made it possible for the arts and culture to grow. The presentation also showed the return on investment made by the City's support and in-kind services. Questions from Council were then answered.

**6. REGULAR AGENDA**

**Note: Regular Agenda items, and Consent Agenda items moved to Regular Agenda, are listed in the order they were addressed (6.15, 5.25, 5.1, 6.13).**

**6.15. Contract Resolution - Health Department: Resolution No. 2007-R0318 authorizing the Mayor to execute a design-build contract for design and construction of an animal shelter and adoption center, BID 07-002-VK.**

This project involves selecting a design-build team with experience in the design and construction of animal shelters capable of designing and constructing a building for an animal shelter and adoption center. The current 42-year-old shelter has outlived its usefulness. Its location is not easily accessible to the majority of Lubbock's population and is difficult to find. The new shelter's proposed location provides easy public access, high

visibility, and is close to residential areas. The new location and shelter should improve the adoption rate of the Animal Shelter.

Local Government Code, Section 271.114, requires that the governing body of a municipality that is considering a construction contract using a method other than design-bid-build must determine which delivery method provides the best value for the City. On December 19, 2006, City Council approved the design-build construction method for the new animal shelter as the alternate project delivery method that provides the best value for the City (Resolution No. 2006-R0611).

Pursuant to Local Government Code, Section 271.119, a municipality using the design-build method for the construction, rehabilitation, alteration, or repair of a facility 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. Stiles, Wallace, & Associates Architects was selected as the Owner's Representative for this project on January 12, 2007 (Resolution No. 2007-R0019) at a price of two-percent of the construction cost. Until the design-build team is selected, not funds are expended to Stiles, Wallace, & Associates Architects.

The design-build selection process is a two-phase process. In phase one of the selection process, the City solicited statements of qualifications to evaluate each offeror's experience, technical competence, and capability to perform, and the past performance of the offeror's team and members of the team. Cost-related or price related evaluation factors are not permitted during this phase. Responses for phase one were due to the City on January 25, 2007. A pre-bid meeting was held on January 3, 2007. Three contractors responded to phase one: McDougal Construction, Craig Wallace Construction, and Minnix Commercial Construction partnering with the Bacon Group. Based on statements of qualifications submitted in phase one, all three contractors were invited to submit proposals for phase two.

In phase two of the selection process, the Selection Committee evaluated the information submitted by the three firms on the basis of the selection criteria stated in the request for qualifications and the results of an interview. Texas Local Government Code, Chapter 271.119(d)(2) provides that 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.

All respondents to the request for qualifications were asked to submit a response to phase two on or before March 8, 2007. All three companies responded to phase two and were interviewed by a selection panel on April 16, 2007. After the interview process, the companies were asked to respond to additional questions from the selection panel. McDougal Construction withdrew from the process at this point.

The Selection Committee composed of Scott Snider, Kevin Overstreet, Nancy Haney, George Lisenbe, and Ed Stiles reviewed the answers to the additional questions on June 13, 2007, and finished scoring the proposals based on the published selection criteria. The criteria included pre-construction phase services and project execution plan, construction phase services and project execution plan, estimating and cost control measures, project planning and scheduling, quality control and commissioning program, general understanding of design-build, job site safety program, warranty and service support program, and pricing and delivery program.

Proposals were ranked as follows:

1. Minnix Commercial Construction partnering with the Bacon Group
2. Craig Wallace Construction

A draft of the design-build contract is provided. The revised design-build contract will be provided prior to the City Council Meeting.

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.

During the predesign phase, the scope of the project and expectations of quality are established by the using department and the City's representative. A corresponding budget and schedule are also established. During the design, based on a set of design criteria provided by the City, the design-builder prepares phased construction documents. The contractor is available during this period for constructability and budget reviews. The City and the using department participate in the process. Establishment of the guaranteed maximum price can be postponed until more accurate scope and cost information are available. During construction, the design-builder selects trade contractors, with the City's input. Construction can begin as soon as phased construction documents are available. After the construction of the entire project has been completed, the contractor leaves the site to allow for move-in (installation of owner-furnished equipment and furnishings) and occupancy.

Certain areas of the project (partial occupancy) can be occupied prior to the completion of the entire project.

A total of \$1,045,000 was approved in the 2004 bond election for a renovation to the existing facility. The Health Board and the Animal Services Advisory Board, in addition to City staff and animal advocacy organizations, all agree that renovations to the existing facility is not cost effective. An additional \$2,455,000 is being requested in the budget amendment ordinance on today's City Council meeting with funds from Tax and Waterworks System Surplus Revenue Certificates of obligation, Series 2007. The notice of intent to sell the certificates of obligation was approved by City Council on July 12, 2007. The total appropriation for this project is \$3.5 million.

### **FISCAL IMPACT**

A total of \$1,045,000 was approved in the 2004 bond election for this project. An additional \$2,455,000 is being requested in the budget amendment ordinance on today's City Council meeting with funds from Tax and Waterworks System Surplus Revenue Certificates of obligation, Series 2007. The total appropriation for this project is \$3.5 million.

Staff recommended contract award to Minnix Commercial Construction of Lubbock, Texas, for \$3,431,372.

Assistant City Manager Scott Snider gave a presentation on the proposed animal shelter, including the timeline, site selection, and guaranteed maximum price, and answered questions from Council. Victor Kilman, Director of Purchasing and Contract Management, and Jeff Yates, Chief Financial Officer, also gave comments and answered questions from Council.

Motion was made by Council Member Leonard, seconded by Mayor Pro Tem Gilbreath to pass Resolution No. 2007-R0318, contingent upon closing on the real estate. Motion carried: 7 Ayes, 0 Nays.

**5.25. Contract Resolution - Parks & Recreation: Resolution No. 2007-R0319 authorizing the Mayor to execute a construction contract with Denton-Renfroe for the Northwest Little League Baseball Complex, BID 07-725-BM.**

This project is the first phase of the development for a four-plex Little League Baseball field, a tournament facility. It will include two baseball fields, irrigation, two press boxes, a concession stand, lighting, fencing, and American with Disabilities Act (ADA) accessible parking. Existing fields will be used for practice facilities. The complex will be located on North University and Erskine Avenue. The facilities are slated to open during the 2008 ball season.

The project funding was approved by Ordinance No. 2006-00008 on January 31, 2006, by means of FY 2006 Certificates of Obligation.

Texas Local Government Code Section 252.043(d-1) provides that a contract for certain types of construction projects may be awarded using the

competitive sealed proposal procedure prescribed by Section 271.116 of the Texas Local Government Code. Using the competitive sealed proposal procedure is intended to help local governments attract contractors who otherwise may not have an interest in participating on the basis of low bid and gives us the ability to bring the project in within budget with the contractor who offers the best value. This is compared to the competitive sealed process that limits the City to basing contract award on the lowest bid, which may be over budget requiring us either to search for additional funds or start the bid process all over.

Selection criteria published in this RFP includes cost 30%, resume and references of job superintendent 40%, safety record 10%, and construction time 20%. The following general contractors submitted proposals and were evaluated and ranked as follows:

- Denton-Renfroe of Lubbock, Texas, proposed a project cost of \$1,658,415 for the base bid with the time for completion of 340 days and scored highest at 453.
- Craig Wallace Construction of Lubbock, Texas, proposed a project cost of \$2,084,079 for the base bid with the time for completion of 300 days and scored 422.
- W.R. Construction of Lubbock, Texas, proposed a project cost of \$2,015,101 for the base bid with the time for completion of 270 days and scored 401.

The base bid for the project includes demolition of the entire site, earthwork and grading, site work, buildings, concrete work, fencing and irrigation. The option of the third and fourth baseball fields is not included.

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

In order to have the project completed for the 2008 Little League Baseball Season and maintain a contract amount within budget, staff discussed with the selected offeror scope modifications. The proposal of Denton Renfroe was based on a construction time of 340 days. The allowable number of construction days until the start of the 2008 season is 212 days. This modification to the scope of work increased the construction cost \$180,000 and is within budget.

Additive Option One on the bid package was for a third 200 foot dimensioned baseball field with earthwork and grading, site work, press box, concrete work, fencing and irrigation complete. The bid price was \$374,086 with a construction time of 257 days for the additional field. An additional \$82,898 would be needed for the sports lighting package increasing the cost to \$456,984 for the completed field. This Option is over budget.

Time for completion of this project is 212 consecutive calendar days and liquidated damages are \$500 per day.

The following project components will be supplied by the City:

- Install sports lighting, conduit, and wiring at a cost of \$151,414.

### **FISCAL IMPACT**

\$2,598,000 is appropriated in Capital Project 91207, Northwest Little League Complex, with \$2,500,957 available for this purpose.

Staff recommended contract award to Denton-Renfroe of Lubbock, Texas, for \$1,838,415.

Motion was made by Council Member Price, seconded by Council Member Jones to pass Resolution No. 2007-R0319 as recommended by staff.

Council Member DeLeon stated, for future budget discussion, she would like to talk about the need for additional paving near the Northwest Little League Complex, which would protect the sprinkler system and grass while citizens are attending games at the complex.

Randy Truesdell, Parks and Recreation Manager; Scott Snider, Assistant City Manager; and Andy Burcham, Director of Fiscal Policy/Strategic Planning, gave comments and answered questions from Council.

Mayor Pro Tem Gilbreath suggested that, rather than extend the tax rate, we should find another way.

After further discussion, Council Member Jones offered a friendly amendment to the motion to go with "Additive Option One" of the bid package, which would add a third field to the complex. Council Member Price accepted the friendly amendment. City Manager Lee Ann Dumbauld asked that Mr. Burcham explain to Council the financial impact of adding the third field. Ms. Dumbauld was asked to take a look at the budget and come back to Council with other options for financing the third field.

Vote was then taken on the amended motion: Go with "Additive Option One" of the bid package, which would add a third field to the complex. Vote carried: 7 Ayes, 0 Nays.

