

**CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
AUGUST 9, 2007
7:30 A. M.**

The City Council of the City of Lubbock, Texas met in regular session on the 9th day of August, 2007, in the City Council Chambers, first floor, City Hall, 1625 13th Street, Lubbock, Texas at 7:30 A. M.

**7:31 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

- 1.1. Casey Wiley will appear to discuss the City ordinance relating to operating a metal detector or metal detecting equipment within any public park.**

Citizen was not present.

- 1.2. Kenneth Lawrence and Shirley Lawrence will appear to request amending Ordinance No. 2006-O0103 relating to Noise Permit of Variance issued for greater than a 24-hour period.**

Pastor Kenneth and Shirley Lawrence addressed Council regarding Ordinance No. 2006-O0103 as it relates to Noise Permit of Variance issued for greater than a 24-hour period, requesting that Council amend the ordinance to exempt non-profit, religious organizations from coming before Council to get a permit for a period greater than 24 hours. Pastor and Mrs. Lawrence answered questions from Council.

- Those who addressed Council in support of the proposed name change of Canyon Lakes Drive to Cesar E. Chavez Drive were Grace Q, Garza, Maria V. DeLaRosa, Paula Morales, Jennie Thornton, and Christy Martinez.

2. EXECUTIVE SESSION

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

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

All council members were present.

- 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 Chief of Staff, Finance, Fire, 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, 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 Council Chief of Staff, City Manager, City Secretary) and take appropriate action.**
- 2.4. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.086, on the following competitive matters (Electric Utilities):**
 - 2.4.1 to deliberate, vote and take final action on electric rates of Lubbock Power and Light**
 - 2.4.2 to discuss, vote and take final action on a competitive matter regarding operation, financial and capital statements and budgets, revenue and expense projections, strategic and business plans and studies of Lubbock Power and Light**
 - 2.4.3 to discuss and deliberate a competitive matter regarding the strategies, goals, funding and strategic purpose of the City of Lubbock's relationship with and membership in the West Texas Municipal Power Agency.**
- 2.5. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.087 to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations (Business Development).**

Regular City Council Meeting
August 9, 2007

9:39 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 Tommy Combs, Deputy City Secretary

Absent: No one

Mayor Miller reconvened the meeting at 9:39 a.m.

3. PROCLAMATIONS AND PRESENTATIONS

3.1. Pastor Chris Moore, Victory in Praise Christian Fellowship Church

3.2. Pledge of Allegiance to the Flags

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

3.3. Building Board of Appeals: Mark Copeland, and Dr. John White (both unable to attend)

Junked Vehicle Compliance Board: Carl Beyer

Permit & License Appeal Board: Rosa Salazar

Animal Shelter Advisory Committee: Joyce Dahlbeck

Citizens Traffic Commission: Misti Jones (unable to attend), **Sarah Barfield, and Jimmy Thompson**

Civic Lubbock, Inc Board of Directors: Eddie Moreno and Mary Beth Mitemeyer

Community Development & Services Board: Grace Garza

4. MINUTES

4.1. Approval of Prior Meeting Minutes: Regular City Council Meeting, July 12, 2007

Motion was made by Council Member Price, seconded by Council Member Jones to approve the minutes of the Regular City Council Meeting of July 12, 2007 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5. CONSENT AGENDA (Items 5.1-5.5, 5.8-5.11, 5.13, 5.15, 5.17-5.18, 5.20)

Motion was made by Council Member DeLeon, seconded by Council Member Jones to approve Items 5.1-5.5, 5.8-5.11, 5.13, 5.15, 5.17-5.18, 5.20 on consent agenda as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.1. Ordinance Amendment 2nd Reading - Zoning: Ordinance No. 2007-O0077 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.

The City Council held a public hearing and considered the first reading of this ordinance amendment, on July 26, 2007. Mr. Armenta owns a one acre lot in an area of town that is sparsely developed and currently zoned Commercial (C-4). His request 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 build a structure 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, and again during a second round in 1955. A number of locations, including the area represented by this case, were actually developed primarily as residential versus the non-residential zoning that was placed on them. Many of the subdivisions were outside the City limits when built and were therefore not under City zoning regulations. 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. Further development has never occurred at many of these 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 Residential-1 (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 second reading of this ordinance.

5.2. Ordinance Amendment 2nd Reading - 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.

The City Council held a public hearing and considered the first reading of this ordinance amendment on July 26, 2007. 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 Commercial-4 (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 in 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 second reading of this ordinance.

5.3. Ordinance Amendment 2nd Reading - 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.

The City Council held a public hearing and considered the first reading of this ordinance amendment on July 26, 2007. 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 Commercial-2 (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 it currently carries. The staff is of the opinion that much of the traffic on the street may be motorists 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 because there are a number of permitted C-2A uses that may not blend with the area and with this proposal, and because of concern expressed by the business owners to the south. (The proposed condition will require a future zone case if the structure recycles as another type of business. The applicant is in agreement with this requirement.):

1. That the parcel be C-2A limited to the use as a physical therapy and fitness center and all Garden Office 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 second reading of this ordinance.

5.4. Ordinance Amendment 2nd Reading - 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.

The City Council held a public hearing and considered the first reading of this ordinance amendment on July 26, 2007. 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 simply from residential to a different residential 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.

5.5. Ordinance Amendment 2nd Reading - 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.

The City Council held a public hearing and considered this ordinance amendment, first reading, July 26, 2007. 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 multi-family 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 as 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 second reading of this ordinance.

- 5.6. This item was moved from consent agenda to regular agenda and considered following Item 5.20.**
- 5.7. This item was moved from consent agenda to regular agenda and considered following Item 5.6.**
- 5.8. Contract Resolution - Fire: Resolution No. 2007-R0354 authorizing the Mayor to execute a purchase order contract for a dive, search, and rescue boat, BID 07-057-FO.**

This bid is for the purchase of a dive, search and rescue boat and all associated equipment. The Lubbock Fire Department Dive Team at Lake Alan Henry has access to a small boat that is not adequate for use on large bodies of water. This small boat has hampered rescue and recovery operations on the lake. The purpose of this acquisition is to obtain a large pontoon-type boat customized to accommodate an assortment of dive equipment and the necessary number of dive team personnel to safely and effectively perform search and rescue efforts at Lake Alan Henry.

Bids were received from the following companies:

\$30,339 Waco Manufacturing of North Little Rock, Arkansas

\$35,000 I-27 Marine and Powersports of Lubbock, Texas

City Council awarded a purchase order contract to I-27 Marine and Powersports for \$35,909 on April 26, 2007 (Resolution 2007-R0164). I-27

Marine and Powersports was unable to deliver the rescue boat at the price quoted and canceled the purchase order on June 11, 2007.

