

**CITY OF LUBBOCK  
REGULAR CITY COUNCIL MEETING  
SEPTEMBER 27, 2007  
7:30 A. M.**

**The City Council of the City of Lubbock, Texas met in regular session on the 27th day of September, 2007, in the City Council Chambers, first floor, City Hall, 1625 13th Street, Lubbock, Texas at 7:30 A. M.**

**7:33 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. Presentation of a commemorative item by Grey Lewis to commemorate the Youth Sports Complex ground breaking.**

Grey Lewis, Chairman of the Parks and Recreation Board, gave an update on the status of the various sports complexes. He thanked Council for their assistance in making this happen, and presented Council with miniature ground-breaking shovels. Council thanked Mr. Lewis for his hard work and dedication.

- Gilbert Salinas appeared before Council to invite citizens to an East Lubbock Community Clean-up on October 27, 2007 from 8:00 am to 12:00 noon. There will be trash receptacles in various sections of east Lubbock. Mr. Salinas appealed to Council to have recycle containers placed in various locations in east Lubbock.
- Citizens who appeared before Council to voice their opposition to the proposed name change of Canyon Lake Drive to Cesar E. Chavez Drive were Ralph Leggett, Margaret Collins, Lucille Minner, Perry Minner, and Ray Brown.
- Citizens who appeared before Council to voice their support to the proposed name change of Canyon Lake Drive to Cesar E. Chavez Drive were Esther Sepeda, Eliseo Solis, Luis Gonzales, Grace Garza, Jessie Rangel, Lynda McBride, Monsignor Curtis Hoffman, Josie DeLeon, Christy Martinez, and Louis Constancio.

**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.”**

**8:25 A. M. CITY COUNCIL RECESSED TO EXECUTIVE SESSION  
City Council Conference Room**

**All council members were present.**

- 2.1. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.071, to discuss pending or contemplated litigation or settlement agreement, and hold a consultation with attorney (City Secretary, Finance, 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 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 551.074(a)(1), to discuss personnel matters regarding duties, responsibilities, and/or appointments to the Building Board of Appeals, the Health/Education Facilities Development Authority, Inc Board of Directors, the Permit & License Appeal Board, the Reese Redevelopment Authority Board of Directors, and the Urban Design/Historic Preservation Commission.**

**9:46 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 9:46 a. m.

**3. PROCLAMATIONS AND PRESENTATIONS**

**3.1. Invocation by Pastor Chuck Williams, Live Oak Community 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, August 23, 2007; Special City Council Meeting, August 30, 2007**

Motion was made by Council Member Price, seconded by Mayor Pro Tem Gilbreath to approve the minutes of the Regular City Council Meeting of August 23, 2007 and the Special City Council Meeting of August 30, 2007 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**5. CONSENT AGENDA (Items 5.1-5.8, 5.11-5.22, 5.24)**

Motion was made by Council Member Price, seconded by Council Member DeLeon to approve Items 5.1-5.8, 5.11-5.22, and 5.24 on consent agenda as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**5.1. Budget Amendment Ordinance 2nd Reading - Finance: Ordinance No. 2007-O0093 Amending the FY 2006-07 budget Amendment No. 18 respecting the Grant Fund, General Fund, Hotel Occupancy Tax Fund, and Capital Improvement Program.**

1. Accept and appropriate a \$198,485 grant from the Texas Department of State Health Services for an immunization program for children, adolescents, and adults. The program places special emphasis on improving immunization coverage of children two years of age or younger. The grant provides funding for a Registered Nurse, Licensed Vocational Nurse, Office Assistant, and an ImmTrac/PICS Outreach Specialist. The grant period is through August 31, 2008.
2. Authorize one additional full-time Library position funded by the Library System Operation Grant for the West Texas Library System. A grant funded part-time position has been changed to a full-time position. The

City has received the grant from the Texas State Library and Archives Commission since 1974.

3. Amend Capital Improvement Project 8528, Texas Tech Signals, by appropriating a \$43,282 reimbursement from Texas Tech University for the installation of signalization at 5th Street and Texas Tech Parkway.
4. Amend Capital Improvement Project 91213, Second Cemetery Entrance, by transferring \$250,000 to Capital Improvement Project 92071, Cemetery Business Office Building, to combine both cemetery projects.
5. Appropriate \$60,000 to Visit Lubbock from the Hotel Occupancy Tax Fund Balance for Depot District development activities.
6. Accept and appropriate \$9,509 from the Texas Department of Housing and Community Affairs for the Comprehensive Energy Assistance Program. This grant will fund programs to assist low-income persons and families with energy assistance and energy efficiency. The additional funding will bring the total grant amount to \$625,243. The contract will expire December 31, 2007.
7. Accept and appropriate \$129,599 from the South Plains Association of Governments as a pass-through grant from the Texas Department on Aging and Disability Services and appropriate \$73,004 of anticipated program revenues, for a \$202,603 grant program budget. The program provides hot meals, transportation, recreational, and social activities for Lubbock senior citizens. The required in-kind match of \$15,351 is included in the Adopted FY 2007-08 Parks and Recreation operating budget.

#### **FISCAL IMPACT**

Included in item summary.

Staff recommended approval of the second reading of this ordinance.

#### **5.2. Articles of Incorporation Resolution - Finance: Resolution No. 2007-R0443 approving the Articles of Amendment to the Articles of Incorporation of Lubbock Educational Facilities Authority, Inc.**

The proposed amendment to the Articles of Incorporation make it clear that Lubbock Educational Facilities Authority, a non-profit corporation, has authority under both Chapter 53 and Chapter 53A of the Education Code. When the corporation was formed in 1999, the Education Code contained only Chapter 53, which was applicable to public and private schools. Chapter 53A was later added, and Chapter 53 amended so that Chapter 53 covers public schools and Chapter 53A covers private schools.

Bond counsel on the pending transaction with Lubbock Christian University has had preliminary contact with the Attorney General's office responsible for bond review and has been informed that to avoid any ambiguity as to the powers of the corporation, they prefer that the Articles of incorporation expressly refer to both Chapter 53 and 53A. The proposed amendment

conforms the articles to clarify that the corporation has authority under both chapters.

The board resolution adopted on September 13, 2007, is provided. The Articles of amendment will be filed with the Secretary of State.

Also provided is a copy of the original articles, which provides in Article XII for City Council approval.

**FISCAL IMPACT**

No fiscal impact.

Staff recommended approval of this resolution.