- 5.1. Budget Amendment Ordinance 2nd Reading - Finance: Ordinance No. 2007-O0075 Consider budget ordinance Amendment No. 16 amending the FY 2006-07 budget respecting the General Fund, Grants Fund, Wastewater Fund, the Master Lease Program, and Capital Projects Fund.**

1. Accept and appropriate an additional \$94,740 of grant funds from Texas Department of Housing and Community Affairs for the Comprehensive Energy Assistance Program. The grant will fund sub-recipient programs and City programs to assist low-income persons and families with energy assistance and energy efficiency. The grant pays for programmatic and administration of the funds. The contract expires on December 31, 2007.
2. Appropriate \$170,000 of Wastewater Fund Master Lease Program proceeds for the acquisition of one closed circuit television. This technology allows the Wastewater Department to determine and locate sewer line problems before digging begins so that time is not wasted in digging lines in the wrong locations.
3. Appropriate an additional \$3.5 million of FY 2007 Certificates of Obligation for the construction of a new Animal Shelter.

### **FISCAL IMPACT**

Included in item summary.

Staff recommended approval of the second reading of this ordinance.

City Manager Lee Ann Dumbauld answered questions from Council.

Motion was made by Council Member Price, seconded by Council Member DeLeon to pass on second and final reading Ordinance No. 2006-00075 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.13. Contract Resolution - Water Utilities: Resolution No. 2007-R0320 authorizing the Mayor to execute the Strategic Water Supply Plan for the City of Lubbock.**

The City Council has established a priority goal to establish a strategic water supply plan to provide water for Lubbock for the next 100 years. For almost four years, the Lubbock Water Advisory Commission, City, and engineering consultants have actively gathered and prepared water supply planning information in order to present a Strategic Water Supply Plan for the City of Lubbock.

The Strategic Water Supply Plan includes relevant information from both current and past planning efforts in order to document where the City has been as well as where staff are going.

The adoption of the Plan does not mean that the planning effort is over or complete. Just as the Regional Water Supply Plan is updated on a periodic basis, so the Strategic Water Supply Plan for Lubbock must be updated and improved on a periodic basis. The resolution adopting the Plan provides that the sections and elements of the plan can be updated, improved and added to from time to time, and with that the Plan is automatically updated as those sections and elements are approved.

One of the key elements of this Plan is to identify when additional water supplies will be necessary. With that in mind, the Plan model projects that

infrastructure for Lake Alan Henry should be constructed and on line by 2012 in order to ensure that Lubbock has an adequate water supply. The Plan also projects that the Post Reservoir Project or comparable Re-use project may be necessary between 2028 and 2043. While the Plan provides for a 100-year water supply, individual projects must be planned, permitted, and constructed in order to bring that water supply on line for use.

The Lubbock Water Advisory Commission recommended approval of the Strategic Water Supply Plan for the City of Lubbock. This again represents the work of many people over the course of a number of years. The Plan represents a major step forward in the planning process, and the Plan will be used to guide regional planning efforts, permit applications, and engineering projects as steps are taken to implement water supply projects.

The Strategic Water Supply Plan is available in the City Managers office.

### **FISCAL IMPACT**

There will be some costs associated with printing and making the plan documents available for the community to view. Each individual project will be budgeted separately and financial information will be provided at the appropriate time.

Water Commission and City Staff recommended approval of the proposed Strategic Water Supply Plan with the understanding that the plan and plan sections and elements will be updated and improved from time to time as more information is available and as water supply decisions are made.

Tom Adams, Deputy City Manager/Water Utilities Director, gave a presentation on the Strategic Water Supply Plan for Lubbock. “Bo” Brown, Chair of the Lubbock Water Advisory Commission, gave comments and thanked Council for their support.

Motion was made by Council Member Leonard, seconded by Mayor Pro Tem Gilbreath to pass Resolution No. 2007-R0320 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

### **Regular Agenda Items continued following Item 5.33.**

#### **5. CONSENT AGENDA (Items 5.3-5.20, 5.22-5.23, 5.26-5.27, 5.29-5.33)**

Motion was made by Council Member DeLeon, seconded by Council Member Price to approve Items 5.3-5.20, 5.22-5.23, 5.26-5.27, 5.29-5.33 on consent agenda as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

- 5.1. This item was moved from consent agenda to regular agenda and considered following Item 5.25.**
- 5.2. This item was moved from consent agenda to regular agenda and considered following Item 5.33.**

- 5.3. Right-of-Way Closure 2nd Reading - Right-of-Way: Ordinance No. 2007-O0072 Consider an ordinance abandoning and closing a underground utility and transformer pad easement located in Lot 3B, All Saints Addition, easement located at 3222 103rd Street.**

This ordinance was read for the first time at the July 12, 2007, City Council meeting. The ordinance abandons and closes an underground utility and transformer pad easement just east of Indiana Avenue and north of 103rd Street. This easement is no longer needed due to development purposes. All utility companies are in agreement with this easement closure.

**FISCAL IMPACT**

No fiscal impact.

Staff recommended approval of the second reading of this ordinance.

- 5.4. Right-of-Way Closure 2nd Reading - Right-of-Way: Ordinance No. 2007-O0073 Consider an ordinance abandoning and closing five 5-foot underground utility easements for LP&L located on Lots 96, 125, 130, 134, 137, South Brook Addition, easements located in the 8900 Block of Temple Avenue.**

This ordinance was read for the first time at the July 12, 2007, City Council meeting. The ordinance abandons and closes five 5-foot underground utility easements for LP&L just west of Avenue T and north and south of 89th Street. These easements were dedicated by plat and due to the developer changing the lot sizes, these easements are no longer needed at these locations. New easements will be dedicated in the re-plat to replace these easement closures. LP&L is in agreement with these easement closures.

**FISCAL IMPACT**

No fiscal impact.

Staff recommended approval of the second reading of this ordinance.

- 5.5. Right-of-Way Closure 2nd Reading - Right-of-Way: Ordinance No. 2007-O0071 Consider an ordinance abandoning and closing a drainage easement located in Section 78, Block A, Lubbock County, Texas, drainage easement closure located at 1102 Wabash Street.**

This ordinance was read for the first time at the July 12, 2007, City Council meeting. The ordinance abandons and closes a drainage easement in Section 78, Block A, which is located south of Hornes Mesa Addition just east of north Avenue K and north of Wabash Street. This drainage easement is no longer needed due to the development of Cypress Grove Lots 1-40. The drainage will be addressed in a new plat. The Storm Water Engineering Department is in agreement with this closure.

**FISCAL IMPACT**

No fiscal impact.

Staff recommended approval of the second reading of this ordinance.

- 5.6. Right-of-Way Closure 2nd Reading - Right-of-Way: Ordinance No. 2007-O0074 Consider an ordinance abandoning and closing a portion of a drainage easement, located in Tract A-1, Monterey Church of Christ Addition to the City of Lubbock, Lubbock County, Texas, drainage easement closure located at 6201 82nd Street.**

This ordinance was read for the first time at the July 12, 2007, City Council meeting. The ordinance abandons and closes portion of a drainage easement in Tract A-1 Monterey Church of Christ Addition, which is located east of Milwaukee Avenue and south of 82nd Street. This portion of the drainage easement is no longer needed. The Stormwater Engineering Department is in agreement with this closure.

**FISCAL IMPACT**

No fiscal impact.

Staff recommended approval of the second reading of this ordinance.

- 5.7. Quitclaim Deed Resolution - Right-of-Way: Resolution No. 2007-R0321 authorizing the Mayor to execute a Quitclaim Deed in favor of Lubbock Independent School District relating to a tract of land located on Lot 1, Block 4R, Overton Addition to the City of Lubbock, Lubbock County, Texas.**

The City of Lubbock is seeking to convey by quitclaim a piece of property forty feet in width along the south portion of Lot 1, Block 4 of the Overton Addition to Lubbock Independent School District (LISD). This property is located in the parking lot of LISD's administration building located on 19th Street and Avenue O. A plat showing the location of the property is attached as backup material.

This property was originally conveyed to the City in 1956 and was, until recently, used for a small substation by Lubbock Power & Light (LP&L). However, LP&L no longer needs the property and has removed the substation and does not desire to maintain the property. LISD would like to pave over this property due to the fact it lies wholly within their parking lot but is hesitant to begin paving until ownership has been properly conveyed.

**FISCAL IMPACT**

This Quitclaim Deed allows Lubbock Independent School District to use the area behind the administrators offices for parking. This area was formerly on LP&L substation, but is no longer being used.

Staff recommended approval of this resolution.

**5.8. Grant Funding Recommendation Resolution - Airport: Resolution No. 2007-R0322 authorizing the Mayor to accept and execute a grant agreement with the Federal Aviation Administration to fund the design and construction of the Terminal Building Improvements project and the construction of the General Aviation (GA) Ramp Improvements – Phase II project.**

Under the Airport Improvement Act, Lubbock Preston Smith International Airport is eligible to receive Federal Aviation Administration annual entitlement funds. Funds under this program are restricted to safety and capacity improvements.

This year, the Lubbock International Airport will receive \$4,461,314 broken down as follows: \$573,808 year 2006 carryover, \$3,447,630 passenger entitlements; \$139,876 cargo entitlements; and \$300,000 discretionary funding.

**FISCAL IMPACT**

The resolution authorizes the Mayor to enter into a grant agreement. Project appropriations are made on a project basis.

The grant funds Terminal Building Improvements and General Aviation Ramp Improvements Phase II projects. The local match for the projects will be funded through the Passenger Facility Charge Program, and airport revenue.

Airport Board and Staff recommended approval of this resolution.

**5.9. Contract Resolution - Airport: Resolution No. 2007-R0323 authorizing the Mayor to execute a construction contract with Teinert Commercial Building Services for the Terminal Building Improvements Project, BID 07-718-DD.**

This project provides improvements to the Passenger Terminal Building. The improvements include repair and replacement of HVAC equipment (air handlers, cooling tower, chillers, and system controls) and restroom renovations to meet the Americans with Disabilities Act specifications.

Many portions of the existing HVAC system are reaching the end of their useful life. The system is unreliable to properly maintaining the terminal environment. The new HVAC system will improve the condition of the terminal environment.

**ADDITIVE ALTERNATE #1**

1. 1 LS Work includes the replacement of the variable speed drives serving the existing heating water pumps, replacement of the sand filters serving the heating, chilled and condenser water systems, and condenser water piping replacement at the chillers.

ADDITIVE ALTERNATE # 2

1. 1 LS Work includes the renovation of public toilet restrooms on the second floor of the passenger terminal to include all demolition and installation of new materials and fixtures as indicated on the drawings.