FISCAL IMPACT

Funds are available in the adopted FY 2006-07 Lake Alan Henry operating budget.

Staff recommended bid award to the lowest bidder, Waco Manufacturing of North Little Rock, Arkansas, for \$30,339.

5.9. Contract Resolution - Parks and Recreation: Resolution No. 2007-R0355 authorizing the Mayor to execute a contract for resurfacing tennis courts at Burgess Rushing Tennis Center, BID 07-723-DD.

This contract involves resurfacing nine tennis courts at the Burgess Rushing Tennis Center. The scope of the work includes power washing the courts to remove loose and spalled material, filling and leveling depressed areas, applying of sand based court coating, and applying two color coats on each court.

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. Use of the competitive sealed proposal procedure is intended to help municipalities attract contractors who otherwise may not have an interest in participating on the basis of low bid and provides the ability to bring the project in within budget with the contractor who offers the best value. This is compared with the competitive sealed bid method that limits basing contract award on the lowest bid, which may be over budget requiring staff to search for additional funds or restart the bid process. Evaluation factors published in the Request for Proposal (RFP) included cost 40%; contractor qualifications, resume and references 40%; safety record 5%; and construction time 15%. The following companies submitted proposals and were evaluated and ranked in the published selection criteria as follows:

- Advantage Courts of Amarillo, Texas, proposed a project cost of \$44,550 with a completion time of 30 calendar days, and scored 478.
- Flex Court International of Kenanee, Illinois, proposed a project cost of \$195,088 with a completion time of 14 calendar days, and scored 346.

FISCAL IMPACT

\$44,550 is available in Project 9497, Burgess Rushing Tennis Center, for this purpose.

Staff recommended contract award to the highest ranked and lowest bidder, Advantage Courts, of Amarillo, Texas, for \$44,550.

5.10. Contract Resolution - Parks and Recreation: Resolution No. 2007-R0356 authorizing the Mayor to execute a purchase order contract with Musco Sports Lighting for the procurement of a sports lighting system through the Texas Association of School Boards Local Government Purchasing Cooperative.

On Thursday, June 14, 2007, City Council approved a contract with Lee Lewis Construction as the Construction Manager at Risk to construct 16 ball fields at Lubbock Youth Sports Complex located at 12405 Milwaukee Avenue. Prior to contract award, the scope of work was modified to exclude the sports lighting system, which is available through the BuyBoard purchasing cooperative at a \$480,000 savings. The Musco Light Structure Green™ System is available for \$789,578 through the Texas Association of School Boards Local Government Purchasing Cooperative using an electronic purchasing system, known as BuyBoard. This purchasing cooperative is an administrative agency created in accordance with Section 791.001 of the Texas Government Code. Its purpose is to obtain the benefits and efficiencies that can accrue to members of a cooperative, to comply with state bidding requirements, and to identify qualified vendors of commodities, goods, and services.

The Musco Light Structure Green™ System includes:

- Pre-cast concrete bases
- Galvanized steel poles
- UL Listed remote electrical component enclosures
- Pole length wire harness
- Factory-aimed and assembled luminaries
- 2P auxiliary mounting brackets
- Energy savings of more than 50% over a standard lighting system
- Less spill and glare light
- Musco Constant 25™ warranty and maintenance program that eliminates 100% of the maintenance costs for 25 years, including labor and materials
- Guaranteed constant light level of 50 foot-candles on the infield and 30 foot-candles on the outfield for the Little League Fields for 25 years, +/- 10% per IESNA RP-06-01
- One group re-lamp at the end of the lamps' rated life of 5000 hours
- Reduced energy consumption with an average of 56.3 kW per hour
- Control Link® Control & Monitoring System for flexible control and solid management of the lighting system
- Lighting contactors sized for 480 Volt 3-phase

Lee Lewis Construction solicited bids from local electrical contractors to install the conduit wire and lighting system. Acme Electric will be responsible for the installation.

Time for completion of this project is 90 consecutive calendar days and liquidated damages are \$500 per day.

FISCAL IMPACT

Staff recommended approval of this resolution.

- 5.11. Contract Resolution - Health Department: Resolution No. 2007-R0357 authorizing the Mayor to execute DSHS Contract No. 2007-022790 with the Texas Department of State Health Services to provide funding to procure laboratory equipment to perform analysis of Grade A raw milk to achieve consistency of lab analysis with other labs across the state.**

This contract with the Department of State Health Services will provide the Lubbock Health Department funding to procure laboratory equipment to perform analysis of Grade A raw milk to achieve consistency of lab analysis with other labs across Texas. The contract specifies the purchase of Bentley Somocount 150 approved by the Food and Drug Administration. DSHS will make a lump sum payment of \$40,000 to the City no later than 30 days after the contract is executed.

The Bentley 150 Infrared Milk Analyzer is an instrument that uses a process based on laser flow cytometry to give an automated accurate count of somatic cells found in Grade A raw milk. The milk and dairy industry monitors the somatic cell count in individual dairy's raw milk to guarantee only healthy non-infected cows are being used to produce the final product consumed by the public.

FISCAL IMPACT

\$40,000 is grant funded. There is no impact to the General Fund.

Staff recommended approval of this resolution.

- 5.12. This item was moved from consent agenda to regular agenda and considered following Item 5.7.**

- 5.13. Contract Resolution - Human Resources: Resolution No. 2007-R0358 authorizing the Mayor to execute an interlocal cooperative purchasing agreement with North Central Council of Governments Purchasing Cooperative for on-line job postings.**

The North Central Council of Governments Purchasing Cooperative is an administrative agency created in accordance with Section 791.001 of the Texas Local Government code. Its purpose is to obtain the benefits and efficiencies that can accrue to members of a cooperative, to comply with state bidding requirements, and to identify qualified vendors of commodities, goods, and services.

This agreement will allow the Human Resource Department to participate in the North Central Texas Council of Governments and Monster.com partnership for on-line job postings. This partnership is exclusive to city, county, school districts and other governmental entities throughout Texas. This cooperative purchasing agreement provides benefits to reduce administrative costs and increase efficiency through on-line job postings. The contract involves a minimum commitment of four job postings each year.

FISCAL IMPACT

Job postings will be invoiced at the rate of \$120 each. Funds are appropriated in each department's operating budget for this purpose.

Staff recommended approval of this resolution.

- 5.14. This item was moved from consent agenda to regular agenda and considered following Item 5.12.**

- 5.15. Contract Resolution - Radio Shop: Resolution No. 2007-R0359 authorizing the Mayor to execute an interlocal agreement with the Texas Department of Transportation for lease space on a City-owned tower.**

This agreement will allow Texas Department of Transportation (TxDOT) to install small antennas on the City's tower at 102 Municipal Drive at no cost to the State. The placement of these antennas will allow TxDOT a more efficient communications method to TxDOT devices in various Lubbock locations.