**5.3. Contract Resolution - Risk Management: Resolution No. 2007-R0444 approving the purchase of airport and non-owned aircraft liability insurance coverage from ACE USA Insurance Company.**

The City purchases airport and non-owned aircraft liability insurance separately from its other liability insurance program, which specifically excludes aircraft. The current policy is with ACE USA Insurance and has \$50 million in coverage for airport liability insurance and \$50 million in coverage for non-owned aircraft liability insurance. Airport liability insurance covers liability claims the City is legally obligated to pay for bodily injury and property damage resulting from airport operations. Non-owned aircraft liability covers liability claims that the City is legally obligated to pay for bodily injury and property damage resulting from the occupancy or operation of a non-owned aircraft. This includes any allegations of civil rights violations for airport police boarding a commercial or private aircraft. Current policy premiums are \$35,715 and \$11,600 respectively. Both policies include no deductible.

The City's broker of record received a renewal quote from ACE USA Insurance Company maintaining the same coverage for a policy premium of \$33,745 and \$10,990 respectively. The City's broker also marketed the aviation program to Starr Aviation and Allianz Aviation. Starr Aviation indicated its premium is approximately 39% higher than ACE USA and declined to submit a formal quotation. Allianz Aviation declined based on a lack of interest in the airport liability coverage.

A policy premium of \$44,735 for FY 2007-08 is \$2,580, or 5.5%, less than the FY 2006-07 premium.

Insurance quotations are available in the Risk Management Department.

**FISCAL IMPACT**

Funds are budgeted in the adopted FY 2007-08 Risk Management Fund.

Staff recommended approval of this resolution.

**5.4. Contract Resolution - Risk Management: Resolution No. 2007-R0445 approving the purchase of boiler and machinery insurance coverage from Zurich Insurance Company.**

The City's current boiler and machinery insurance is provided by Zurich Insurance Company with \$50 million in coverage and deductibles from \$25,000 to \$500,000 with a policy premium of \$476,616. Boiler and Machinery insurance provides coverage for the mechanical failure or damage of generating equipment, boilers, HVAC equipment, pumps and other mechanical equipment, excluding wear and tear.

The City's broker of record received a renewal quote from Zurich Insurance Company for a premium of \$494,501 with no change in coverage or deductibles. Based on the City's loss history, the boiler and machinery coverage was not marketed to other carriers.

Zurich offers replacement cost on all generating equipment with the exception of equipment that is more than 25 years old and equipment that has not been overhauled during the last seven years. In addition, Zurich provides loss prevention services that include state inspections for all City owned boilers, infrared thermographic testing, oil analysis, and Doble testing on electric generating and distribution equipment.

A policy premium of \$494,501 for FY 2007-08 is \$17,885, or 3.75%, more than the FY 2006-07 premium.

Insurance quotations are available in the Risk Management Department.

**FISCAL IMPACT**

Funds are budgeted in the adopted FY 2007-08 Risk Management Fund.

Staff recommended approval of this resolution.

**5.5. Contract Resolution - Risk Management: Resolution No. 2007-R0446 approving the purchase of excess liability insurance coverage from St. Paul Travelers Companies.**

The City purchases excess liability insurance other than airport and pipeline liability for all operations. Excess liability insurance covers general liability, employment practices liability, employee benefits liability, law enforcement liability, public entity management liability, and auto liability. The current annual premium is \$392,932 for \$10 million in coverage with a \$500,000 self-insured retention (deductible) per claim, with the exception of \$1 million in coverage for employment practices liability insurance.

The City's broker of record received a renewal quote from St. Paul Travelers maintaining the same insurance coverage for a premium of \$355,480. The City's broker of record also marketed the liability program to AIG - Specialty, C V Starr, and Genesis Underwriting and each declined to submit a formal quotation.

A policy premium of \$355,480 for FY 2007-08 is \$37,452, or 9.5%, less than the FY 2006-07 premium.

Insurance quotations are available in the Risk Management Department.

### **FISCAL IMPACT**

Funds are budgeted in the adopted FY 2007-08 Risk Management Fund.

Staff recommended approval of this resolution.

**5.6. Contract Resolution - Risk Management: Resolution No. 2007-R0447 approving the purchase of inland marine insurance from Travelers Lloyds Insurance Company, crime insurance coverage from Great American Insurance Company, pipeline liability insurance coverage from the Chubb Group, and airport directors and officers insurance coverage from Texas Municipal League - Intergovernmental Risk Pool.**

The City's current inland marine insurance includes \$3,848,604 in coverage with deductibles from \$1,000 to \$25,000 and a policy premium of \$9,134. Inland marine coverage insures direct physical loss for special classes such as fine arts and sound and broadcasting equipment at stated values. The City's broker of record received quotes from Great American Insurance company for \$8,309 and Travelers Lloyds Insurance Company for \$8,295. However, Travelers' quote includes blanket coverage on all insured items and Great American's quote includes coverage only at specific locations. Travelers' policy premium of \$8,295 is \$839, or 9.2%, less than the FY 2006-07 premium.

The City's current crime insurance is provided by Great American Insurance Company with a premium of \$7,081 for \$1.5 million in coverage with a \$25,000 deductible. Crime coverage insures the loss of monies and securities from employee dishonesty, forgery or alteration, theft, disappearance, destruction, computer fraud, and funds transfer fraud. The City's broker of record received quotes from Great American Insurance Company for \$7,081 with a \$50,000 deductible and \$7,931 with a \$25,000 deductible, and National Union Fire Insurance Company for \$7,642 with a \$25,000 deductible.

The City's current pipeline liability insurance coverage is provided by Chubb Group with a premium of \$5,150 for \$2 million in coverage with a \$2,500 deductible. Pipeline liability coverage protects the City in case of an explosion of the City's gas pipeline. The City's broker of record received quotes from Chubb Group for a premium of \$5,150 and from AIG for a minimum premium of \$50,000.

The City's current airport directors and officers insurance is provided by Texas Municipal League - Intergovernmental Risk Pool (TML-IRP) with a premium of \$10,604 for \$10 million in coverage with a \$7,500 deductible. Airport directors and officers insurance is similar to the Public Entity Management policy for the Council, boards, and commissions. Airport functions are specifically excluded under the City's excess liability coverage. The City's broker of record was not able to obtain competitive quotes from the

commercial market. TML-IRP's renewal quote includes the same coverage and deductible with a premium of \$8,920. A policy premium of \$8,920 for FY 2007-08 is \$1,684, or 15.9%, less than the FY 2006-07 premium.

Insurance quotations are available in the Risk Management Department.

#### **FISCAL IMPACT**

Funds are budgeted in the adopted FY 2007-08 Risk Management Fund.

Staff recommended approval of this resolution.