Bids were received from the following contractors:

Teinert Commercial Building Services of Lubbock, Texas

Base Bid: \$3,554,614

Alt.1: \$176,600

Alt.2: \$216,835

Total: \$3,948,049

Pharr & Company of Lubbock, Texas

Base Bid: \$3,627,800

Alt.1: \$159,200

Alt.2: \$245,000

Total: \$4,032,000

Nations Construction Management of Katy, Texas

Base Bid: \$3,766,800

Alt.1: \$199,500

Alt.2: \$236,700

Total: \$4,203,000

**FISCAL IMPACT**

\$4,770,000 is appropriate in Capital Improvement Project 91216, Terminal Improvements Project with \$4,405,708 available for this purpose. This project is funded through \$1,789,262 Federal Aviation Administration, Airport Improvement Program funding; \$1,929,928 Passenger Facility Charges; and \$228,859 matching funds, previously approved City funded Certificates of Obligation.

Airport Board and Airport Staff recommended contract award to the lowest bidder, Teinert Commercial Building Services of Lubbock, Texas, for \$3,948,049, to include alternates 1 and 2.

**5.10. Contract Resolution - Airport: Resolution No. 2007-R0324 authorizing the Mayor to execute a construction contract with Allen Butler Construction for the General Aviation Ramp – Phase II Project, BID 07-715-DD.**

This project is the second phase of the rehabilitation and replacement of general aviation (GA) ramp pavement. Phase II consists of the rehabilitation of existing GA ramp pavement to the east side of Runway 17L/35R, adjacent to the Eastport area of the airport.

The project will rehabilitate approximately 85,000 square yards of existing bituminous surface course pavement. Safety issues at the end of runway 17L

will be corrected. A new entrance taxiway from taxiway Juliet connecting to the GA ramp and a new concrete parking pad for aircraft parking will be constructed. The project will include incidental marking, lighting, site grading, and drainage work.

Bids were received from the following contractors:

Allen Butler Construction of Ransom Canyon, Texas \$2,671,287

Duininck Brothers of Lubbock, Texas \$2,741,816

Kiewit Texas Construction of Fort Worth, Texas \$4,106,950

#### **FISCAL IMPACT**

\$2,671,287 is appropriated in Capital Improvement Project 90404. Phase II GA Ramp Improvements, with \$2,528,538 available. The funding consists of \$2,537,723 Federal Aviation Administration, Airport Improvement Program funds and \$142,749 Passenger Facility funds.

Airport Board and Airport Staff recommended contract award to the lowest bidder, Allen Butler of Ransom Canyon, Texas, for \$2,671,287.

**5.11. Contract Resolution - Public Works: Resolution No. 2007-R0325 authorizing the Mayor to execute an agreement with Texas Department of Transportation for lease of a radio tower site.**

This agreement will allow the Traffic Engineering Department to expand its traffic signal communications to approximately 16 intersections in Southeast Lubbock. TxDOT is building a radio tower on their property at 135 Slaton Highway and has agreed to allow the City to use the tower.

#### **FISCAL IMPACT**

There is no cost associated with this agreement. In exchange, the City is allowing TxDOT to install antennas on a radio tower located on Municipal Hill for TxDOT's pump station project. That agreement will be considered by the City Council at its next meeting.

Staff recommended approval of this resolution.

**5.12. Contract Amendment Resolution - Public Works: Resolution No. 2007-R0326 authorizing the Mayor to execute Change Order No. 4 for West Texas Paving Contract 6574 Mac Davis Lane and Avenue V Extension Paving and Drainage Improvements.**

The development on the North Overton Subdivision, Tract 1-B-1, Raising Cane's Chicken, is currently under construction with a planned opening date of August 31, 2007. Prior to the business being able to complete their onsite grading and landscaping, the curb and gutter along University Avenue and 10th Street needs to be reconstructed. In addition, driveway approaches, curb ramps, and incidental repair of brick and asphalt need to be completed.

West Texas Paving has agreed to complete the additional work as a part of their paving contract for the Mac Davis Lane and Avenue V Extension Paving

and Drainage Improvements Project. Change Order No. 4 adds \$102,132 to the contract.

This work is necessary for the timely opening of the business.

#### **FISCAL IMPACT**

The current contract with West Texas Paving is a unit price contract for \$614,243. Change Order No. 4 will increase the contract to a total of \$716,375. Currently, \$957,977 is appropriated in capital projects 91148, Tract 1-B; 92105, Tract 1-B-2; and 92106, Tract 1-B-3, with \$102,132 available for this project.

Staff recommended approval of this resolution.

- 5.13. Contract Resolution - Public Works: Resolution No. 2007-R0327 authorizing the Mayor to execute an agreement with Texas Department of Transportation for furnishing and installing traffic signal equipment at Spur 327 and Frankford Avenue and at Spur 327 and Milwaukee Avenue.**

Texas Department of Transportation (TxDOT) owns and maintains Spur 327 within the City limits. Plans and specifications have been finalized for the roadway to be upgraded and main lanes to be constructed from Loop 289 to Milwaukee Avenue. Under this agreement the City will furnish equipment and labor at the signalized intersections during construction. The \$58,981 cost is fully funded by the Texas Department of Transportation.

Capital project #92124, approved by the City Council on June 26, 2007, includes \$58,981 for this project.

#### **FISCAL IMPACT**

\$58,981 is appropriated in Capital Improvement Project 92124, Spur 327 West Loop 289-Milwaukee Avenue and Frankford Avenue with \$58,981 available for this purpose. TxDOT is fully funding this portion of the project.

Staff recommended approval of this resolution.

- 5.14. Contract Resolution - Water Utilities: Resolution No. 2007-R0328 authorizing the Mayor to execute a construction contract with Craig Wallace Construction for the Lubbock Youth Sports Complex Water Line Extension, BID 07-721-BM.**

The new Lubbock Youth Sports Complex requires water service for various buildings and one water feature at the site. This project provides a new water main that connects the complex to the City's water distribution system. The new water main extends to the southern limits of the complex parcel for future residential or commercial development.

This contract involves the construction of approximately 4,570 feet of twelve-inch water main and the necessary accessories. The new water main will be connected to the water distribution system at the current southern City limit on Milwaukee Avenue. The main extends south on County Road 1700

(Milwaukee Avenue) in the current county right-of-way and then through a cased bore to the complex parcel at the intersection of County Road 1700 (Milwaukee Avenue) and Farm to Market Road 1585. The second part of the project involves an additive option to provide approximately 3,510 feet of ten-inch water main along the northern and eastern boundaries of the complex. The new water main is additional security to maintain water pressure and water quality at the complex and for future development in the area.

Evaluation factors and relative weights published in the Request for Proposals included:

- 1) Price – 65%
- 2) Resume and References – 10%
- 4) Insurance Claims and Litigation – 5%
- 5) Construction Time – 10%
- 6) List of Subcontractors – 5%
- 7) Construction Phasing – 5%

Proposals were ranked as follows:

Craig Wallace Construction of Lubbock, Texas

\$473,713/455 points

Morton Irrigation of Plainview, Texas

\$635,444/382 points

Deerwood Construction of Lubbock, Texas

\$713,656/323 points

Utility Contractors of America of Wolfforth, Texas

\$897,644/315 points

#### **FISCAL IMPACT**

\$996,309 is appropriated in Capital Improvement Project 92070, Lubbock Youth Sports Complex Water Line Extension, with \$950,000 available for this purpose.

Staff recommended contract award to the highest ranked and lowest cost bidder, Craig Wallace Construction of Lubbock, Texas, for \$473,713.

**5.15. Contract Resolution - Water Utilities: Contract Resolution – Water Utilities: Resolution No. 2007-R0329; Resolution No. 2007-R0330 authorizing the Mayor to execute contracts for the construction of a 500,000 gallon ground storage tank and booster pump station (Pump Station No. 15) and sanitary sewer improvements for the Rail Port Industrial Development, BID 07-065-VK.**

The first contract involves the construction of a 500,000 gallon ground storage tank and booster pump station (Pump Station No. 15) located just north of FM 1294 and east of Interstate 27 along Ivory Avenue. The second contract involves the construction of approximately 2,010 feet of ten-inch sanitary sewer collection line, a new submersible sanitary sewer lift station, approximately 4,100 feet of six-inch force main, 1,500 feet of eight-inch water supply line, and approximately 7,800 feet of sixteen-inch water supply line.

This contract provides the needed utilities for the first phase of the Rail Port Industrial Development.

Bids are due on Monday, July 23, 2007 The bid recommendation and resolution will be provided prior to the City Council Meeting.

**FISCAL IMPACT**

\$3,691,081 is appropriated in Capital Improvement Project 92115, Airport Industrial Area Water System Improvements, with \$3,653,873 available for this purpose.

Staff recommended approval of this resolution.

**5.16. Contract Resolution - Water Utilities: Resolution No. 2007-R0331 authorizing the Mayor to execute a contract with H.D. Weaver Ditching for water and sanitary sewer installation services, BID 07-722-BM.**

This is a three-year contract for water and sanitary sewer installation services. Major contract items include installation of sewer and water taps, water line and valves, fire hydrants, sanitary sewer lines and manholes, boring and casing, and other services associated with the installation of water and sanitary sewer mains. Construction materials are provided by the City of Lubbock and installed by the contractor. The Water Utilities Department will use the services of the contractor as needed for the timely completion of various projects and installation of taps.

This contract is necessary to ensure that construction projects and service taps are completed on time.

Bids are based on estimated quantities for each type of installation and were received from the following contractors:

H.D. Weaver Ditching of Lubbock, Texas \$2,326,145

Craigco Backhoe of Shallowater, Texas \$3,760,795

Forty-eight businesses were notified of the Invitation to Bid.

**FISCAL IMPACT**

The following recommendation is for a \$2,326,145 labor contract. The project is 100% reimbursable from proportionally shared developer costs contributions(pro-rata). Work is requested of the successful bidder once funds are collected from the developer through the pro-rata program.

Staff recommended contract award to the lowest bidder, H.D. Weaver Ditching of Lubbock, Texas, for \$2,326,145.

**5.17. Contract Resolution - Water Utilities: Resolution No. 2007-R0332 authorizing the Mayor to execute a purchase order contract for powder activated carbon used at the Lubbock Water Treatment Plant, BID 07-052-FO.**

This bid provides annual pricing for the purchase of powdered activated carbon used for taste and odor control in the water treatment process.

Approximately 120 tons of powdered activated carbon is used annually at the Water Treatment Plant.