FISCAL IMPACT

As consideration, TxDOT has agreed to allow the City to install antennas on a TxDOT tower located at 135 Slaton Highway at no cost to the City.

Staff recommended approval of this resolution.

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

- 5.17. Grant Resolution - Citibus: Resolution No. 2007-R0360 authorizing the Citibus General Manager to execute a Federal Transit Administration Section 5307 Grant, Project No. TX-90-X763-00, to provide operating, capital, and planning assistance for FY 2007.**

Citibus has electronically applied for and has been allocated a \$2,550,878 Federal Transit Administration (FTA) Section 5307 Grant (Project No. TX-90-X763-00) for Fiscal Year 2007. This is a routine grant that Citibus receives on an annual basis. The Lubbock Public Transit Advisory Board has approved the FTA Section 5307 grant and it has been incorporated into the FY 2007 budget, which has been previously approved by City Council. The funds for this grant will be used for operating assistance, preventative maintenance, Americans with Disability Act (ADA) paratransit, miscellaneous support equipment, security, and passenger amenities.

Federal Transit Administration regulations require that all grants must be applied for and executed electronically. Therefore, Citibus would like to request that the Mayor allow Mr. John Wilson, Citibus General Manager, to execute this grant, once approved by the City Council.

This grant is being approved late in the fiscal year because of delayed approval of the federal budget in Congress. Below is a timeline for FY 2007 Section 5307 grant showing the steps in the approval process.

1. FY 2007 apportionments announced in Federal Register - March 23, 2007
2. FTA grants management website begins accepting FY 2007 applications - March 30, 2007
3. Citibus completes preliminary grant application - April 3, 2007
4. FTA notifies Citibus that grant number was assigned and grant is ready to proceed for approval - July 6, 2007

FISCAL IMPACT

The match required for this grant is included in the FY 2007 Citibus budget. Acceptance of this grant will result in no additional cost to the City.

Citibus recommended approval of this resolution.

5.18. Contract Resolution - Storm Water: Resolution No. 2007-R0361 rejecting the bid for the South Lubbock Drainage Improvement Project - Package No. 3, BID 07-724-BM.

South Lubbock Drainage Improvements Project, Package No. 3, involves the construction of two lateral pipelines and the associated inlet structures, valves, manholes, etc. that will tie into the main trunk line currently under construction. These pipelines and appurtenances will serve Playa Lake 86, Earl Crow Park, and Playa Lake 89, Charles Guy Park. The overall project was initially broken into smaller projects to allow smaller companies to potentially bid on portions of the overall project. One bidder submitted a bid:

\$6,560,272 Utility Contractors of America of Wolfforth, Texas

The engineer's estimate for construction was \$2.6 million. Even accounting for various escalation factors, the engineer could not justify revising the construction estimate above \$5 million. Therefore, staff opines that the bid amount is unreasonably high based on the amount of work that is requested and the current market conditions.

FISCAL IMPACT

The balance of authorized funds currently available is \$4,448,382. There is an additional \$8.25 million proposed for FY 2007-08 to increase the amount available to \$12,698,382. This amount will fund Package No. 3 and two other packages that are similar in size and scope.

Staff recommended that City Council reject the bid and instruct staff to repackage the remaining packages in order to attract additional bidders.

5.19. This item was moved from consent agenda to regular agenda and considered following Item 5.16.

5.20. Contract Resolution Agreement - Traffic Engineering: Resolution No. 2007-R0362 authorizing the Mayor to execute an agreement with Texas Tech University for part-time staffing of Traffic Engineering's Traffic Management Center.

Traffic Engineering will be operating the joint Traffic Management Center (TMC) Monday through Friday from 7:00 a.m. to 6:30 p.m., and during

certain special events. Texas Tech University Civil Engineering Department will supply a Transportation Engineering graduate student for the part-time TMC Operator position. This agreement will benefit the University with relative training for graduate students and will benefit the City with staffing the TMC in a "split-shift" scenario.

FISCAL IMPACT

The agreement provides part-time pay for actual time worked, not to exceed an annual amount of \$20,758. The costs will be paid from the Traffic Engineering Department's operating funds. The graduate student will be an employee of Texas Tech University.

Staff recommended approval of this resolution.

- 5.21. This item was moved from consent agenda to regular agenda and considered following Item 5.19.**

6. REGULAR AGENDA

Note: Regular Agenda items, and Consent Agenda items moved to Regular Agenda, are listed in the order they were addressed (Items 5.6-5.7, 5.12, 5.14, 5.16, 5.19, 5.21, 6.1-6.6, 6.11). No action was taken on Items 6.7-6.10.

- 5.6. Notice of Intent Resolution - Business Development: Resolution No. 2007-R0363 authorizing the Mayor to execute a Notice of Intent to enter into a tax abatement agreement with Raul and Josie Alvarado dba Essential Home Health.**

The City of Lubbock has received an application for commercial tax abatement from Essential Home Health. They plan to build a new facility at 2501 Baylor in the Lubbock 2000 North Enterprise Zone.

The project meets the Commercial Tax Abatement Policy and Guidelines for an existing company with a minimum investment of \$100,000 in real property improvements. Total investment in the project will be \$250,000. Essential Home Health will create approximately 20 new jobs over the next 3 years.

In order to contract with a company for tax abatement, the municipality must first deliver a notice of intent to enter into a tax abatement agreement to the other taxing jurisdictions. This action fulfills this requirement.

Staff is recommending five-year declining scale tax abatement.

FISCAL IMPACT

The estimated total tax abatement is \$3,465 over five years.

Staff recommended approval of this resolution.

Cheryl Brock, Business Research Specialist, gave comments and answered questions from Council.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to pass Resolution No. 2007-R0363 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

Council Member DeLeon recused herself.

5.7. Notice of Intent Resolution - Business Development: Resolution No. 2007-R0364 authorizing the Mayor to execute a Notice of Intent to enter into a tax abatement agreement with Minerva Partners.

The City of Lubbock has received an application for commercial tax abatement from Minerva Partners. They have purchased land located at 602 Avenue Q and will be building a commercial facility that will be leased to Walgreens. The site is located in the Lubbock 2000 South Enterprise Zone.

The project meets the Commercial Tax Abatement Policy and Guidelines for an existing company with a minimum investment of \$100,000 in real property improvements. Total investment in the project will be \$1.73 million. Minerva Partners will not create any new jobs, but Walgreens will create approximately 16 full-time and 9 part-time positions.