**5.7. Contract Resolution - Risk Management: Resolution No. 2007-R0448 approving the purchase of property insurance coverage in layers from Lexington Insurance Company for the primary \$25 million; Westchester Insurance Company and Commonwealth Insurance Company sharing equally for a layer of \$20 million in excess of the first \$25 million; and RSUI Indemnity Insurance for a layer of \$255 million in excess of the first \$45 million.**

The City purchases property insurance for its structures and contents with an estimated total value of \$854,646,662. The property policy covers all risks including flood and earthquake of direct physical loss up to \$25 million. All property and contents, excluding mobile equipment and vehicles, are covered at replacement cost. Mobile equipment and vehicles are covered at actual cash value. After careful consideration, it was determined that the likelihood of a total loss was extremely unlikely and the decision was made to purchase blanket coverage in the amount of \$300 million. The current carriers are Lexington Insurance Company for the primary \$25 million; Westchester Surplus Lines Insurance Company and Commonwealth Insurance Company sharing equally for the second \$20 million in excess of the first \$25 million; and RSUI Indemnity Insurance Company for the remaining \$255 million in insurance coverage.

The most favorable quote for the new fiscal year includes the same carriers at the same levels of coverage. Deductibles will remain at \$250,000 on all but wind/hail, which carries a one-percent deductible with a \$250,000 minimum and a \$1 million maximum. The coverage was enhanced with a higher sub-limit for demolition and increased cost of construction, an increase in the valuable papers limit, and a reduced flood deductible of \$250,000.

A policy premium of \$461,199 for FY 2007-08 is \$63,480, or 12.1%, less than the FY 2006-07 premium.

Insurance quotations are available in the Risk Management Department.

#### **FISCAL IMPACT**

The \$461,199 premium is budgeted in the adopted FY 2007-08 Risk Management Fund.

Staff recommended approval of this resolution.

**5.8. Contract Resolution - Risk Management: Resolution No. 2007-R0449 approving the purchase of workers' compensation insurance coverage from Texas Municipal League Intergovernmental Risk Pool.**

The City has workers' compensation exposure for all City employees and is required by the Labor Code to provide workers' compensation benefits to all municipal employees. The City extends workers' compensation benefits to volunteers to limit liability exposure. Workers' compensation provides medical and lost wages, regardless of cause of loss.

The City currently purchases workers' compensation coverage for these exposures from Texas Municipal League Intergovernmental Risk Pool (TML-IRP) on a fully insured guaranteed cost program for claims handling and claims payments.

The current year risk pool membership contribution for this coverage is \$1,745,230. The City's actuarial study forecasted the present value of projected ultimate limited losses for FY 2007-08 at \$1,768,753. However, this amount does not include claims handling or excess policy premium costs. Projected claims handling costs for FY 2007-08 are \$181,500 and premiums for excess coverage are \$175,000. This brings the total cost for self-insurance to \$2,125,253.

TML-IRP's contribution quote for FY 2007-08 is \$1,979,150. The increase is due to increased payroll and increases in specific classifications of employees including volunteers, electrical distribution, sewage treatment and collection, clerical and animal shelters. These classification increases are for all TML member cities.

The risk pool membership contribution of \$1,979,150 for FY 2007-08 is \$233,920, or 13.4%, more than the FY 2006-07 contribution.

Insurance quotations are available in the Risk Management Department.

**FISCAL IMPACT**

Funds are budgeted in the adopted FY 2007-08 Risk Management Fund.

Staff recommended approval of this resolution.

**5.9. This item was moved from consent agenda to regular agenda and considered following Item 5.24.**

**5.10. This item was moved from consent agenda to regular agenda and considered following Item 5.9.**

**5.11. Right-of-Way Ordinance 1st Reading – Right-of-Way: Ordinance No. 2007-O0096 abandoning and closing an 8-foot by 8-foot switching enclosure easement for LP&L located on Tract GG, Physician's Surgicenter of Lubbock, easement located at 202 N Utica Avenue.**

This ordinance abandons and closes an 8-foot by 8-foot switching enclosure easement for Lubbock Power & Light (LP&L) and located in the northeast corner of Tract GG Physician's Surgicenter, which is north of North Loop 289

and east of North Utica Avenue. This easement was dedicated by plat and, due to development of the property, is no longer needed. A new easement will be dedicated to replace this easement. LP&L is in agreement with this closure.

**FISCAL IMPACT**

No fiscal impact.

Staff recommended approval of the first reading of this ordinance.

**5.12. Contract Resolution - Solid Waste: Resolution No. 2007-R0450 authorizing the Mayor to execute a contract for renovation, refurbishment, and repair of metal side loading refuse containers, BID 07-073-FO.**

The contract establishes annual pricing for the renovation and refurbishment of metal side loading refuse containers that are in unusable condition. In addition, dumpsters are repaired and painted as needed. Approximately 2,825 dumpsters are refurbished and repaired annually. S&H Metal Works & Manufacturing of Lubbock, Texas, is the current vendor and is the only bidder.

The contract establishes firm unit prices for 16 items of work with estimated quantities for each item. Quantities of work will be adjusted depending on annual funding allocations and needs. S&H Metal Works & Manufacturing submitted a bid of \$456,415 for the total estimated quantities of all 16 items.

**FISCAL IMPACT**

Funding is included in the adopted FY 2006-07 and adopted FY 2007-2008 Solid Waste operating budget.

Staff recommended bid award to the sole bidder, S&H Metal Works & Manufacturing of Lubbock, Texas, for \$456,415.

**5.13. Contract Amendment Resolution - Community Development: Resolution No. 2007-R0451 authorizing the Mayor to execute an amendment to a Community Development funding contract with Family Promise of Lubbock to fund the renovation of the day center for homeless families.**

Community Development Block Grant funds will be used to fund the renovation of the day care center for homeless families.

In January 2005, Community Development and Services Board (CDSB) and City Council approved \$75,000 from FY 2004-05 CDBG funds. In May 2005, CDSB recommended appropriating \$52,951 from FY 2005-06 funds for the project. City Council approved the funding at the June 26, 2005 meeting.

Due to a shortage of funds from Family Promise, the contract was not initiated until the following year. The term of the contract is May 11, 2006, through September 30, 2007. Because of construction issues and delays due to weather, the project will not be completed by the end of the current contract date, and an extension is requested.

Services of the Grantee will be extended from October 1, 2007, through September 30, 2008.

There is a 25% match requirement and a 25% payback requirement. The Grantee will have the option of paying back \$31,988 in one lump sum 30 days after completion of the project or in equal payments for up to ten years at 0% interest.

#### **FISCAL IMPACT**

The maximum Community Development Block Grant allocation for this project is \$127,951.

Staff recommended approval of this resolution.

**5.14. Contract Amendment Resolution - Community Development: Resolution No. 2007-R0452 authorizing the Mayor to execute an amendment to a Community Development Funding contract with Catholic Family Services to provide assistance to families to transition them out of poverty through the Community Services Block Grant for the Self-Sufficiency Program.**

Community Services Block Grant (CSBG) funds will be used for the Self-Sufficiency Program to provide assistance to families transitioning out of poverty.