Bids were received from the following companies:

Calgon Carbon Corporation of Pittsburg, PA \$1,600 per ton  
Envirotrol of Sewickley, PA \$1,514 per ton  
Norit Americas of Marshall, TX \$990 per ton  
F2 Industries of Smyrna, TN \$978 per ton  
Winfield Industries of Monument, CO. \$876 per ton

Test reports from the City's Water Treatment Laboratory show that samples submitted for lab testing by the two lowest bidders failed to meet several of the AWWA B600-96 standards listed in the bid specifications for powdered activated carbon and are unsuitable for use. Norit Americas failed to meet one particle size distribution parameter by 10%. However, Water Treatment Plant lab and operations personnel do not believe this small percentage will affect the overall performance. Staff is recommending bid award to Norit Americas, the third lowest bidder, who meets five of the six listed specifications. This bid recommendation is based on cost, product performance, and lab test results.

No local companies submitted bids for this item.

#### **FISCAL IMPACT**

\$132,000 is appropriated for this purpose in the adopted FY 2006-07 Water Utilities Operating Budget.

Staff recommended contract award to the third lowest bidder, Norit Americas of Marshall, Texas, for \$990 per ton with an estimated annual cost of \$118,800.

**5.18. Contract Amendment Agreement - Museums: Resolution No. 2007-R0333 authorizing the Mayor to execute an interlocal agreement with Southwest Collection/Special Collections Library of Texas Tech University to preserve and protect the archival materials donated to the Silent Wings Museum.**

When the Glider Pilot Association was considering moving their museum from Terrell, Texas, to Lubbock, Texas, one of the factors that favored Lubbock was the possible partnership between the museum and the Southwest Collection at Texas Tech University. The Southwest Collection has the staff, equipment, space, and expertise to permanently maintain the Archival Records of the Silent Wings Museum. The National World War II Glider Pilots Association has expressed their desire to house the archives at the Southwest Collection, while maintaining the Museum as the institution to collect, maintain, and display the artifacts from the Glider Program. This is documented in Article 3(F) on page 4 of the original agreement approved by City Council on September 27, 2000. (See attached exhibits)

The proposed interlocal agreement allows the City to permanently transfer all the archival materials at the Silent Wings Museum to the Southwest Collection at Texas Tech University. The Southwest Collection has agreed to assume all costs in transferring the archival materials. The Southwest Collection will provide copies of materials to the Silent Wings Museum for exhibit purposes at no cost to the museum, unless the costs incurred exceed \$500 for the specific exhibit. The Southwest Collection will inventory the archival material and provide an inventory list to the City.

The backup material shown with this agenda item includes an excerpt from the original agreement with the City showing that the City agreed to use the Southwest Collection for archival support. (Article 3,F.)

#### **FISCAL IMPACT**

There will be no impact to the operating budget of the museum.

Staff recommended approval of this resolution.

**5.19. Contract Amendment Resolution - Library: Resolution No. 2007-R0334 authorizing the Mayor to execute a contract amendment with the Texas State Library and Archives Commission to support the Interlibrary Loan program and services.**

The Lubbock Public Library serves as the headquarters for the Interlibrary Loan (ILL) grant program. The ILL Center locates and requests materials for all public libraries, community college libraries, and special libraries within the 29-county area served by the West Texas Library System. The grant funds two full-time employees.

This program is fully funded by the State of Texas, and the City has no responsibility or obligation in the event that funds are not appropriated or provided.

#### **FISCAL IMPACT**

The Interlibrary Loan Center grant has been reduced from \$96,741 to \$94,973 to recognize vacancy savings.

Staff recommended approval of this resolution.

**5.20. Contract Amendment Resolution - Community Development: Resolution No. 2007-R0335 authorizing the Mayor to execute an amendment to a Community Development Funding Contract with Catholic Family Services to provide assistance families transitioning out of poverty through the Community Services Block Grant for the Self-Sufficiency Program.**

Grantee: Catholic Family Services

Program: Self-Sufficiency

Funding Source: 2007 Community Services Block Grant

Use of Funds: Self-Sufficiency Program - Provide assistance to families transitioning out of poverty.

Amount: Funding for this Contract was approved by the Community Development and Services Board during their regularly scheduled meeting held on January 31, 2007. City Council approved the contract at the February 22, 2007, City Council meeting. \$190,000 grant funding on February 6, 2007, was accepted and appropriated by City Council.

Rather than releasing the allocated amount at one time, the state chose to release the funding incrementally. Initially, Texas Department of Housing and Community Affairs (TDHCA) released 38% of the overall allocation. An additional 12% was released in May 2007. TDHCA then released another 25% of the total allocation in June 2007. To date, the City has contracted with Catholic Family Services (CFS) for 50% of the \$190,000 or \$95,000. The action today will allow for an additional 25% of the total amount, or \$47,500, to be added to the contract. This action will increase the amount contracted year-to-date with CFS to \$142,500. Another amendment will be brought to City Council when TDHCA releases the final 25% of the annual allocation.

Period of Performance: January 1, 2007, through December 31, 2007.

#### **FISCAL IMPACT**

The maximum amount to be allocated from the State Community Services Block Grant for this program is \$142,500.

Staff recommended approval of this resolution.

- 5.21. This item was moved from consent agenda to regular agenda and considered following Item 5.2.**
- 5.22. Contract Amendment Resolution - Community Development: Resolution No. 2007-R0336 authorizing the Mayor to execute an amendment to a Community Development Funding Contract with Lutheran Social Services of the South to provide utility assistance to qualified low-income persons and families through the Comprehensive Energy Assistance Program and Community Services Block Grant.**

Grantee: Lutheran Social Services of the South

Program: Elderly/Disabled Utility Assistance

Funding Source: 2007 Comprehensive Energy Assistance Program and Community Services Block Grant

Use of Funds: Provide Utility assistance to qualified low-income persons and families.

Amount: Funding for this Contract was approved by the Community Development and Services Board during their regularly scheduled meeting held on January 31, 2007. City Council approved the contract at the City Council Meeting on February 22, 2007. Funds in the amount of \$214,000 from the Comprehensive Energy Assistance Program and \$10,229 from the

Community Services Block Grant were accepted and appropriated by Council on February 6, 2007. In June, Texas Department of Housing and Community Affairs then allocated additional funds to the City. On July 11, 2007, the Community Development and Services Board voted to recommend an additional \$69,000 from the Comprehensive Energy Assistance Program and \$10,505 from the Community Services Block Grant for this program. City Council approved these additional funds in a budget amendment first reading at their July 12, 2007, meeting.

Period of Performance: From January 1, 2007, to December 31, 2007.

#### **FISCAL IMPACT**

The maximum amount to be allocated from the State Comprehensive Energy Assistance Program is \$283,000 and \$20,734 from the Community Services Block Grant for this program.

Staff recommended approval of this resolution.

**5.23. Contract Amendment Resolution - Community Development: Resolution No. 2007-R0337 authorizing the Mayor to execute an amendment to a Community Development Funding Contract with Life Run Independent Living Centers to provide utility assistance to qualified low-income persons and families through the Comprehensive Energy Assistance Program.**

Grantee: Life Run Independent Living Centers

Program: Elderly/Disabled Utility Assistance

Funding Source: 2007 Comprehensive Energy Assistance Program

Use of Funds: Provide Utility assistance to qualified low-income persons and families.

Amount: Funding for this Contract was approved by the Community Development and Services Board during their regularly scheduled meeting held on January 31, 2007. City Council approved the contract at the City Council Meeting on February 22, 2007. Funds were accepted and appropriated in the amounts of \$61,000 by Council on February 6, 2007. In June, Texas Department of Housing and Community Affairs then allocated additional funds to the City. On July 11, 2007, the Community Development and Services Board voted to recommend an additional \$25,740 for this program. City Council approved these additional funds in a budget amendment first reading at their July 12, 2007, meeting.

Period of Performance: January 1, 2007, through December 31, 2007.

#### **FISCAL IMPACT**

The maximum amount to be allocated from the State Comprehensive Energy Assistance Program for this local program is \$86,740.

Staff recommended approval of this resolution.

- 5.24. This item was moved from consent agenda to regular agenda and considered following Item 5.21.
- 5.25. This item was moved from consent agenda to regular agenda and considered following Item 6.15. (Earlier today)
- 5.26. **Contract Amendment Resolution - Business Development: Resolution No. 2007-R0338** whereby the City of Lubbock waives certain post closing obligations of Lubbock Economic Development Alliance ("LEDA"), as set forth in that certain Contract of Sale, by and between the City of Lubbock and LEDA, dated on or about December 7, 2006, related to the assignment of certain agreements by and between the City of Lubbock and Burlington Northern and Santa Fe Railway Company to LEDA.

The City entered into a Contract of Sale with Lubbock Economic Development Alliance ("LEDA") on or about December 7, 2006, Resolution 2006-RO578, which contained post closing obligations in Section 6.06. The post closing obligations included, among other things, LEDA causing the assignment of two agreements (the Track Agreement and Lease) (the "City/RR Agreements"), by and between the City and Burlington Northern and Santa Fe Railway Company (the "Railroad"), to LEDA. LEDA has entered into separate agreements with the Railroad. However, the City/RR Agreements have not been assigned or terminated. It is noted that the City/RR Agreements do contain the authority for the City to terminate by notice.

This resolution states that the City Council desires to waive LEDA's post closing obligations set forth in paragraph 6.06(a) and 6.06(d) of the Contract of Sale related to the assignment of certain agreements between the City of Lubbock and Burlington Northern and Santa Fe Railway Company.

This resolution authorizes the Mayor to execute for and on behalf of the City of Lubbock to waive Post Closing Obligations 6.06(a) and 6.06(d) under the Contract of Sale.

#### **FISCAL IMPACT**

No fiscal impact.

Staff recommended approval of this resolution.

- 5.27. **Contract Resolution - Business Development: Resolution No. 2007-R0339** authorizing the Mayor to execute a contract with Schrader & Cline for professional services to assist the Central Business District Tax Reinvestment Zone in planning for the future development of downtown Lubbock.

This agreement is for professional services to assist the Central Business District (CBD) TIF in planning for the future development of downtown Lubbock. Schrader & Cline will assist staff with the analysis and preparation of an amended Finance and Project Plan that represents the elements and recommendations identified in the Downtown Master Plan.