This location is within the boundaries of the Central Business District (CBD) Tax Increment Financing (TIF). Therefore, the agreement must be approved by the CBD TIF Board. The CBD TIF Board considered and approved the agreement with Minerva Partners at their July 11, 2007, Board Meeting. The Chairman of the CBD TIF Board has signed the tax abatement agreement.

In order to contract with a company for tax abatement, the municipality must first deliver a notice of intent to enter into a tax abatement agreement to the other taxing jurisdictions. This action fulfills that requirement.

Staff is recommending five-year declining scale tax abatement.

FISCAL IMPACT

The estimated tax abatement is \$23,977 over five years.

Staff recommended approval of the Notice of Intent.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to pass Resolution No. 2007-R0364 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.12. Contract Resolution - Risk Management: Resolution No. 2007-R0365 authorizing renewal of the contract with Wachovia Insurance Services and Sanford Insurance for health benefits consulting services for City provided employee benefit plans and voluntary employee benefit plans.

The City solicited competitive proposals for health benefits consulting services in June 2006. Responses were evaluated and ranked by an independent committee consisting of Bill Tarro of Lubbock Independent School District, David Low of the Med Group, and Jim Brunjes of Texas Tech University. At the July 25, 2006, City Council meeting, City Council awarded Wachovia Insurance Services of Dallas, Texas, and Sanford Insurance of

Lubbock Texas, an annual contract with an option to renew for up to two additional one-year terms. The annual contract amount is \$80,000.

Services under the contract include assisting staff with City provided employee benefit plans and voluntary employee benefit plans in an effort to explore options for containing health insurance costs, lowering City and member contributions where feasible, and providing a competitive and comprehensive benefits package to eligible members.

Other services include:

Perform compliance review and monitor plan documents and summary plan descriptions,

Meet quarterly to discuss health and dental claims, problems related to claims, and voluntary products,

Analyze claim experience to identify large claims and trends,

Assist with internal budgeting by reviewing claims, enrollment, and administration costs, and

Facilitate annual enrollment meetings when requested.

In 2006, Wachovia and Sanford helped prepare the Request for Proposals (RFP) for employee benefits including, health insurance, dental insurance, and personal accident insurance, and assisted staff evaluate responses to the RFP. Upon renewal of the contract, Wachovia and Sanford will begin preparations to solicit proposals in August 2007 for life insurance, short term disability insurance, and long term disability insurance. In addition, Wachovia and Sanford will review all other voluntary products including cancer insurance, vision insurance, and pre-paid legal insurance and will make recommendations for soliciting proposals for these employee benefits.

FISCAL IMPACT

\$80,000 is available in the Health Benefits Fund.

Staff recommended contract renewal for two additional years.

Stan Self, representative of Wachovia Insurance Services and Sanford Insurance, gave comments and answered questions from Council. City Manager Lee Ann Dumbauld, Chief Financial Officer Jeff Yates, and City Attorney Anita Burgess also gave comments and answered questions from Council.

Motion was made by Council Member Price, seconded by Council Member Klein to pass Resolution No. 2007-R0365 as recommended by staff. Motion carried: 6 Ayes, 1 Nay. Council Member Leonard voted Nay.

5.14. Contract Resolution - Fleet Services: Resolution No. 2007-R0366 authorizing the Mayor to execute a purchase order contract for a 125 horsepower articulating frame motor grader, BID 07-061-MA.

This bid is for the purchase of a 125 horsepower articulating frame motor grader to be used by the Street Department for unpaved alley maintenance.

This new equipment replaces a 1990 motor grader currently used in alleys and is part of the Street Department's vehicle replacement schedule.

The following companies submitted bids:

\$164,895 Scott Tractor & Equipment of Lubbock, Texas

\$199,149 Warren Cat of Lubbock, Texas

FISCAL IMPACT

Funds are available in the approved FY 2006-07 Master Lease Program.

Staff recommended bid award to the lowest bidder, Scott Tractor & Equipment Company of Lubbock, Texas for \$164,895.

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

Motion was made by Council Member Price, seconded by Council Member Jones to pass Resolution No. 2007-R0366 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

5.16. Contract Resolution - Street Maintenance: Resolution No. 2007-R0367 authorizing the Mayor to execute a purchase order contract for a portable asphalt pulverizing, recycling, and trenching machine.

This agenda item is for the sole source purchase of a portable asphalt pulverizing, recycling, and trenching machine that attaches to a loader bucket and used to mill out asphalt failures, utility trenches, and pot holes. It can also be used to grind up old asphalt and mix it into the base material.

Asphalt Zipper of Pleasant Grove, Utah, is the sole manufacturer of the Asphalt Zipper bucket-mounted AZ500 portable asphalt pulverizing, recycling, and trenching machine. There are no third-party vendors authorized by Asphalt Zipper to sell this product. This is a sole source procurement exempt from competitive bidding pursuant to Texas Local Government Code 252.022(a)(7)(A).

Kevin Lair, Street Superintendent, presented a Street Maintenance Improvement Plan to the City Council on May 24, 2007. The plan included personnel and equipment needs to increase the standard services of the Street Department. The City Council subsequently approved a budget amendment for the master lease purchase of the equipment at its June 26, 2007, meeting. This equipment is included in the Street Maintenance Improvement Plan.

The Asphalt Zipper will improve the efficiency of the Street Department maintenance operation. It will provide the capability of recycling and blending old asphalt and concrete for application on dirt roads and alleys. This process will give the driving public a better all weather road and alley and will save the Street Maintenance Department time, money, and wear and tear on equipment by eliminating repetitive work on City unpaved streets and alleys. Stabilizing unpaved roads and alleys will reduce repeat calls to re-blade streets and alleys after rain storms.

FISCAL IMPACT

This equipment was approved in the budget amendment for the General Fund Master Lease Program. The cost of the equipment is \$99,700.

Staff recommended approval of this resolution.

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

Motion was made by Council Member Leonard seconded by Council Member Price to pass Resolution No. 2007-R0367 as recommended by staff. Motion carried: 4 Ayes, 3 Nays. Mayor Pro Tem Gilbreath, and Council Members Klein and Leonard voted Nay.

5.19. Contract Amendment Resolution - Storm Water: Resolution No. 2007-R0368 authorizing the Mayor to execute a change order to the contract with Utility Contractors of America for the South Lubbock Drainage Improvements Project – Phase I Main Trunk Line.

The South Lubbock Drainage Improvements Project began construction in January 2005 after contract approval in September 2004. Utility Contractors of America has been working diligently on this contract and is currently ahead of the contract construction schedule.