Funding for the contract was approved by the Community Development and Services Board (CDSB) during its regularly scheduled meeting on January 31, 2007. City Council approved the contract at the City Council meeting on February 22, 2007. \$390,000 was accepted and appropriated by City Council on February 6, 2007. The portion allocated to Catholic Family Services (CFS) was \$190,000. In August, the CDSB approved an additional \$10,000 to CFS for the Self Sufficiency Program.

Rather than releasing the allocated amount at one time, the state chose to release the funding incrementally. Initially, the 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. TDHCA released the final allocation in September. To date, the City has contracted with CFS for 75% of the \$190,000, or \$142,500. The action today allows the remaining 25% or \$47,500, and the additional \$10,000 to be added to the contract.

The period of performance is January 1, 2007, through December 31, 2007.

#### **FISCAL IMPACT**

The maximum State Community Services Block Grant allocation for this program is \$200,000.

Staff recommended approval of this resolution.

**5.15. Contract Amendment Resolution - Community Development: Resolution No. 2007-R0453 authorizing the Mayor to execute an amendment to a Community Development funding contract with the Young Women's Christian Association (YWCA) of Lubbock to fund the facility renovation of YWCA downtown.**

The Community Development and Services Board (CDSB), on January 11, 2006, recommended funding for the project. Funding for the contract was approved by City Council on March 9, 2006, during the annual reallocation of Community Development Block Grant (CDBG) funds.

The YWCA is the recipient of funds to install a fire sprinkler system in its downtown child care facility at 14th Street and Avenue N. Any remaining funds will be used for approved eligible projects in accordance with Housing and Urban Development rules and regulations.

The term of the current contract is September 28, 2006, through September 30, 2007. Due to unforeseen fire code issues, the project has been delayed and will not be completed by the end of the current contract term. Services of the Grantee will be extended from October 1, 2007, to September 30, 2009.

There is a 25% match requirement and a 25% payback requirement. The Grantee will have the option of paying back \$24,238 in one lump sum 30-days after completion of the project, or in equal payments for up to ten years at 0% interest.

**FISCAL IMPACT**

The maximum Community Development Block Grant allocation for this project is \$96,962.

Staff recommended approval of this resolution.

**5.16. Contract Amendment Resolution - Community Development: Resolution No. 2007-R0454 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.**

Community Service Block Grant (CSBG) funds will be used to operate the Elderly/Disabled and Energy Crisis Components of the Comprehensive Energy Assistance Program (CEAP).

Funding for the contract was, on January 31, 2007, approved by the Community Development and Services Board during its regularly scheduled meeting. City Council, on February 22, 2007, approved the contract. On February 6, 2007, \$27,645 from the Community Services Block Grant was accepted and appropriated by City Council.

Rather than releasing the Community Services Block Grant (CSBG) funds at one time, the state chose to release funding incrementally. Initially, Texas Department of Housing and Community Affairs (TDHCA) released 38% of

the overall allocation. In June, an additional 37% was released and in September released the final allocation. To date, the City has contracted with Lutheran Social Services of the South Plains for 75% of the \$27,645, or \$20,734. This amendment allows the remaining 25% or \$6,911, to be added to the contract.

The period of performance is January 1, 2007, through December 31, 2007.

#### **FISCAL IMPACT**

The maximum State Community Services Block Grant allocation for this program is \$27,645.

Staff recommended approval of this resolution.

- 5.17. Contract Amendment Resolution - Community Development: Resolution No. 2007-R0455 authorizing the Mayor to execute an amendment to a Community Development funding contract with South Plains Association of Governments to fund the 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.**

Community Services Block Grant funds will conduct information and referral services for Lubbock County residents and for the production of an updated 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.

Funding for the contract was approved on January 31, 2007, by the Community Development and Services Board during its regularly scheduled meeting. On February 22, 2007, City Council approved the contract. On February 6, 2007, \$63,800 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. In May, an additional 12% was released. TDHCA then released another 25% of the total allocation in June. To date, the City has contracted with South Plains Association of Governments for 75% of the \$63,800, or \$47,850. This amendment will allow the remaining 25% or \$15,950, to be added to the contract.

The period of performance is January 1, 2007, through December 31, 2007.

#### **FISCAL IMPACT**

The maximum State Community Services Block Grant allocation for this program is \$63,800.

Staff recommended approval of this resolution.

**5.18. Contract Amendment Resolution - Community Development: Resolution No. 2007-R0456 authorizing the Mayor to execute an amendment to a Community Development funding contract with the Community Housing Resource Board to fund the Lease and Purchase XI Program.**

On May 11, 2005, the Community Development and Services Board recommended funding for the project, and on June 23, 2005, funding for the contract was approved by City Council.

The Community Housing Resource Board (CHRB) is the recipient and uses the funds for the Lease and Purchase XI Program. The program provides the purchase and renovation of existing homes. Once renovated, the units are leased to first-time homebuyers for a period of time until the individual or family is ready to take on the responsibilities of home ownership. To qualify for assistance, the family or individual must be of low-to-moderate income.

Terms of the current contract are January 12, 2006, through September 30, 2009. Community Development staff and CHRB expected the funds to be expended by the September 30 deadline. However, due to staff changes at CHRB, the project is delayed and will not be completed by the end of the current contract date. Services of the Grantee are extended from October 1, 2007, through September 30, 2009.

There is a 25% match requirement. The Grantee has the option of reinvesting program funds back into the Lease and Purchase Program or can repay 25% of the grant amount used for the completion of the project as outlined in the Citizens' Guide.

**FISCAL IMPACT**

The maximum Home Program allocation for this project is \$188,094.

Staff recommended approval of this resolution.

**5.19. Contract Resolution - Health: Resolution No. 2007-R0457 authorizing the Mayor to execute the Department of State Health Services Contract No. 2008-O23576, providing general provisions for subrecipient grant contracts, including Program Attachment 001—Immunization Branch-Locals.**

This contract requires the Health Department to implement an immunization program for children, adolescents, and adults with special emphasis on accelerating interventions to improve the immunization coverage of children up to 35 months of age. Traditional and non-traditional systematic approaches to eliminate barriers, expand immunization delivery, and establish uniform policies are included in the program.

This contract provides full salary and fringe benefits for four positions including a Registered Nurse, a Licensed Vocational Nurse, Secretary, and one ImmTrac/Pharmacy Inventory Control Specialist (PICS) Outreach Specialist. The City provides an immunization clinic with the fewest barriers to service. Activities include providing immunizations at the Health

Department clinic; outreach activities for infants, children, and high risk adults in their homes, correctional facilities, day care centers, the South Plains Mall, health fairs and senior citizen centers; and investigation and initiation of control measures for vaccine-preventable diseases.