Schrader & Cline agrees to perform this service for \$27,500 and the estimated completion of this contract will be November 2007. This contract was reviewed by the CBD TIF Board at their meeting held on July 11, 2007. Board recommended approval.

**FISCAL IMPACT**

Funding for this contract is in the Central Business District TIF.

CBD Tax Reinvestment Board and staff recommended approval of this resolution.

- 5.28. Contract Resolution - Business Development: Consider a resolution authorizing the Mayor to execute a contract with Parkhill, Smith & Cooper for professional services to conduct the Downtown Utility Study.**

**This item was deleted.**

- 5.29. Contract Resolution - Radio Shop: Resolution No. 2007-R0340 authorizing the Mayor to execute an agreement with Nextel Operations to provide professional services for planning the FCC-mandated reconfiguration of the 800Mhz radio frequencies.**

In 2004, the Federal Communications Commission issued an order for Nextel to fund the reconfiguration of the 800Mhz frequency band to separate public cellular communications from public safety radio communications. Because the City uses the 800Mhz frequency band for its public safety radio system, Nextel must fund the planning, equipment, and necessary services for the transition to the separated frequencies.

Under this agreement, the City will select and contract with the vendor or service provider performing the planning activities. Dailey & Wells (the City's radio system vendor) and Radio Shop personnel will perform the planning activities.

Dailey & Wells will provide a report of the City's radio assets and a detailed plan to replace equipment or otherwise reband the radio system.

**FISCAL IMPACT**

Nextel is required by the FCC to fund the \$123,959 agreement. Of that amount, the City will receive approximately \$11,219 for services provided by Radio Shop personnel. The remainder is to be paid by Nextel to Dailey & Wells for their portion of the planning project.

Staff recommended approval of this resolution.

- 5.30. Contract Resolution - Fleet Services: Resolution No. 2007-R0341 authorizing the Mayor to execute a purchase order contract for utility bodies, BID 07-054-MA.**

This bid involves the purchase of five utility bodies for Water Pumping and Control and one utility body for Water Meter and Customer Service. The

seller will install the utility bodies on cabs and chassis purchased earlier this year.

Bids were received from J&B Trailers and Equipment of Lubbock, Texas; American Equipment and Trailer of Lubbock, Texas; and Pick Up Pals of Lubbock, Texas.

#### **FISCAL IMPACT**

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

Staff recommended bid award to J&B Trailers and Equipment of Lubbock, Texas, for \$29,814.

**5.31. Contract Resolution - Fleet Services: Resolution No. 2007-R0342; Resolution No. 2007-R0343; Resolution No. 2007-R-344; Resolution No. 2007-R0345; authorizing the Mayor to execute purchase order contracts for cabs and chassis and other equipment, BID 07-055-MA.**

This bid involves the purchase of one 1-ton cab & chassis Spec 528, for Sewer Collection; one 1-ton cab & chassis, Spec 528LAS for Land Application Site; and one 1-ton cab & chassis, Spec 528WUFS for Water Equipment Maintenance; one skid mounted valve exerciser with vacuum, Spec NV-723WU for Water Pipeline Maintenance; four lining and coating for T58 belly dump trailers for Water Reclamation; and two right-hand drive cabs & chassis, Spec 608RH, for Solid Waste Collection.

The following dealers submitted bids:

Scoggin-Dickey of Lubbock, TX  
Roberts Truck Center of Lubbock, TX  
E.H. Wachs of Lincolnshire, IL  
G&C Contracting of Levelland, TX.

A bid tabulation is provided.

#### **FISCAL IMPACT**

These vehicles are funded through the approved FY 2006-07 Master Lease Program.

Staff recommended bid award to the following low bidders:

Scoggin-Dickey for \$66,372  
Robert's Truck Center for \$167,494  
E.H. Wachs for \$44,271  
G&C Contracting for \$12,800

**5.32. Contract Resolution - Fleet Services: Resolution No. 2007-R0346 for automotive batteries – annual pricing, BID 07-049-MA.**

The bid establishes annual pricing for automotive 12-volt batteries used in City vehicles and equipment. The contract term is for one year with an option to renew annually for up to two additional one-year terms. Batteries were bid

on an “all or none” basis. There are 17 batteries for different sizes of vehicle or types of equipment.

Bids were received from:

Battery Solutions of Lubbock, Texas  
Continental Battery of Dallas, Texas  
O’Reilly’s Auto Parts of Springfield, Missouri  
Stewart & Stevenson of Lubbock, Texas

Continental Battery of Dallas, Texas, is the only bidder meeting specifications for all items. A bid tabulation is provided.

#### **FISCAL IMPACT**

Battery replacements are funded through department operating budgets.

Staff recommended bid award to the lowest bidder meeting specifications, Continental Battery of Dallas, Texas, for \$16,403.

**5.33. Ordinance Amendment 2nd Reading - City Secretary: Ordinance No. 2007-O0076 Consider an ordinance amending Chapter 8 of the Code of Ordinances by amending the language of Section 8-4 with regard to voting precincts and voting places as a result of annexations.**

Consider an ordinance amending Chapter 8 of the Code of Ordinances by amending the language of Section 8-4 with regard to voting precincts and voting places as a result of annexations. Assign new voting precincts to City Council districts to reflect the changes made. Provide new voting places due to annexations and loss of prior locations. Provide a map of the voting precincts and districts of the City of Lubbock. Provide a savings clause. All portions of Chapter 8 not amended shall remain the same. Provide for publication. Provide an effective date.

#### **FISCAL IMPACT**

No fiscal impact.

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

**Note: Regular Agenda items, and Consent Agenda items moved to Regular Agenda, are listed in the order they were addressed (5.2, 5.21, 5.24, 6.5, 6.1-6.4, 6.7, 6.6, 6.11-6.12, 6.14, 6.16-6.17). Items 6.8-6.10 were deleted. Items 6.15, 5.25, 5.1, 6.13 were considered earlier today.**

**5.2. Sports and Community Venue Project Resolution - Finance: Resolution No. 2007-R0347 designating and providing for a multi-purpose arena project as a sports and community venue project and designating the methods of financing the arena project pursuant to Chapter 334, Texas Local Government Code.**

At the July 12, 2007, City Council meeting, the Citizen's Advisory Committee (CAC) recommended a venue election to approve and fund a multi-purpose arena. The arena is expected to be a 6,000-8,000 seat facility that can

accommodate indoor soccer, arena football, ice events, circuses, concerts, exhibits, and other similar types of events. Through a venue election, the voters approve a venue project and the financing sources. For this project, the CAC has recommended that City Council consider imposing a short-term motor vehicle rental tax at a maximum rate of 5% and a hotel occupancy tax at a maximum rate of 2%, with the remainder of the financing coming from the municipal property tax.

In order to move forward with the CAC's recommendation, City Council must approve a resolution designating a venue project and the methods of financing. The resolution will be provided to the state comptroller for approval. If approved by the comptroller, City Council will then approve an election ordinance for the arena project.

This resolution is a preliminary action required by Chapter 334, Texas Local Government Code.

### **FISCAL IMPACT**

The expected cost of the multi-purpose arena is \$60 million. It is anticipated that the revenues derived from the hotel occupancy tax and the motor vehicle rental tax will support \$21.5 million in bonds and the property tax rate will support \$38.5 million in bonds, or approximately 2.8 cents on the property tax rate.

Citizen's Advisory Committee recommended that the City Council approve this resolution to begin the process of calling the venue election.

Motion was made by Council Member Price, seconded by Council Member Jones to pass Resolution No. 2007-R0347 as recommended by staff.

Council Member Leonard voiced his concern regarding the language of the resolution, specifically the word "shall" in Section 5 of the resolution. Andy Burcham, Director of Fiscal Policy/Strategic Planning, explained to Council the reasons for the wording in the resolution, the timeline for getting the resolution signed, and explained the venue ballot. City Attorney Anita Burgess assisted Burcham with his explanation, and will check with bond counsel to get clarification on the language in the resolution. Burgess will get back with Council as soon as she finds out.

After further discussion, Council Member Leonard offered a friendly amendment to change the word "shall" to "may" in the resolution, and from "will" to "may" in the back-up material. Council Member Price rejected the friendly amendment.

Motion was then made by Council Member Leonard to amend the original motion and change the word "shall" to "may" in Section 5 of the resolution, which failed for lack of a second.

Vote was then taken on the original motion of passing Resolution No. 2007-R0347 as recommended by staff, which carried: 6 Ayes, 1 Nay. Council Member Leonard voted Nay.

**5.21. Contract Amendment Resolution - Community Development: Resolution No. 2007-R0348 authorizing the Mayor to execute an amendment to a Community Development Funding Contract with South Plains Association of Governments to fund 2-1-1 Information and Referral Program to conduct information and referral services for Lubbock County residents, and to produce and update the information and referral guide.**

Grantee: South Plains Association of Governments

Program: 211 Information and Referral Program

Funding Source: 2007 Community Services Block Grant

Use of Funds: The funds will be used to conduct information and referral services for Lubbock County residents and for the production and update of the information and referral guide. Referrals are made for community resources in the following areas: Social Services, Counseling Referrals, Youth and Senior Services, Childcare, State and Federal agencies, Dental and Medical Services, Legal Services, Volunteer Opportunities, and other information needs.

Amount: Funding for this contract was approved by the Community Development and Services Board during their regularly scheduled meeting held on January 31, 2007. City Council approved the contract at the February 22, 2007 meeting. \$63,800 grant funds, on February 6, 2007, were accepted and appropriated by City Council.

Rather than releasing the allocated amount at one time, the state chose to release the funding incrementally. Initially, Texas Department of Housing and Community Affairs (TDHCA) released 38% of the overall allocation. An additional 12% was released in May. TDHCA then released another 25% of the total allocation in June. To date, the city has contracted with South Plains Association of Governments (SPAG) for 38% of the \$63,800 or \$24,244. With ample funds available to the agency, an amendment was not brought before the City Council when the state released the 12% in May. The action today will allow for an additional 37% of the total amount, or \$23,606, to be added to the contract. This action will bring the amount contracted year-to-date with SPAG to \$47,850, or 75% of the total \$63,800. Another amendment will be brought to City Council when TDHCA releases the final 25% of the annual allocation.

Period of Performance: January 1, 2007, through December 31, 2007.

**FISCAL IMPACT**

The maximum amount to be allocated from the State Community Services Block Grant for this program is \$47,850.

Staff recommended approval of this resolution.