Due to Staff's recommendation for City Council to reject BID 07-724-BM, South Lubbock Drainage Improvements Project - Package No. 3, this change order is made at the City's request. The change order will add all of the remaining inlet structures at Playa lakes 28 (Jan Jennings Park), 86 (Earl Crow Park), 89 (Charles Guy Park), 92 (Phil Hoel Park) and 132 (north of 114th Street and west of Frankford Avenue). These structures have always been part of the overall project, but were originally intended to be broken out with smaller packages. All of these structures, except for the one at Playa Lake 132, are in developed areas. The area around Playa Lake 132 is also developing rapidly, so it is prudent to include Playa Lake 132 as well. The primary trunk line had to be installed before these inlets and associated lateral lines could be constructed. The pipeline portions associated with these inlet structures will be bid out at another time and are not included in this change order.

This change order is recommended for the following reasons:

1. The specialized nature of the construction involved with the inlets may limit potential bidders for the additional lateral lines because these bidders may be more interested in a simple "pipeline" project.
2. The subcontractor performing the work on the structures associated with the initial contract is already on site and capable and willing to construct the remaining structures.
3. Material costs continue to rise, so bidding out the additional structures at a later time would not be cost effective.

The current contract amount for Phase I – Main Trunk Line is \$27,747,817. A unit price change order for this work was negotiated with Utility Contractor's of America for \$2,956,242, increasing the contract amount to \$30,704,059. Staff believes that this price is in line with current engineering estimates for these additional structures.

FISCAL IMPACT

Included in Item Summary "Attachment A".

Staff recommended approval of this resolution.

Motion was made by Council Member Leonard, seconded by Council Member Price to pass Resolution No. 2007-R0368 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

Mayor Pro Tem Gilbreath recused himself.

- 5.21. Contract Resolution - Traffic Engineering: Resolution No. 2007-R0369 authorizing the Mayor to execute an agreement with Texas Department of Transportation for the Temporary Closure of State Right of Way for a temporary closure and barricading of the outside lane of 34th Street east of Avenue A to separate heavy transport traffic during peak periods of transport from ordinary through traffic within the City of Lubbock.**

PYCO Industries has requested that the Texas Department of Transportation allow them to close a portion of FM 835 to allow them to move approximately 85,000 tons of cotton from their east yard to the west side of their plant without interrupting traffic on East 34th Street. This agreement will allow the City to issue a barricade permit to PYCO Industries to close a portion of the outside two lanes of East 34th Street (FM 835) for approximately 30 days beginning as soon as a barricade permit is approved by the City and TxDOT.

FISCAL IMPACT

No fiscal impact. PYCO Industries will be responsible for all plans, permits, barricades, and insurance.

Staff recommended approval of this resolution.

Motion was made by Council Member Leonard, seconded by Council Member Price to pass Resolution No. 2007-R0369 as recommended by staff. Motion carried: 6 Ayes, 0 Nays.

Mayor Pro Tem Gilbreath recused himself.

6.1. Budget Amendment Ordinance 1st Reading - Finance: Ordinance No. 2007-O0083 Amendment No. 17 amending the FY 2006-07 budget respecting the Central Business District Tax Increment Finance Reinvestment Zone, Special Funds, Grant Funds, Capital Improvement Program, Market Lubbock, Inc., Lubbock Economic Development Alliance, and Lubbock Power & Light.

1. Appropriate \$62,500 of Central Business District Tax Increment Financing Reinvestment Zone (CBD TIF) fund balance for a contract with Schrader Cline to draft a new project and finance plan for the CBD TIF, totaling \$27,500; the CBD TIF's share of the Downtown Utility Study Contract, totaling \$25,000; and the Downtown Guitar Project in conjunction with the Entertainment Lubbock Task Force, totaling \$10,000. The Board of Directors of the CBD TIF approved these expenditures at their Board meeting on July 11, 2007.
2. Appropriate \$131,646 of Municipal Courts Special Fund balance for management software, ceiling fans, electrical work and counter modifications. In FY 2005-06, Municipal Court budgeted \$125,000 for updating Court management software. While the project started in FY 2005-06, it was not fully implemented until FY 2006-07. As a result, the vendor billed the vast majority of the project costs to the City in the current budget year. The \$125,000 amendment recognizes the carryover of budgeted funds from FY 2005-06 that were not actually spent during that fiscal year. An additional \$4,491 is requested for ceiling fans in the Court lobby and some electrical work (additional circuits) to avoid overloads from office equipment; and \$2,155 is requested for modifications to the cashiers' counter to alleviate physical strain on the cashiers and to add an Americans with Disabilities Act compliant counter location.
3. Accept and appropriate grant \$340,538 from Texas State Library and Archives Commission for the Library System Operation Grant for the West Texas Library System. The West Texas Library system is designed to improve library service programs in a 29 county area, offering consulting services and continuing education. The grant funds three full time employees. The City has been receiving this grant every year since 1974.
4. Accept and appropriate \$80,000 grant from Texas State Library and Archives Commission for the Technical Assistance Negotiated Grant for the West Texas Library System. This grant funds one full time technical advisor for the member libraries of the West Texas Library System. The advisor provides training and technological consulting. The City has been receiving this grant every year since 2000.
5. Accept and appropriate \$106,435 grant from Texas State Library and Archives Commission for Interlibrary Loan Grant for the West Texas Library System. The Interlibrary Loan Center locates and requests

materials for all public libraries, community college libraries, and special libraries with the West Texas Library System. The grant funds two full time employees. The City has been receiving this grant ever year since 1974.

6. Accept and appropriate \$40,000 from the Department of State Health Services (DSHS) for acquisition of a Bentley Somacount 150 Precision Somatic Cell Counter. DSHS will provide funding to procure laboratory equipment to perform analysis of Grade A raw milk to achieve consistency of lab analysis with other labs across the state. The contractor must procure the Bentley Somocount 150 that is approved by the Food and Drug Administration.
7. Amend the Adopted FY 2006-07 Operating Budget for Market Lubbock, Inc. The revisions allow Market Lubbock to increase the grant for Lubbock Economic Development Alliances expenses related to the development of the infrastructure of the Lubbock Business Park and Lubbock Railport. The funding for these expenditures comes from reserve funds that have accumulated over the past several years in anticipation of beginning construction at the parks and a \$600,000 refund of incentives from Frito Lay. The detail of budget changes is included on Exhibit A of this item. Market Lubbock Inc. Board of Directors approved the revised budget at their meeting on February 26, 2007.
8. Amend the Adopted FY 2006-07 Operating Budget for Lubbock Economic Development Alliance (LEDA). The primary revisions to the budget allow LEDA to expend funds related to the development of the infrastructure of the Lubbock Business Park and Lubbock Railport. The funding for these expenditures comes primarily from reserve funds that have been accumulated over the past several years in anticipation of beginning construction at the parks. The detail of budget changes is included on Exhibit B of this item. LEDA Board of Directors approved this revised budget at their meeting on February 26, 2007.
9. Amend the operating budget and Capital Improvement Program in the LP&L Fund. Specific information regarding these budgets is competitive information protected under Chapter 552.133 of the Texas Government Code.
10. Amend Capital Improvement Project No. 91207 titled "Northwest Little League Complex" by appropriating \$430,000 of certificate of obligation bonds, increasing the total project appropriation to \$3,028,000 for the construction of a three-field complex for Northwest Little League with related amenities and any necessary infrastructure improvements.