The City will implement all final, approved work plans, including the approved 2007 Annual Plan and the Strategy Implementation Plan(s) from the Department of State Health Services (DSHS). A partial listing of the activities associated with the 2008 objectives of the grant include:

1. Developing a comprehensive plan to assure that immunization services and vaccines are available to medically underserved and or under-immunized children and adults living in areas where coverage is low (pockets of need).
2. Establish collaborations with a variety of community-based organizations and human service agencies to promote best practices and to increase vaccination coverage levels for children up to 35 months of age.
3. Actively educate public and private providers on vaccine recommendations, reporting of vaccine-preventable diseases, recordkeeping, the use of Vaccine Information Statements, the Texas Vaccine for Children (TVFC) program, and the ImmTrac registry.
4. Investigate and document at least 90% of reportable suspected vaccine-preventable disease cases with thirty days of notification.
5. Implement a comprehensive Perinatal Hepatitis B program.
6. Transition 100% of enrolled TVFC providers to the PICS according to the schedule provided by DSHS Program.
7. Present ImmTrac information to providers, schools, and other community group.
8. Complete 100% of child-care facility and Head Start assessments assigned by DSHS.
9. Complete 100% of public and private school assessments and retrospective and validation surveys assigned by DSHS.

#### **FISCAL IMPACT**

\$198,485 is approved for the contract year and is level funding compared to the previous contract year. There is no impact to the general fund.

Staff recommended approval of this resolution.

- 5.20. Grant Application Resolution - Library: Resolution No. 2007-R0458 authorizing the Mayor to execute a grant application to the Texas State Library and Archives Commission for a Loan Star Libraries Grant providing support for the programs and services of the Lubbock Public Library.**

The Texas State Legislature appropriated \$4.6 million for the FY 2008-09 biennium for the Loan Star Libraries program. These funds provide aid to public libraries that are members of the Texas State Library System. Under this program, the Lubbock Public Library will receive \$37,888 during FY 2007-08. This will be the seventh year the City has received Loan Star Libraries grant funds. The purpose of the direct aid program is to provide an incentive for local communities to extend public library service without charge to those Texans residing outside each library's local legal service area, to improve library services statewide, and to improve access to public library resources for all Texans. Primarily because of geographical factors, the Lubbock Public Library has never instituted a non-resident fee. Also, it has historically provided reciprocal borrowing status to anyone living in the 29-county area covered by the West Texas Library System. With these provisions already in place, the City is eligible to receive full funding under the direct aid program.

The library uses Loan Star funds to supplement local funds for library materials by purchasing books and multimedia materials for adults and children. The grant also funds a part time reference librarian to work ten hours per week to enhance the staffing level on evenings and weekends at the Mahon Library. The grant also funds a part-time Library Aide I for the Godeke Branch Library. Approximately one-third of the total items circulated in the library system are checked out from Godeke. The branch is also overwhelmed with returned library materials due to its location and drive-up book return. Customer service is enhanced with this additional part time position as library materials are discharged, routed, and shelved in a more timely manner.

#### **FISCAL IMPACT**

No fiscal impact.

Staff recommended approval of this resolution.

**5.21. Interlocal Agreement Resolution - Police: Resolution No. 2007-R0459 authorizing the Mayor to execute an agreement for an 800 MHz data radio system with the City of New Deal, Texas, for radio equipment and communication services.**

The Interlocal Agreement will allow the City of New Deal Police Department to use Lubbock Police Department radio equipment and communication services for data communications patrol functions. The functions include access to authorized criminal records from the Texas Law Enforcement Telecommunications System for criminal investigations. Authorized records include, but are not limited to, driver's license information, warrant information, and vehicle registration information. The current Interlocal Agreement with the City of New Deal allows for radio transmissions only. The new agreement allows the City of New Deal the use of radio and data transmissions.

**FISCAL IMPACT**

The City of New Deal agrees to pay the full cost for the equipment and services as described in the Interlocal Agreement.

Staff recommended approval of this resolution.

**5.22. Noise Ordinance 2nd Reading - Police: Ordinance No. 2007-O0095 Amending Chapter 18 of the Code of Ordinances with regard to permits of variance concerning noise levels within the City of Lubbock.**

This ordinance amends Chapter 18 of the Code of Ordinances to remove the requirement for City Council to conduct a public hearing for a variance of more than 24 hours. A fee of \$25 shall be charged for a single-day permit of variance and a fee of \$50 shall be charged for a variance involving more than one day.

**FISCAL IMPACT**

No fiscal impact.

Staff recommended approval of the second reading of this ordinance.

**5.23. This item was moved from consent agenda to regular agenda and considered following Item 5.10.**

**5.24. Civil Service Commission Appointment Resolution - City Secretary: Resolution No. 2007-R0460 confirming the reappointment of Adrienne Cozart by the City Manager, for a term of office of three years as a member of the Civil Service Commission of the City of Lubbock.**

Adrienne Cozart is knowledgeable of the rules and regulations of Chapter 143 of the Local Government Code and has served as a Civil Service Commissioner since October 13, 2004. Adrienne's current term expires on October 13, 2007.

The Commission members ratify rules and standards applicable to classified civil service positions in the Fire and Police departments and the enforcement and effect of the Civil Service statutes. Members are appointed by the City Manager as per Texas Local Government Code 143.006, and ratified by the governing body.

The term for the appointment is three years. Meetings are held as needed. There are three members of the Commission as required by law, and the Director of the Commission is Vickie Bennett.

**FISCAL IMPACT**

No fiscal impact.

Staff recommended approval of this resolution.

**6. REGULAR AGENDA**

**Note: Regular Agenda items, and Consent Agenda items moved to Regular Agenda, are listed in the order they were addressed (5.9-5.10, 5.23, 6.1-6.9).**

**5.9. Flood Hazard Area Ordinance 2nd Reading – Public Works Engineering: Ordinance No. 2007-O0094 Amending Article II, Chapter 21 of the Code of Ordinances, with regard to Flood Hazard Areas within the City of Lubbock.**

The Federal Emergency Management Agency (FEMA) is issuing updated Flood Insurance Rate Maps (FIRMs) for Lubbock County effective September 28, 2007. The maps are used as part of the City's participation in the National Flood Insurance Program (NFIP).

FEMA performed the FIRM update at its expense and generated a Digital Flood Insurance Rate Map (DFIRM) for Lubbock County. FEMA has an ongoing program to generate DFIRMs nation-wide. DFIRM allows all citizens to access and view maps online.

The City must revise certain portions of its Flood Damage Prevention Ordinance to incorporate the new map date, elevation datum utilized, and reference the new State NFIP Coordinating Agency, and Texas Water Development Board.

The update does not reflect any changes that may result from the City's current Flood Study underway for the South Central Drainage Project or the overflow routes through the Arnett Benson and downtown areas.

**FISCAL IMPACT**

No fiscal impact.

Staff recommended approval of the second reading of this ordinance.