Bill Howerton, Director of Community Development, and City Manager Lee Ann Dumbauld gave comments and answered questions from Council. Pete Lara, representative of SPAG, was present to answer questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Jones to pass Resolution No. 2007-R0348 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**5.24. Contract Resolution - Parks & Recreation: Resolution No. 2007-R0349 authorizing the Mayor to execute a contract with Marion Moss Enterprises for litter pickup and disposal at various baseball and softball fields.**

This contract will provide for litter pickup and disposal at various properties found within Group 1-A, Class B and Group 1-B, Class B parks and properties.

Group 1-A, Class B properties include North Mackenzie Connie Mack Hardball Field; North Mackenzie Fast Pitch Baseball Fields; North Mackenzie Softball Fields 5, 6, & 7; Helen Hodges Baseball Fields; Maxey Little League Fields; and Maxey Pony Field. Approximate acreage is 22.70.

Group 1-B, Class B properties include Hamilton Softball Field, Stubbs Softball Fields, Mose Hood Softball Fields, Lewis Little League Baseball Fields, Cavazos Complex Baseball Fields, and Martin Luther King Boulevard Little League Field. Approximate acreage is 33.70.

The City currently contracts litter pickup and disposal with Marion Moss Enterprises for various parkland properties. Contracting with Marion Moss has helped to provide employment for Texans with blindness or other disabilities.

**FISCAL IMPACT**

\$903,601 is appropriated in the Adopted FY 2006-07 Parks and Recreation Operating Budget with \$42,630 available for this purpose.

Staff recommended contract award to Marion Moss Enterprises of Lubbock, Texas, for \$42,630.

Motion was made by Council Member DeLeon, seconded by Council Member Jones to pass Resolution No. 2007-R0349 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

Mayor Miller recused himself.

**Mayor Miller opened and closed the public hearings on Items 6.1 through 6.7. Items 6.1-6.4 were considered following Item 6.5.**

- 6.5. Public Hearing 10:00 a.m. - Zoning: Zone Case No. 3082 (7903 19th Street) Hold a public hearing in continuation from previous City Council Meeting to consider an appeal of Andy R. Hernandez for a zoning change from R-1 to C-4 on 1 acre of unplatted land out of Section 41, Block AK.**

**This item was continued until the first City Council meeting in January, 2008.**

Mayor Miller opened the public hearing at 11:26 a. m. No one appeared on behalf of Andy R. Hernandez. No one appeared in opposition. Mayor Miller closed the hearing at 11:29 a. m.

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

Adjacent land uses:

N – 19th Street and vacant

S – the horse arena of the homeowner to the south

E – commercial

W – commercial

The proposed zoning is within a geographic area that has developed over the years as being subject to an informal "West 19th Street Corridor" zoning policy. The conditions that will be proposed for this parcel have been attached to a majority of zone cases by the Planning Commission and City Council for C-4 zoning requests along 19th Street west of Loop 289. Following the informal policy, the recommendations exclude a number of C4 permitted uses that have been eliminated during zone cases on the four miles west of the Loop inside the City. The policy evolved since the 1960s on land outside the Loop adjacent to 19th Street because the street is a State Highway and many heavy commercial uses and industrial uses were inherited as the area was annexed (as well as the fact that the Comprehensive Land Use Plan recommended that C-4 be limited to major highways and expressways). However, several C-4 uses were identified during the evolution of numerous zone cases as not the most compatible with the major entry portal to Lubbock represented by 19th Street. Thus, the request with conditions meets both the

Comprehensive Land Use Plan and zoning policies. The project will have no additional impact on the thoroughfare system. TxDOT governs driveways to 19th Street.

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

Prohibited uses:

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

#### **FISCAL IMPACT**

No fiscal impact.

Staff supports the recommendation of the Planning and Zoning Commission.

Bill Boon, Senior Planner, gave comments and answered questions from Council. He then explained to Council that staff and Mr. Hernandez agreed upon requesting a continuance on this zone case until the first City Council meeting of January, 2008.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to continue this zone case until the first City Council meeting of January, 2008. Motion carried: 7 Ayes, 0 Nays.

#### **6.1. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2007-00077 Zone Case No. 1425-D (1720 East 46th Street) Request of Eulejio Armenta for zoning change from C-4 to R-1 on Lot 1, Block 6, Clutter Addition.**

Mayor Miller opened the public hearing at 11:26 a. m. No one appeared on behalf of Eulejio Armenta. No one appeared in opposition. Mayor Miller closed the hearing at 11:29 a. m.

Mr. Armenta owns a one acre lot in an area of town that is sparsely developed and currently zoned C-4. His desire is to build a single family home. He understands that the area around him is zoned for commercial and that either the marketability of the home in the future or a future neighbor could be built that would not be residential.

Adjacent land use:

N – residential

S – vacant and residential

E – vacant

W – vacant

Many areas of North and East Lubbock were zoned, in various areas, both heavy commercial and industrial when zoning was adopted by City Council in 1942, or a second round occurred in 1955. A number of locations, as the area represented by this case, were actually developed primarily as residential versus the zoning that was placed on them – many of the subdivisions were outside the City limits when built. The original discussion is lost to history; but the objective for the commercial and industrial zoning was probably to cultivate commercial or industrial areas that would benefit the economic basis of the City, a development that has never occurred at many of the locations.

This area is thinly developed, and a majority of the adjacent land uses are residential or vacant. A number of homes are nonconforming (having been in place when annexed) and the Zoning Board of Adjustment has approved a considerable number of trailer homes in the area within their jurisdiction to approve a “manufactured homed” in any district.

Mr. Armenta does not want to place a mobile home on the parcel. He would like to build a permanent home on the parcel, and that requires a zone change to R-1. While the request is not in concert with the Comprehensive Land Use Plan, the proposed use is actually the dominant use of property in the area. Zoning policy is not an issue.

The project will have no impact on the thoroughfare system.

The Planning Commission recommended the request for approval with acknowledgement that the change represents a minor change to the Comprehensive Land Use Plan.

#### **FISCAL IMPACT**

No fiscal impact.

Staff recommended approval of the first reading of this ordinance.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to pass on first reading Ordinance No. 2007-O0077 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

- 6.2. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2007-O0078 Zone Case No. 1598-I (3410 West Loop 289) Request of Ken Flagg (for Tim Benham) for zoning change from C-4 with conditions to amend a condition of Ordinance 8793 (to allow a body shop) on Lots 4-B-1, Camelot Addition.**

Regular City Council Meeting  
July 26, 2007

Mayor Miller opened the public hearing at 11:26 a. m. No one appeared on behalf of Tim Benham. No one appeared in opposition. Mayor Miller closed the hearing at 11:29 a. m.

The applicant is requesting that the conditions attached to Ordinance 8793 be amended to remove a use that was included in the Ordinance that prohibits the use of “body shop”. The applicant prefers “collision repair” as the description of his business.

Adjacent land uses:

N – commercial

S – vacant, Zoned C-4 within Ordinance 8793

E – Loop 289

W – commercial, A sports fitness facility and a former lumberyard storage area used for boat and RV storage.

There is no conflict with the Comprehensive Land use Plan since the parcel is adjacent to a state or regional major street (Loop 289) and it is already zoned C-4, the simple fact is that “body shop” is one of the uses not permitted by Ordinance 8793. The original zone case 1598-C was approved within Ordinance 8793 and did not permit the following uses:

- Automotive body shops
- Automotive brake shop
- Automotive seat cover and upholstery shop
- Automobile transmission shop
- Billboards
- Commercial private clubs and teenage clubs
- Dance hall
- Electrical equipment repairs
- Feed store with no grinding, packaging, or mixing of feed permitted
- Furniture store, used
- Game room, pool, billiard and/or domino parlor
- Garage, public repair
- Lumber yard
- Muffler shop
- Nightclub or bar
- Rental store, heavy equipment and trailers only
- Pawnshop

In 1987, Ordinance 9122 added three of the prohibited uses originally deleted:

- Brake shop
- Muffler shop
- Transmission shop
- Automobile upholstery shop

The presentation during that zone case was to develop the two lots as “Fleetwood Auto Plaza with the appearance of Shopping Center”. That project never was completed, although the uses remain permitted by that ordinance.

As development has occurred within the area, the restoration of the “body shop” as advocated by Mr. Benham should not cause a detriment to the area. When the original 1985 zone case was discussed, development in the area was still sparse and concern over the heavier uses was greater. A body shop exists a short distance south on the service road of Loop 289, but that area was in a separate C-4 case.

The project should have little impact on the thoroughfare system. The applicant will have to negotiate with TxDOT for curb access to Loop 289.

The Planning and Zoning Commission supports the request with three conditions:

1. The project is tied to the proposed building elevation and site plan presented.
2. A screening fence shall be constructed as illustrated on the site plan.
3. No vehicle shall be located on the property that does not have an active work order with the body repair business other than the vehicles belonging to employees, customers and guests.

#### **FISCAL IMPACT**

No fiscal impact.

Staff recommended approval of the first reading of this ordinance.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to pass on first reading Ordinance No. 2007-O0078 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

#### **6.3. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2007-O0079 Zone Case No. 2411-E (4300 block of 78th Street) Request of Zach Thomas and Bill Barnhill for zoning change from GO to C-2A on 2.95 acres of unplatted land out of Block E-2, Section 11.**

Mayor Miller opened the public hearing at 11:26 a. m. No one appeared on behalf of Zach Thomas and Bill Barnhill. No one appeared in opposition. Mayor Miller closed the hearing at 11:29 a. m.

The applicant intends to build a rehabilitation and sports therapy center with a fitness center included in the building. Initially, some concerns were expressed by the owners of business locations to the south, all of the original letters and comments of opposition have been retracted.

Adjacent land uses:

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

The current zoning on the property is Garden Office. In a miscommunication between the applicant and staff, the zone first presented to the Planning

Commission illustrated rezoning of the entire parcel to Peoria. In fact, the applicant is in contract to purchase 120,000 square feet or approximately 533 feet from the west end adjacent to the C-2 zoning, versus the full 650 feet of the block as the notice was mailed. The remaining approximate 117 feet on the east end at Peoria Avenue and 78th Street will retain the current Garden Office zoning. The homeowners in North Pointe would not have received a notice if the mailing had been based on 533 feet.