FISCAL IMPACT

Included in item summary.

Staff recommended approval of the first reading of this ordinance.

Jeff Yates, Chief Financial Officer, gave comments and answered questions from Council.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass on first reading Ordinance No. 2007-O0083 as recommended by staff.

Council Member Jones offered a friendly amendment to the motion to remove Item 9 from the budget amendment. Both Council Members DeLeon and Price accepted the friendly amendment.

Motion carried: 7Ayes, 0 Nays.

6.2. Property Tax Rate Resolution - Finance: Resolution No. 2007-R0370 adopting a proposed property tax rate that will result in additional revenue as outlined in Section 26.05(d) of the Tax Code of the State of Texas, and setting the dates for public hearings to discuss the proposed tax rate.

The approval of this resolution is required by state law, as amended by Senate Bill (S.B.) 18 and S.B. 567, and is not the adoption of the tax rate. This action is necessary for the publication of a proposed tax rate and the scheduling of public hearings to discuss the proposed tax rate. The rate that is finally adopted by City Council in September will follow two public hearings, two readings of the tax ordinance, and public discussion.

The Texas Constitution and Property Tax Code embody the concept of truth-in-taxation to require taxing units to comply with certain steps in adopting their tax rates. The truth-in-taxation laws have two purposes:

1. To make taxpayers aware of tax rate proposals; and
2. To allow taxpayers, in certain cases, to roll back or limit a tax increase.

The truth-in-taxation requirements are contained in the Texas Constitution, Chapter 26, Property Tax Code, Article VIII, Section 21 and in S.B. 18 of the 79th Texas Legislature and S.B. 567 of the 80th Texas Legislature.

Prior to August 7, the City will take the first step toward adopting a tax rate by calculating and publishing the effective and rollback tax rates in coordination with the Lubbock Central Appraisal District.

Effective Tax Rate

The effective tax rate is a calculated rate that will provide the City with about the same amount of revenue it received during the prior year on properties taxed in both years. If property values rise, the effective tax rate will go down and vice versa. The calculated effective rate for FY 2006-07 is \$0.44006 per \$100 valuation.

Rollback Tax Rate

The rollback rate is a calculated maximum rate allowed by law without voter approval. The rollback rate provides the City with approximately the same amount of tax revenue it spent the previous year for day-to-day operations, plus an extra 8% increase for those operations plus sufficient funds to pay debts in the coming year. If the City adopts a tax rate that is higher than the rollback rate, 10% of the registered voters in the City can circulate a petition calling for an election to limit the size of the tax increase. The calculated rollback tax rate for tax rate for FY 2006-07 is \$0.48594 per \$100 valuation.

The City Council must follow new legislative guidelines for proposing and adopting a tax rate. If the tax rate proposed by the governing body exceeds the effective tax rate or rollback rate, whichever is lower, the City must publish a hearing notice, post an Internet Web site notice, and hold two public hearings.

If the proposed rate exceeds the rollback rate or the effective rate, whichever is lower, the City Council must vote to place a proposal to adopt the rate on the agenda of a future City Council meeting as an action item. This vote must be recorded. The proposal must specify the desired rate. The City cannot vote to adopt a proposal to increase taxes by an unspecified amount. If the motion passes, the governing body must schedule two public hearings on the proposal. The City Council is not legally bound to adopt the proposal and may adopt some other tax rate in the ordinance on the final passage of the tax levy ordinance.

After proposing a level tax rate that generates additional revenue over the prior year and scheduling the two public hearings, City Council must notify the public of the dates, times and place or places for these hearings and provide information about the proposed tax rate at least seven days before the public hearings.

After publishing the first required notice, the City must hold two public hearings. Taxpayers must have the opportunity to express their views on the increase at each hearing. The City Council may not adopt the tax rate at either of these hearings. At each hearing, the governing body must announce the date, time, and place of the meeting at which it will vote on the tax rate.

After the public hearings and before the meeting scheduled for the vote, the City Council must publish a second quarter-page notice titled "Notice of Vote on Tax Rate".

The Tax Code requires that City Council adopt the tax rate no less than three days, but no more than 14 days, after the second public hearing. If the City does not adopt during this time period, then it must republish the second notice of the meeting to adopt the tax rate, with the new date, time, and location to adopt the rate.

Texas Local Government Code, Chapter 102, also requires a budget public hearing prior to the passage of a tax levy ordinance. The budget ordinance must be passed before the tax levy ordinance is passed.

Attached to the resolution is a copy of the actual Notice of Public Hearing on Tax Rate, and the calculation of the effective and rollback tax rates.

FISCAL IMPACT

Included in the item summary.

Staff recommended approval of this resolution.

Andy Burcham, Director of Fiscal Policy and Strategic Planning, and Jeff Yates, Chief Financial Officer, gave a presentation on the proposed tax rate and the effective/rollback rates, and answered questions from Council. City Manager Lee Ann Dumbauld 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-R0370, to set the tax rate at .45505, and setting the dates of the public hearings to August 23, 2007 at 6:00 p.m. and August 30, 2007 at 7:30 a.m. Motion carried: 7 Ayes, 0 Nays.

6.3. Ordinance Amendment 1st Reading - Traffic Engineering: Ordinance No. 2007-O0084 amending Chapter 16, Article XIV, Automated Traffic Signal Enforcement; with regard to amending said article to conform said article to Senate Bill 1119, 80th Regular Session, (Chapter 707, Texas Transportation Code); Providing a Repealing Clause; Providing a Severability Clause; Providing for the Imposition of Civil Penalties; and Providing and Effective Date.

Senate Bill 1119, 80th Regular Session, regarding Automated Traffic Signal Enforcement will take effect on September 1, 2007, and several provisions to the City's current ordinance must be amended in order to comply with the new law.

A presentation was previously provided to City Council regarding the major legislative impact caused by Senate Bill 1119:

Fines may not exceed \$75 and late fees may not exceed \$25. – Section 16-382, paragraph (c) requiring a fine of \$150 for a third or subsequent violation has been deleted from the ordinance.

Senate Bill 1119 lists specific items that must be on the violation notice. – Section 16-383, paragraph (d) has been modified to include all of the items required by the Bill. The current notices already contain much of this information even though that information was not specifically listed in the current ordinance.