Marsha Reed, Director of Public Works, gave comments and answered questions from Council.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Jones to pass on second and final reading Ordinance No. 2007-O0094 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**5.10. Code of Ordinances 1st Reading - Traffic Engineering: Ordinance No. 2007-O0097 amending section 16-175.1 of the Code of Ordinances of the City of Lubbock.**

This amendment to the Code of Ordinances changes speed limits on State roadways and City streets and adds roadways that are not in the current ordinance. Texas Department of Transportation (TxDOT) conducted speed limit studies on FM 2255 (4th Street), FM 1730 (Slide Road), FM 1568 (130th Street), Marsha Sharp Freeway and Spur 327. Speed limits are adjusted in the amended ordinance pursuant to state guidelines. The Citizen's Traffic

Commission (CTC) reviewed and recommended approval of these proposed speed limits in November 2006.

Two citizen requests prompted speed limit changes on Milwaukee Avenue from 4th Street to Erskine Street and on Avenue P from 82nd Street to 84th Street. Speed limit studies were conducted by the Traffic Engineering Department to determine lower speed limits that were approved by the CTC in August 2007 and September 2007.

A list of revisions to the ordinance is provided.

### **FISCAL IMPACT**

No fiscal impact.

Citizen's Traffic Commission and staff recommended approval of the first reading of this ordinance.

Marsha Reed, Director of Public Works, gave comments and answered questions from Council.

Motion was made by Council Member Price, seconded by Mayor Pro Tem Gilbreath to pass on first reading Ordinance No. 2007-00097 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**5.23. Contract Amendment Resolution - Water Utilities: Resolution No. 2007-R0461 authorizing the Mayor to execute Amendment No. 3 to the Engineering Services Agreement with Black & Veatch for improvements to the Southeast Water Reclamation Plant.**

The contract involves engineering services for improvements to the Southeast Water Reclamation Plant (SEWRP). Amendment No. 1 was executed on December 1, 2005, to provide design services after receiving approval of the Preliminary Engineering Report of the original agreement. Amendment No. 1 describes the project and includes the preparation of one design package and two separate construction packages.

Construction Package No. 1 – Plant 4 Improvements (design, bid and award)

Construction Package No. 2 – Plant 3 Improvements (design only)

In addition, Amendment No. 1 included preparation of four technical memoranda for improvements not identified in the Preliminary Engineering Report, Texas Pollutant Discharge Elimination System (TPDES) Permit support, and Value Engineering. These technical memoranda have been completed and it was agreed to include the recommendations for grit and odor control in the current design. The designs for the improvements are approximately 80% complete. Value Engineering services were contracted separately by the City. Therefore, these services were not authorized under the contract with Black & Veatch. The cost of Amendment No. 1 was \$6,335.

Amendment No. 2 was executed on August 24, 2006, to provide stream modeling. The City intends to discharge additional flow from the SEWRP to

the stream in excess of the currently permitted 9 MGD. Stream water quality modeling is being conducted to determine the amount of flow and the effluent quality required to discharge additional flow to a point on the stream near the SEWRP. The cost of Amendment No. 2 was \$86,000.

Amendment No. 3 includes several changes to the design of the plant. Since initial detailed design, changes have occurred in the construction packaging established in the Preliminary Engineering Report (as listed in Amendment No. 1) and in the design of Plant 3 and 4 improvements. The changes in design scope include the following:

**Influent Lift Station Improvements** - The original design involved replacement of screw pumps. In response to recent failures of the existing screw pumps, which created an emergency condition, the design was modified and expanded to replace the screw pumps with submersible pumps. Additional services are needed to assist the City in procuring new submersible pumps and adjustable frequency drives, preparing a separate construction package, and providing limited bid and construction phase assistance. Additional engineering services cost \$235,000.

**Phase 1 Construction Package** - After commencing work, it was requested that the design include the recommendations of the technical memoranda and value engineering, redirect engineering efforts to expanding capacity and effluent quality at Plant 4 in the initial design package; and defer completion of the design package for major improvements to Plant 3. Additional engineering services total \$482,000 and include Plant 4 Intermediate Lift Station Improvements, Grit Handling Piping and Equipment, Alternative Odor Control Technology, and Collimated Beam field testing to support the implementation of the UV treatment system.

**Permit Support and Stream Modeling** - Additional support is being provided including stream modeling on an ongoing basis. Additional engineering services include evaluations of TCEQ proposed limits for phosphorous and anti-degradation, and continuing permit support. Additional services are estimated to cost \$25,000.

**Solids Improvement Studies** - Two solids improvement studies have been identified: (1) digester performance and supernatant treatment and (2) alternative thickening and dewatering technologies. The studies will identify additional services needed to implement required improvements. Additional engineering services are estimated to cost \$275,000.

**Funding changes in the design scope** - Additional design services total \$1,017,000. Current plans defer the design of Plant 3 improvements until 2011, allowing the unused engineering fees to fund the additional engineering services presented above. The current balance of unused engineering fees for this purpose total \$1,346,000. The amendment is a net savings of \$329,000 to the original contract.

### **FISCAL IMPACT**

The new contract amount is \$6,421,000. A total of \$7,135,000 was appropriated in Capital Improvement Project 8505, Waste Water Resource Master Plan, with \$1,291,263 available.

Lubbock Water Advisory Commission and staff recommended approval of this resolution.

Tom Adams, Deputy City Manager/Water Utilities Director, and Wood Franklin, Interim Chief Engineer, gave comments and answered questions from Council.

Motion was made by Council Member Price, seconded by Mayor Pro Tem Gilbreath to pass Resolution No. 2007-R0461 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.1. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2007-O0098 Zone Case No. 2709-C (1718 Avenue E) Hold a public hearing to consider request by Ross McCuiston (for Beckway Investments) for zoning change from IHC to IHC Specific Use on Lots 11-13, less triangle in southeast portion, Block 217, Original Town Addition.**

Mayor Miller opened the public hearing at 10:04 a. m. Ross McCuiston appeared on behalf of Beckway Investments. No one appeared in opposition. Mayor Miller closed the hearing at 10:07 a. m.

The applicant is requesting a zone change from Interstate Highway Commercial (IHC) to IHC Specific Use with the conditions on the property to meet the same allowances that are allowed within the original Depot District zone case. The Depot District has a common area description, but the original Phase 1 of the property owners is on specific property located between Interstate 27, north to 18th Street for one portion and 17th Street for the other portion, extending west to one-half block east of Texas Avenue. A strip along Buddy Holly Avenue also is included in the original case from 19th Street south of the former W.D. Wilkins building at I-27.

Adjacent land uses are commercial in all directions.

The request does not rise to the level of a discussion of the Comprehensive Land Use Plan since the entire surrounding area is already zoned commercial. In terms of zoning policy, many of the business locations that are part of the “generic” Depot District that needed a variance for separation for a bar or for parking have been approved with the same conditions that exist in the current Specific Use area around the original Depot Building by the Zoning Board of Adjustment – which was Phase 1 of the property owners plan. The group never filed Phase 2, which would include this property. The applicant has not stated his specific intent for the use of the property.