The land area is noted as eligible for commercial on the Comprehensive Land Use Plan. The strip of property is across the street from a much discussed landfill that has been covered and is currently vacant. The City of Lubbock has installed several remediation measures on the property, and the likelihood of future development is slim due to the environmental issues, but not non-existent. Other than the office development to the south, the strip of land proposed for the athletic center is not immediately adjacent to any developed area.

If approved, the development will comply with zoning policy. Especially, with the former landfill land not in use, the additional traffic on 78th Street or Orlando Avenue created by this project should not create an issue, and the project will have no impact on the overall thoroughfare system.

Several business neighbors expressed concern for additional traffic, but 78th Street and Peoria Avenue are both public streets and are designed for a much greater number of vehicles than currently being used. The staff is of the opinion that much of the traffic on the street may be Lubbock citizens using the route to miss the light at 82nd Street and Quaker Avenue. The staff did indicate that the interest of the neighbors, both office and residential, for a traffic count and a possible light at one or both intersections (82nd Street and Quaker) would be placed in backup for Council to be aware. Several of the neighbors in attendance would like 78th Street to be posted "no parking". That is available through petition of the adjacent property owner(s) or at the direction of the Traffic Engineer. No such restrictions exist on the traffic on 84th Street west of Quaker Avenue where there are many more business locations on the same size street. At least one of the letters from an adjacent landowner outlines the objectives of the area residents that Council can address. They recognized the requests as outside the purview of the Planning Commission.

The Planning Commission recommended the request with three conditions due to the fact that there are a number of uses in C-2A that may not blend with the area as well as this proposal as well as concern expressed by the business owners to the south (the proposed condition will require a future zone case if the structure is recycled as another type of business, the applicant is in agreement):

1. That the parcel be C-2A limited to the use as a physical therapy and fitness center and all GO uses.
2. The exterior of the entire structure shall be brick.

3. The applicant shall match the screening fence currently on a portion of the south boundary for the balance of the south boundary of this development (a brick pier with wooden insert screening fence).

**FISCAL IMPACT**

No fiscal impact.

Staff recommended approval of the first reading of this ordinance.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to pass on first reading Ordinance No. 2007-O0079 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.4. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2007-O0080 Zone Case No. 3050-B (East of Quaker Avenue and north of 130 Street) Request of Mike Thoma (for Excel Land Development) for zoning change from R-1 Specific Use for reduced setbacks to R-1 Specific Use for Garden Homes on Lots 1-14, Solaris Estates Addition.**

Mayor Miller opened the public hearing at 11:26 a. m. No one appeared on behalf of Excel Land Development. No one appeared in opposition. Mayor Miller closed the hearing at 11:29 a. m.

The applicant is requesting to amend their master plan for Solaris Estates to provide an area eligible for garden homes versus the current single family zoning.

Adjacent land uses:

- N – single family
- S – single family
- E – single family
- W – single family

The change is from residential to residential, simply a different format. The case is in concert with the Comprehensive Land Use Plan and zoning policy.

The change will not impact the thoroughfare system.

**FISCAL IMPACT**

No fiscal impact.

Staff supports the recommendation of the Planning and Zoning Commission.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to pass on first reading Ordinance No. 2007-O0080 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.5. This item was considered following Item 5.24.**

**6.6 This item was considered following Item 6.7.**

**6.7. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2007-O0081 Zone Case No. 3090 (1701 East Erskine) Request of North and East Lubbock Community Development Corporation for zoning change from R-1 to A-1 on three acres of unplatted land out of Section 5, Block A.**

Mayor Miller opened the public hearing at 11:26 a. m. No one appeared on behalf of North and East Lubbock Community Development Corporation. No one appeared in opposition. Mayor Miller closed the hearing at 11:29 a. m.

The applicant is the North and East Lubbock Community Development Corporation. The Corporation is in the process of developing a subdivision at the corner of East Erskine and North Martin Luther King Boulevard. The change requested by this case will allow for multifamily housing, primarily targeted toward market rate senior citizen housing.

Adjacent land uses:

N – vacant

S – apartment complex

E – vacant and the current partial Kings Dominion

W – Estacado High School across Martin Luther King Boulevard.

The project is in an area where the current Comprehensive Land Use Plan was never “filled out” because of the lack of understanding what development dynamics would occur. In recommending the request the Planning Commission includes the fact that the new zoning is a minor change to the Plan simply to keep policy in tact.

The new project will be integrated into the newly developing Kings Dominion residential area, and should be an asset to the continuing success of the overall project. The project will have no appreciable impact on the thoroughfare system.

The Planning and Zoning Commission recommended the request as submitted.

**FISCAL IMPACT**

No fiscal impact.

Staff recommended approval of the first reading of this ordinance.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to pass on first reading Ordinance No. 2007-O0081 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.6. Public Hearing 10:00 a.m. - Zoning: Zone Case No. 3084 (2702 34th Street) Request of Kathy Tzemos for zoning change from C-2 to C-3 on Lots 9 and 10, Block 12, College View Addition.**

**This zone case was denied.**

Mayor Miller opened the public hearing at 11:26 a. m. No one appeared on behalf of Kathy Tzemos. No one appeared in opposition. Mayor Miller closed the hearing at 11:29 a. m.

The original application for this request was submitted as a Specific Use request that would have been limited to a combination of nursery, fish pond equipment sales, and fish that can be placed in the outdoor ponds. Ms. Tzemos lost the contract on the property and has asked for the case to continue for an open C-3 designation.

Adjacent land use:

N – residential  
S – commercial  
E – commercial  
W – commercial

34th Street is marked for commercial use on the Comprehensive Land Use Plan, only the intensity (or District) is up for zoning policy debate during a change request.

One of the issues on this section of 34th Street is that a majority of the buildings and uses were installed prior to 1975, when C-2 contained most of the heavier commercial uses that were relocated to the C-4 District in 1975. This building is a former service station with the tanks removed, and has been used for C-2 uses over the years as a day old bread store, and most recently as a sales outlet for mattresses. Since that tenant left, Ms. Tzemos has had trouble finding an interested party with a use that is permitted in the C-2 district and is attempting to increase the number of uses in hopes of attracting a tenant to occupy the building and help pay the expenses.

Between Indiana Avenue and University Avenue, approximately eight city blocks exist. Four blocks are zoned C-3 (the two on each end) and the center four blocks are zoned C-2. Two non-C-2 cases have been approved in the C-2 portions on the north side over the years. At least one of those cases had the support of the neighborhood.

The UNIT neighborhood has created a policy for their stance on zone cases on both sides of 34th Street between University Avenue and Indiana Avenue. A letter from Ms. Manning is in backup, it contains the resolution of the Board of the UNIT.

With no additional communication with Ms. Tzemos, or her son, since the Specific Use request was dropped, the staff presented the Commission two alternatives:

1. Deny the request if the amount of opposition from UNIT is convincing.
2. If the rationale from Ms. Tzemos is convincing, approve the C-3 with three permitted uses that conform to the style of the building and may allow finding a tenant:

That the property be zoned C-3 with the following uses permitted:

- All permitted C-2 uses.
- An automobile detail shop with no unattended car wash and no outside activities other than parking and detailing activities under the existing canopies.
- An automotive glass shop with no outside activities other than parking of patrons and employee vehicles.
- An automotive paintless dent repair shop with no outside activities other than parking of patrons and employee vehicles.

The Planning Commission approved #2 after discussion of the two alternatives.

### **FISCAL IMPACT**

No fiscal impact.

Staff recommended approval of the first reading of this ordinance.

Bill Boon, Senior Planner, gave comments and answered questions from Council. Council was informed that some of the citizens affected by this zone case were in total opposition of the change.

Motion was made by Council Member Klein, seconded by Council Member DeLeon to deny this zone case. Motion carried: 7 Ayes, 0 Nays.

- 6.8. Contract Resolution - Business Development: Consider a resolution authorizing the Mayor to execute an agreement with 1859 Management Partners for a ground lease on the property located on Tract 7, Overton Park Addition, City of Lubbock.**

**This item was deleted.**

- 6.9. Contract Resolution - Business Development: Consider a resolution authorizing the Mayor to execute a non-disturbance and attornment agreement with Plains Capital Bank and 1859 Management Partners.**

**This item was deleted.**

- 6.10. Contract Resolution Agreement - Business Development: Consider a resolution authorizing the Mayor to execute a design-build agreement with Garfield Traub Development and Turner Lee Lewis to design and construct an upscale conference center adjacent to a separately owned upscale hotel located on Tract 7, Overton Park.**

**This item was deleted.**

- 6.11. Contract Resolution - Business Development: Resolution No. 2007-R0350 authorizing the Mayor to execute a termination agreement with X-Fab Texas to cancel a tax abatement agreement approved on February 24, 2000, and amended on April 27, 2000.**

The City of Lubbock has received a request from X-Fab Texas to cancel an existing tax abatement agreement that was approved by the City Council on February 24, 2000, and amended on April 27, 2000. Due to a downturn in the industry in 2002 X-Fab's equipment value fell below the base year value so they did not receive abatement for equipment from 2002 to 2006. In 2006, the building value fell below the base year value, so no abatement on the building was given. They are requesting that the tax abatement agreement be canceled.

At the same time, the industry has recovered and X-Fab is planning an expansion of their production capacity. They would like to expand their monthly production capacity by 8,700 six-inch wafers. They have submitted an application for tax abatement for the new equipment to expand their capacity. The tax abatement Notice of Intent is also on the agenda for this council meeting.

The City Council approved the Notice of Intent on the July 12, 2007, City Council meeting. Staff is recommending the tax abatement contract be terminated.

#### **FISCAL IMPACT**

There will be no fiscal impact since the values have fallen below the base year.

Staff recommended approval of this resolution.

Motion was made by Council Member DeLeon, seconded by Council Member Jones to pass Resolution No. 2007-R0350 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.12. Contract Resolution - Business Development: Resolution No. 2007-R0351 authorizing the Mayor to execute an industrial tax abatement agreement with X-Fab Texas.**

The City of Lubbock has received an application for industrial tax abatement from X-Fab Texas. X-Fab is planning on increasing their monthly production capacity by 8,700 six-inch wafers. This is a new project and X-Fab would like to have tax abatement for the new equipment only.

The project meets the Industrial Tax Abatement Policy and Guidelines minimum investment for an existing company of \$1 million in new personal property. Total investment in the project is approximately \$7.7 million (\$7.5 million in new personal property and \$200,000 in real property improvements). X-Fab plans to create 75 new jobs with the project.