Senate Bill 1119 requires that violation notices are presumed to be received on the fifth day. – Section 16-383, paragraph (e) has been modified to the fifth day.

The Bill requires that those who fail to pay or who are no-shows at a requested hearing are presumed to have admitted liability and waive the right to appeal. – Section 16-384, paragraph (b) has been modified to comply with this requirement.

The Bill requires a 30 day window to file an appeal. – Section 16-384, paragraph (a) has been modified to reflect this change.

The Bill requires that the finding of liability or no liability must be in writing and signed/dated by the hearing officer. – Section 16-385, paragraph (a) has been modified to reflect this change.

The Bill requires revenue sharing with the State for any revenues collected on or after September 1, 2007. – Section 16-386, paragraph (e) address this requirement.

The Bill states that there will be no reporting to credit bureaus for failure to pay violations. The Bill also states that the State or County may refuse the registration of a vehicle whose owner failed to pay a violation. – State law prohibits reporting failure to pay to credit bureaus. Section 16-383, paragraph (d) (9) addresses the remainder of this requirement.

The Bill requires that City Council appoint a citizens committee to oversee the photographic traffic signal enforcement program. – Section 16-383, paragraph (a) addresses this requirement.

The amended ordinance is provided along with a version that shows in italics all changes proposed by this ordinance amendment.

FISCAL IMPACT

The City will be required to provide 50% of the net funds from this program to the State of Texas.

Staff recommended approval of the first reading of this ordinance.

Motion was made by Council Member DeLeon, seconded by Council Member Jones to pass on first reading Ordinance No. 2007-O0084 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.4. Contract Resolution - Citibus: Resolution No. 2007-R0371 authorizing the Mayor to execute an agreement with Texas, New Mexico, and Oklahoma Tours to subcontract charter services to Citibus.

The agreement will allow Texas, New Mexico, and Oklahoma (TNM&O) Tours to subcontract charter services to Citibus. According to Federal Transit Administration (FTA) regulations, Citibus cannot provide charter services unless it has a contract with any private operators identified in the area. In the past, Citibus has worked out an agreement with local operators that allow Citibus to provide charter service to the City and to Texas Tech University. However, this year Citibus was unable to reach an agreement with all private operators that allows Citibus to charter service directly to the public. This contract will allow TNM&O to subcontract with Citibus to provide charter

service when TNM&O does not have enough vehicles to fulfill customer demand. The agreement will allow Citibus to perform the charter on TNM&O's behalf is in compliance with the FTA charter regulations under Exception Two, 49 CFR Part 604.

The contract will be effective from July 26, 2007, to July 31, 2008.

FISCAL IMPACT

TNM&O will refer charter service to Citibus only at times when TNM&O is unable meet customer demand. Rates include \$275 for first 3 hours and \$50 per hour thereafter for trolley service, \$250 for first 3 hours and \$50 per hour thereafter for bus service, and \$175 for first 3 hours and \$50 per hour thereafter for van service. Fees for all services include a three-hour minimum and are prorated after the first three hours. Last year, Citibus received \$209,000 for providing these services directly to the public.

Staff recommended approval of this resolution.

Motion was made by Council Member DeLeon, seconded by Council Member Leonard to pass Resolution No. 2007-R0371 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.5. Ordinance Amendment 1st Reading - Police: Ordinance No. 2007-O0085 amending Chapter 14, Article XII of Code of Ordinances by amending sections 14-305(b), 14-305(c), 14-305(e), and deleting section 14-305(i) regarding alarm system permits.

Amending 14-305(b) will reduce the cost of alarm system permits from \$50 to \$25 for persons 65 years of age or older who apply for a permit for residential premises. The Police Department believes this will cause the alarm system permit, which is mandated after three false burglary alarms, to be more affordable for senior citizens on fixed incomes. Amending 14-305(c) and deleting 14-305(i) will result in permit holders no longer needing to reapply for the alarm system permit annually if their alarm site registers no false alarms during the prior 12 months. The Police Department believes this amendment will relieve senior citizens the burden of reapplying for a permit after complying with the ordinance.

Amending 14-305(e) will mandate that permit holders update all information on their permit application as often as necessary to ensure the Police Department may properly and expeditiously investigate any alarm at the permit holder's site, and will eliminate the sentence, "Thirty minutes after receiving said police department notification shall be deemed a reasonable time period for responding to the alarm site." The Police Department believes this amendment will help keep the permits current as to whom to contact for false alarms, and remove the expectation that the permit holder will respond to the false alarm site within 30 minutes in all circumstances. The Police Department is charged with enforcing the False Alarm Ordinance, and believes the changes as described will allow the ordinance to better serve the public as well as allow improved enforcement by the Police Department.

FISCAL IMPACT

Minimal fiscal impact from the reduced fee.

Staff recommended approval of the first reading of this ordinance.

Motion was made by Council Member Leonard, seconded by Mayor Pro Tem Gilbreath to pass on first reading Ordinance No. 2007-00085 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

- 6.6. Ordinance Amendment 2nd Reading - Parks and Recreation: Ordinance No. 2007-00082 Consider an ordinance 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 adding 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 may be permitted for specific events. Other park locations where the sale and consumption of alcohol is 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 may 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 second reading of this ordinance.

Motion was made by Council Member Jones, seconded by Council Member Leonard to pass on second and final reading Ordinance No. 2007-00082 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

6.11. Nomination Resolution - City Secretary: Resolution No. 2007-R0372 to nominate a candidate to fill a vacancy on the Lubbock Central Appraisal District Board of Directors.

The City of Lubbock has been notified by the Lubbock Central Appraisal District (LCAD) of a vacancy on the Board of Directors of LCAD. This resolution allows the City, as a voting taxing unit, to nominate by resolution a candidate to fill the vacancy, pursuant to Section 6.03, Property Tax Code.

The names of the nominees from the taxing entities will be submitted to the Chief Appraiser. The Chief Appraiser will then submit the names of the nominees to the Board of Directors, who will elect, by majority vote, one of the nominees to fill the vacancy.

FISCAL IMPACT

No fiscal impact.

Mayor Miller recommended to Council to nominate Brady Goen to fill the vacancy on the Lubbock Central Appraisal District Board of Directors.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Jones to pass Resolution No. 2007-R0372 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

10:43 A. M. CITY COUNCIL RECESSED

10:58 A. M. CITY COUNCIL RECONVENED

At this time, Mayor Miller thanked the Citizens Advisory Committee (CAC) and Listen Lubbock for their hard work and commitment to putting together the bond package and listening to the comments from the citizens of Lubbock. The Mayor thanked the citizens for their input, and asked that they help reach the vision that we have for the City of Lubbock. He then recommended to Council that no action be taken on Items 6.7-6.10, instead of pulling them up and voting against them.