The Planning Commission and City Council have adopted four new Control Business District (CBD) districts, and had the City already filed the master case for Commercial Business (CB) 4, this request would not be needed. The

Planning Department has not filed the master case on the entire downtown because the current Downtown Redevelopment Plan is in the final stages of completion and one of the tasks of the contractor is to recommend both boundary changes to the original suggested boundaries and some adjustments may be proposed to the specifics of each of the four districts.

The change should have no overall impact to the traffic patterns or volumes in the vicinity.

The Planning Commission recommended the request with the following conditions:

1. Parking shall be obtained within 1,100 feet at a rate of one space for each 100 square feet in the structure should the structure be used for a bar or a dance hall.
2. The Building Inspection Department and the Fire Department shall determine that the building meets the Building and Fire Codes for the proposed occupancy.
3. Any event using the facility that includes a BYOB (alcohol) shall have private security provided by the owner of the structure or the lessee.
4. Should the owner ever seek to obtain a liquor permit, the separation standards of IHC for bars shall not apply.
5. Any new development on the lot shall meet IHC development standards.

#### **FISCAL IMPACT**

No fiscal impact.

Staff supports the recommendation of the Planning and Zoning Commission.

Motion was made by Council Member Price, seconded by Council Member Leonard to pass on first reading Ordinance No. 2007-O0098 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.2. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2007-O0099 Zone Case No. 2984-E (34th Street and Quincy Avenue) Hold a public hearing to consider request by Betenbough Homes for zoning change from A-1 and R-1 Specific Use to R-1 Specific Use on 78.750 acres in Section 38, Block AK.**

Mayor Miller opened the public hearing at 10:04 a. m. No one appeared on behalf of Betenbough Homes. No one appeared in opposition. Mayor Miller closed the hearing at 10:07 a. m.

The applicant is requesting what has become the “norm” for single family in the Residential-1 (R-1) District. Staff is finally making some progress with incorporating the requested aspects of the case into the Code so a new zone case that is essentially typical single family will not be required in each instance.

Existing adjacent land uses:

N – residential

S – zoned “T” backs up to the area where the railroad was relocated for the Marsha Sharp Freeway.

E – residential and pending mini warehouse zoning

w – Upland, and “T zoning – some scattered older residential exists west of Upland Avenue

There is no conflict with the Comprehensive Land Use Plan and zoning policy.

There should be little more than anticipated impact on the thoroughfare system. Development of the subdivision will increase the pressure to widen 34th Street and Upland Avenue in the area to full thoroughfare status from the current two lane strip paved streets. Staff supports the request with the following conditions:

1. The minimum front setback shall be 20 feet.
2. The minimum side setback for corner lots and the minimum for non-garage portions of structures on cul-de-sac streets shall be five feet.
3. Should the subdivision be developed with access to the garages from the alley, the fence on the corner lots facing the side street shall be set back five feet to match the setback of the home.

#### **FISCAL IMPACT**

No fiscal impact.

Staff recommended approval of the first reading of this ordinance.

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

Motion was made by Council Member Price, seconded by Council Member Leonard to pass on first reading Ordinance No. 2007-O0100 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.3. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2007-O0100 Zone Case No. 2984-F (Milwaukee Avenue and 37th Street) Hold a public hearing to consider request by Michael Postar for zoning change from C-3 and R-1 Specific Use to C-4 Specific Use on 6.5 acres of unplatted land out of Block AK, Section 38.**

Mayor Miller opened the public hearing at 10:05 a. m. No one appeared on behalf of Michael Postar. No one appeared in opposition. Mayor Miller closed the hearing at 10:07 a. m.

The request is to zone a parcel adjacent 120 feet south of 37th Street and north of the developing Raider Ranch as a mini-warehouse development. Originally the case boundary was to 37th Street, and may be the reason there is a letter of opposition from a resident on 37th Street. The proposed project leaves a row

of lots along 37th Street for future development of residential homes that will back up to the project and buffer the homeowners north of 37th Street.

Adjacent land uses:

N – proposed single family

S – proposed Raider Ranch, across a 60 foot electric line easement. The owners of the land of Raider Ranch are involved in the process of selling a portion of this land to Mr. Postar – a fact that would indicate no issue with the request.

E – commercial on Milwaukee Avenue

W – proposed residential

The request is not consistent with the current Comprehensive Land Use Plan. The installation of Milwaukee Avenue from 4th Street to 92nd Street as a full seven lane thoroughfare has caused a number of normal market anomalies along Milwaukee Avenue that have pushed the limits of the traditional "commercial locations at the corner of thoroughfares." A major factor in the immediate area regarding installation of non-residential is the presence of the railroad that was relocated to make way for the Marsh Sharp Freeway. The recommendation from the Planning Commission indicates that the zone change is a minor amendment to the Comprehensive Land use Plan.

In the past, mini-warehouse projects that have occupied awkward parcels of property to the rear of commercial that faces a thoroughfare have not proved to be detrimental to the area nor have they, to the knowledge of staff, drawn the unsavory or disruptive occupants that is a common complaint when a case is proposed. For this project, the entire perimeter will be surrounded with a split face wall (decorative cinder block) versus the typical metal walls of other locations developed by this applicant. A small frontage to Milwaukee Avenue will provide the only access. No access to 37th Street or yet to be determined streets on the west is proposed. The project is phased, and a temporary metal wall will face the north as noted on the site plan. Eventually, the north fence will be split face block when Phase II is installed.

The project should have little impact on the thoroughfare system as Milwaukee Avenue is a seven lane thoroughfare at this location.

The Planning Commission recommended the request to the City Council. As Specific Use the applicant is tied to the proposed site plan, materials, and building elevation presented in the zone case.

### **FISCAL IMPACT**

No fiscal impact.

Staff recommended approval of the first reading of this ordinance.

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

Motion was made by Council Member Price, seconded by Council Member Leonard to pass on first reading Ordinance No. 2007-O0100 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.4. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2007-O0101 Zone Case No. 3091 (3723 34th Street) Hold a public hearing to continued request by Dave Kirk (for T-Mobile Texas, LP) for zoning change from C-2 to C-2 Specific Use for a 100 foot tall telecommunications tower on 630 square feet out of Lot D, Block 1, Hobgood Addition.**

Mayor Miller opened the public hearing at 10:05 a. m. No one appeared on behalf of T-Mobile Texas, LP. No one appeared in opposition. Mayor Miller closed the hearing at 10:07 a. m.