X-Fab Texas is an existing company and has a total of 370 employees at the plant located at 2301 North University.

In order to qualify for tax abatement, X-Fab must make improvements to the real property. They satisfy that requirement with the \$200,000 investment in real property improvements. The tax abatement would only be on the new equipment, not the building.

X-Fab does not meet the criteria that the company must use Lubbock Power and Light (LP&L) for their electric service. X-Fab has requested that staff vary the guidelines because the operations of the business may require alternate energy sources and LP&L cannot provide service at this time. Both X-Fab and LP&L will work toward developing a solution that would benefit both parties. In order to vary the tax abatement guidelines for this applicant, the contract will require a  $\frac{3}{4}$  vote of the City Council.

With the tax abatement application, the City of Lubbock has received a request from X-Fab Texas to cancel an existing tax abatement agreement that was approved by the City Council on February 24, 2000, and amended on April 27, 2000. Due to a downturn in the industry in 2002 X-Fab's equipment value fell below the base year value so they did not receive abatement for equipment from 2002 – 2006. In 2006, the building value fell below the base year value, so no abatement on the building was given. They are requesting that the tax abatement agreement be canceled. The Notice of Intent to cancel the existing agreement is also on the agenda for this council meeting.

The City Council approved the Notice of Intent on July 12, 2007. Staff is recommending a five-year declining scale tax abatement.

#### **FISCAL IMPACT**

The estimated total amount of the City tax abatement will be \$103,948 over five years.

Staff recommended approval of this resolution.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass Resolution No. 2007-R0351 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

- 6.13. This item was considered following Item 5.1. (Earlier today)**
- 6.14. Contract Resolution - Water Utilities: Resolution No. 2007-R0352 authorizing the Mayor to execute the amendment of Water Right Permit Application No. 5921 and the amendment of the Regional Water Supply Plan by the removal of Canyon Lake No. 8 from the Permit Application and the Regional Plan.**

With the adoption of the Strategic Water Supply Plan for the City of Lubbock, Canyon Lake No. 7 is recommended to remain in the Plan while Canyon Lake No. 8 is recommended for deletion.

In the planning process, the City had considered eliminating both Lakes No. 7 and No. 8 due to water quality issues. The water quality issues are the result of no stream time to improve water quality before the water becomes part of the lake storage. Dissolved oxygen levels and other factors need to be addressed in order to maintain water quality.

Planned discharges at the Southeast Water Reclamation Plant would create water quality issues for Lake No. 7, and existing discharges at FM400 and the North Fork would create water quality issues for Lake No. 8.

One of the Lakes, however, is necessary to help the City meet peak day water supply demands as the Bailey County Well Field ceases to produce sufficient water to help meet peak day demands. Lake No. 7 is recommended since it is smaller in size, impacts fewer property owners, and may be more acceptable for downstream water users. A major consideration is that the City of Lubbock already owns almost half of the property since Lake No. 7 would be located adjacent to the Lubbock Land Application Site.

A discharge plan has been outlined in the Strategic Water Supply Plan for the City of Lubbock, and this plan provides for the discharge of effluent both before and after the construction of Lake No. 7.

In addition, Lake No. 7 could work in conjunction with the Lake Alan Henry and Post Reservoir projects to meet both annual water supply needs and peak day needs, with Lake No. 7 helping to meet the peak day needs. The close proximity to Lubbock would substantially reduce the cost of water supply transmission lines to meet future peak day water supply needs.

In the Strategic Water Supply Plan, Lake No. 8 is not necessary and would not provide any additional benefits to the City.

The Regional Water Supply Plan is available in the City Managers office.

#### **FISCAL IMPACT**

There will be some costs associated with the amendment of the Regional Water Supply Plan. An amount has not yet been determined. The change will not require additional engineering, but it will require removal of the alternative from the plan and the updating of planning documents to show the change. The cost of amending the water right permit application will not require additional funding at this time.

Water Commission and City Staff recommended approval of the proposed amendments to Water Right Permit Application No. 5921 and to the Regional Water Supply Plan by eliminating Canyon Lake No. 8.

Motion was made by Council Member DeLeon, seconded by Mayor Pro Tem Gilbreath to pass Resolution No. 2007-R0352 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

- 6.15. This Item was considered following Work Session Item 7.1.**
- 6.16. Ordinance Amendment 1st Reading - Parks & Recreation: Ordinance No. 2007-O0082 amending Chapter 19 of the Code of Ordinances by amending Section 19-1 of the Code of Ordinances regarding sanctioned activities in the parks, the regulation of taking fish, possession of glass containers in parks and removal or damage of artifacts in public parks. Amending Section 19-2 of the Code of Ordinances regarding sale and consumption of alcohol at the Wells Fargo Amphitheatre, adding Section 19-8 of the Code of Ordinances regarding the description of specific unlawful activities within park playgrounds and the addition of Section 19-9 to the Code of Ordinances regarding temporary closure of parks.**

This ordinance will amend Sections 19-1 and 19-2 of the Code of Ordinances and will add Sections 19-8 and 19-9. Amendment of Section 19-1 includes defining "sanctioned" games which are allowed only on grounds designated for such activities. The amendment allows bicycles on park grounds. The amendment adds regulations regarding the taking of game fish and non-game fish by means of fishing poles and lines only. It prohibits taking fish by such methods as bowfishing and spear guns. A permit will be required to take fish by any other method. Examples of taking fish by other methods, except pole and lines, are traps or seines. The Parks and Recreation Department has received requests from Texas Tech University and Texas Parks and Wildlife to capture fish for research or population studies. Amendment of Section 19-1 includes prohibiting the removal of and searching for artifacts in parks, including metal detecting, except as permitted by all entities having jurisdiction over such activities, such as the Texas Historical Commission. Amendment of Section 19-2 includes adding the Wells Fargo Amphitheatre as a park facility where the sale and consumption of alcohol could be permitted for specific events. Other park locations where the sale and consumption of alcohol can be permitted include the Meadowbrook Golf Course, Mackenzie Outdoor Center, Wind Power Center, Landwer House, and surrounding fenced area at Llano Estacado Lake during specific events. The ordinance currently requires the sale of alcoholic beverages to be conducted by a licensed and approved concessionaire or caterer only, and security must be appropriate. The addition of Section 19-8 establishes unlawful activities within park playgrounds. Unlawful activities include entering the playground between 10:00 p.m. and 7:00 a.m., building fires, smoking, bringing pets onto the playground and bringing bicycles, skateboards, scooters and roller skates onto the playground. The ordinance also defines "park playgrounds". Approval of Section 19-8 will apply to park playgrounds only. Section 19-8 will allow for the temporary closing of parks. Parks could be closed when necessitated by reason of public health, public safety, maintenance, or other reasons in the public interest.

#### **FISCAL IMPACT**

No fiscal impact.

The Parks and Recreation Advisory Board and staff recommended approval of the first reading of this ordinance.

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

The intent of Section 19-1 of the Code of Ordinances regarding sanctioned activities is to not have games or activities occurring in the park which are regulated or officiated with umpires or referees.

Motion was made by Council Member Jones, seconded by Council Member Price to pass on first reading Ordinance No. 2007-O0082 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.17. Use of Funds Resolution - Community Development: Resolution No. 2007-R0353 authorizing the proposed change of use of Housing and Urban Development Section 108 Loan funds.**

The City was approved for a \$2 million Section 108 Loan from the United States Department of Housing and Urban Development (HUD). City Council then voted to accept a \$1 million 108 Loan. Trust certificates were then sold by HUD in a public offering on June 30, 2004. The funding received through the public offering was in the form of a loan and must be repaid to HUD. The payback is amortized over an eight year period. To date, the payments have been made utilizing the City's annual Community Development Block Grant (CDBG) allocation, payments from homeowners, and interest earned on the HUD 108 funds. Future payments will come from the annual CDBG allocation.

The funds were to be used for the HUD 108-Housing Rehab Loan Program. Guidelines for the city-wide program are as follows:

- Rehabs range from basic home repair to major rehabs of homes.
- Program will follow CDBG regulations.
- Loans will be a 100% payback for participating homeowners.
- The interest rate for the rehab loan is 6.0%.

The program funds have not been spent as originally allocated for the following reasons:

- Lead-based Paint requirements set forth by HUD have pushed up the total cost for the renovations. This is not a cost that a homeowner would have if they obtained financing from a private source.
- Rates in the open market are comparable to the Program's rates, ranging from 6.75% to 9%. When the program was first discussed, interest rates in the open market were much higher. Under similar loans, clients would have been expected to pay rates up to 12%.
- Staff has initiated the application process with 881 homeowners. This has resulted in a total of 15 approved cases (1.7% approval rate).

Proposed use of the remaining funds:

There is approximately \$863,671 available in the 108 Loan fund to be used for actual projects. Staff is recommending that the funds be used for Parks projects within the CDBG-eligible areas of Lubbock.

These projects include:

- Burns Park, 23rd Street and Avenue K, replacement of the existing playground equipment and ADA accessibility improvements to the park.
- Hollins Park, 1st Street and Vernon, replacement of the existing playground equipment and Americans with Disabilities Act(ADA) accessibility improvements to the park.

- Mae Simmons Park and Dunbar Historic Lake Improvements, Martin Luther King (MLK) Boulevard, construction of restroom, accessibility improvements, and a walking track.

To change the proposed use of the funds, staff must submit a change in use plan to the Regional HUD Office in Fort Worth, Texas. Staff will also need to complete environmental requirements as set forth by HUD.

#### **FISCAL IMPACT**

Funds used are federal funds from the Section 108 Loan Program. The maximum to be allocated to these projects is \$863,671.

Staff recommended approval of this resolution.

Bill Howerton, Director of Community Development, and Nancy Haney, Executive Director of Community Services, gave comments and answered questions from Council. Council Member Leonard asked about using CDBG funds for ball fields, etc. Howerton will find out and report back.

Motion was made by Council Member Price, seconded by Council Member DeLeon to pass Resolution No. 2007-R0353 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

#### **7. WORK SESSION**

**7.1. This item was considered following approval of the Minutes, Item 4.1.**

**7.2. Presentation 11:00 a.m. - Dangerous Animal Provisions: Presentation on the update of Dangerous Animal Provisions.**

**This item was deleted.**

#### **11:50 A. M. COUNCIL ADJOURNED**

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