Each Council Member expressed gratitude to the CAC, Listen Lubbock, and to the citizens for their input.

CAC Co-Chairs, Bill Miller and Vicki Nixon, gave comments to Council. Greg Bruce, Vice President of Corporate Services at University Medical Center, also gave comments to Council, thanking them for what they do.

6.7. Committee Appointment Resolution - City Secretary: Consider a resolution creating the Capital Improvement Program Review and Oversight Committee (CapROC), and appointing representatives from member entities to serve for scheduled terms.

No action was taken on this item.

The Citizen's Advisory Committee (CAC) recommended that City Council appoint a standing capital improvement review and oversight committee to make recommendations to City Council regarding capital projects. The committee will provide oversight and make recommendations to City Council on issues related to: (a) outstanding capital improvement project recommendations made by any prior Citizens Advisory Committees; (b) capital projects approved by the voters; (c) capital projects approved by the voters for which bonds have been issued; (d) capital projects approved by the voters for which bonds have been issued and upon which work has not begun; (e) capital projects approved by City Council; and (f) interpretation of capital projects, capital maintenance and maintenance projects related to capital spending.

The Committee will also be responsible for reviewing and integrating all prior strategic and long range plans which have been developed by or for the City of Lubbock; in conjunction with City Management, develop a recommendation for the implementation and management of a revised and integrated interdisciplinary plan; and, upon approval of the plan by City Council, oversee implementation of the plan.

The Committee consists of 12 members, each of whom shall be citizens of the City of Lubbock representing the following groups: (a) Lubbock Chamber of Commerce (b) Texas Tech University (c) United Way (d) Covenant Health System, Lubbock (e) University Medical Center (f) Downtown Redevelopment Commission (g) Lubbock Economic Development Alliance (LEDA) (h) West Texas Home Builders Association (i) Lubbock Apartment Association (j) North Overton Tax Increment Finance (TIF) Board (k) Central Business District TIF Board, and (l) Citizens Advisory Committee Each group shall recommended three individuals to the City Council for consideration for appointment to the Committee and the City Council shall appoint one individual from those recommended to represent each organization.

FISCAL IMPACT

No fiscal impact.

Citizen's Advisory Committee and staff recommended approval of this resolution.

- 6.8. Contract Resolution - City Secretary: Consider a resolution authorizing a November 6, 2007, Special Election to be conducted as a joint election with Lubbock County, and authorizing the Mayor to execute a Contract for Services with Lubbock County and the other eligible governmental units for said joint election.**

No action was taken on this item.

The City of Lubbock will join with Lubbock County, Texas, to conduct a joint election, and with such other governmental units as are eligible to conduct a joint election on November 6, 2007, as may be expressed by order, resolution or other official action of said governmental units.

The City will pay Lubbock County Elections Administrator for equipment, supplies, services, and administrative costs as provided in the contract.

Contract will be provided to City Council prior to the meeting.

FISCAL IMPACT

\$125,000 estimate based on past election costs.

Staff recommended approval of this resolution.

- 6.9. Bond Election Ordinance (1st and Only Reading) - City Secretary: Consider an ordinance calling a bond election to be held within the City of Lubbock, Texas; making provisions for the conduct and the giving of notice of the election.**

No action was taken on this item.

At the July 12, 2007, City Council meeting, the Citizen's Advisory Committee (CAC) recommended that City Council call a bond election to seek the approval and funding of 21 projects throughout Lubbock. The list of recommended projects is provided.

Section 1201.028 of the Texas Local Government Code states that an ordinance calling an election to authorize the issuance and sale of a public security is effective immediately and a subsequent meeting is not required. Therefore, this is the first and only reading of this ordinance.

An election must be called no more than 90 days, nor less than 62 days before an election. The calling of this election today will satisfy that requirement. Early voting will begin on October 22, and 62 days prior to that date is August 21. The latest recommended date for submission of the election order to the Department of Justice is 61 days prior to early voting, which has an August 22 deadline.

FISCAL IMPACT

The estimated cost of all 21 projects total \$240,575,000, and approval of all the projects could result in a tax rate increase of approximately 17.35 cents.

The Citizen's Advisory Committee recommended approval of the first and only reading of this ordinance.

6.10. Special Election (Venue Project) Ordinance - City Secretary: Consider an ordinance calling a special election on the question of approving and implementing a resolution designating the arena project as a sports and community venue project, designating the methods of financing, and the rate of each method of financing.

No action was taken on this item.

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 can approve a venue project and the financing sources. For this project, the CAC has recommended that the 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.

At the July 26, 2007, City Council meeting, City Council approved a resolution designating a venue project and the methods of financing as required by Chapter 334, Texas Local Government Code. The resolution was provided to the State Comptroller for approval. Upon approval by the Comptroller, City Council has the option to call a special election for the venue project.

Section 1201.028 of the Texas Local Government Code states that an ordinance calling an election to authorize the issuance and sale of a public security is effective immediately and a subsequent meeting is not required. Therefore, this is the first and only reading of this ordinance.

An election must be called no more than 90 days, nor less than 62 days before an election. The calling of this election today will satisfy that requirement. Early voting will be scheduled to begin on October 22, and 62 days prior to that date is August 21. The latest recommended date for submission of the election order to the Department of Justice is 61 days prior to early voting, which has an August 22 deadline.

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 approval and calling a special election.

7. WORK SESSION

7.1. Presentation - Dangerous Animal Provisions: Presentation on the update of Dangerous Animal Provisions. Anita Burgess (60 minutes)

City Attorney Anita Burgess gave a presentation to Council on laws relating to dangerous dogs. The Texas legislature passed HB 1355, effective September 1, 2007, relating to dangerous dogs. This law enhances punishment of owners of dangerous dogs to and third degree felony (up from class C misdemeanor). If death occurs, the punishment becomes a second degree felony. The City can not regulate under this provision, because the City only regulates class C misdemeanors. This law is enforced by the police department, rather than Animal Control, and prosecuted by the District Attorney's office. Burgess then discussed the City ordinance that pertains to dangerous dogs. Other areas she covered were State law on breed-specific regulation, State law on tethering (HB 1411), and the City's tethering ordinance. Burgess told Council that her office would be taking a look at the City ordinance and making sure that it is in compliance with HB 1355 that was just passed. She then answered questions from Council.

Randy Truesdell, Parks and Recreation Manager, and Kevin Overstreet, Emergency Operations Center Director, gave comments and answered questions from Council.

Council requested that the public be informed of the new regulations, and suggested inserting flyers into their utility bills. City Manager Lee Ann Dumbauld informed Council that there was already an informative commercial to make citizens aware.

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

2:00 P. M. COUNCIL ADJOURNED

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