The request is for location a 100-foot tall Personal Communications Services (PCS) or cell tower located in an unused portion of property owned by the Sunset Church of Christ located west of former Knoxville Avenue (the street has been closed) on the south side of the street. The proposed tower will be located on the far eastern edge in an area of unused land approximately mid-lot, east of the new activities building built by the Sunset Church of Christ.

To help minimize the visual impact, monopole construction is proposed using what the industry terms a “stealth pole” where the antennae are in a shroud of fiberglass with the antennae “up and down” versus the perpendicular or 90 degrees to the tower old style TV looking antennae. This is the first proposed stealth tower in Lubbock. In many locations, the tower is used as a flagpole or other use that attempts to disguise the use for cellular. The tower is designed for a minimum of two users as required by the Code.

A written report must be made to the Planning Commission and City Council to meet the requirements of the Federal Communications Act. That report is provided and followed by additional staff comments to the guidelines in the Lubbock Zoning Code.

No Comprehensive Land Use Plan policy is under discussion since the area is already zoned commercial. The Zoning Policies are provided in backup. There should be no impact on the thoroughfare system.

The Planning and Zoning Commission recommended approval of this request.

No citizen appeared at the meeting to comment on the request, and to date there are no letters of objection. Staff supports the recommendation of the Planning Commission. By being Specific Use, the applicant is tied to the proposed site plan.

**FISCAL IMPACT**

No fiscal impact.

Staff recommended approval of the first reading of this ordinance.

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

Motion was made by Council Member Price, seconded by Council Member Leonard to pass on first reading Ordinance No. 2007-O0101 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.5. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2007-O0102 Zone Case No. 3093 (2207 34th Street and 2217 34th Street) Hold a public hearing to consider request by David Bloodworth (for DCI Biologicals) for zoning change from C-2 to C-2 Specific Use for a plasma center on west 50 feet of Lot 3, Lot 4, McGee Addition.**

Mayor Miller opened the public hearing at 10:06 a. m. No one appeared on behalf of DCI Biologicals. No one appeared in opposition. Mayor Miller closed the hearing at 10:07 a. m.

The applicant is requesting the use of a portion of a shopping center at 2207 34th Street to be used by a company that gathers plasma from donors for the medical community.

Adjacent land uses:

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

The request has no discussion with regard to the Comprehensive Land Use Plan because it is currently zoned commercial. The typical objection to the use, which is why it is in the Specific Use Section of the Code (and triggers a public hearing regardless of location), is expressed in the letter from BGR architects. BGR is located across 34th Street from the proposed site.

In the past, for the business location now operated by the applicant on Main Street east of University Avenue but previously under the ownership of another company, some of the allegations were true. In approximately the last ten years, since the change in ownership, staff is not aware of the “hanging out” or unsavory element that accompanied the original business. At any of the current locations that are zoned in the community, staff is not aware of any complaints.

The companies that operate these centers are fully aware of the history of poor relations with neighbors and go to great lengths to prevent the activities described in the letter. Other than the medical necessity for the product, and the atmosphere of the current office vicinity, staff had no other vital information to offer to the Planning Commission.

The Planning Commission discussed the presentation and responses from the applicant, the letter from BGR, as well as the maturation of other business locations and the value to the community that the industry provides in terms of the plasma collection (not the same but similar to the blood bank). The Planning Commission approved the request with one condition:

1. If the use is abandoned, the zoning will revert to C-2 with no restrictions.

### **FISCAL IMPACT**

No fiscal impact.

Staff recommended approval of the first reading of this ordinance.

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

Motion was made by Council Member Price, seconded by Council Member Leonard to pass on first reading Ordinance No. 2007-O0102 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.6. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2007-O0103 Zone Case No. 3094 (North Cypress and Wabash Streets) Hold a public hearing to consider request by Betenbough Homes for zoning change from R-1 to R-1 Specific Use on 42.43 acres of unplatted land out of Block A, Sections 15 and 78 and Lots 16-25, Block 1, A. L. King Addition.**

Mayor Miller opened the public hearing at 10:06 a. m. No one appeared on behalf of Betenbough Homes. No one appeared in opposition. Mayor Miller closed the hearing at 10:07 a. m.

The request is identical to the case requested in Case No. 2984-E.

As noted in Case No. 2984E, the applicant is requesting what has become the “norm” for single family in the Residential-1 (R-1) District. Staff is finally making some progress with incorporating the requested aspects of this case into the Code so a new zone case that is essentially typical single family will not be required in each instance.

Existing adjacent land uses:

N – residential

S – zoned “T” backs up to the area where the railroad was relocated for the Marsha Sharp Freeway.

E – residential and pending mini warehouse zoning

w – Upland, and “T zoning – some scattered older residential exists west of Upland Avenue

There is no conflict with the Comprehensive Land Use Plan and zoning policy.

There are two letters of opposition on file for the request (at the time these comments were produced). The person on Cypress is already single family zoned and may simply want to retain the open spaces to the west, the letter of opposition made no comment.

There should be little more than anticipated impact on the thoroughfare system.

Development of the subdivision increases the pressure to widen 34th Street and Upland Avenue in the area to full thoroughfare status from the current two lane strip paved streets.

The Planning Commission recommended the request to the City Council with the following conditions:

1. The minimum front setback shall be twenty feet.
2. The minimum side setback for corner lots and the minimum for non-garage portions of structures on cul-de-sac streets shall be five feet.
3. Should the subdivision be developed with access to the garages from the alley, the fence on the corner lots facing the side street shall be set back five feet to match the setback of the home.

#### **FISCAL IMPACT**

No fiscal impact.

Staff recommended approval of the first reading of this ordinance.

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

Motion was made by Council Member Price, seconded by Council Member Leonard to pass on first reading Ordinance No. 2007-O0103 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.7. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2007-O0104 Zone Case No. 3095 (North Loop 289 & North Utica Drive) Hold a public hearing to consider request by Campus Crest Communities (for Maurice Risley) for zoning change from A-1 to A-3 and IHC on 23.137 acres of unplatted land out of Block A, Section 22.**

Mayor Miller opened the public hearing at 10:06 a. m. No one appeared on behalf of Maurice Risley. No one appeared in opposition. Mayor Miller closed the hearing at 10:07 a. m.

The applicant is seeking A-3 zoning to accommodate a student oriented apartment complex that will contain approximately 512 single-person bedrooms in 3 and 4 bedroom apartments. The A-3 is requested to ensure the height of the structures will not be hindered by the standard A-2 40-foot maximum, although the project is requested by the applicant to be limited to three story buildings. A small portion of the peak of the roof on the buildings exceeds the 40-foot dimension.

In addition, a parcel on the northeast bounded by North Utica on the east, the mobile home subdivision on the south and a part of the Texas Tech Experimental farm on the east is requested as Interstate Commercial (IHC).

Adjacent land uses:

N- Loop 289

S – Mobile home subdivision, zoned R-3

Specific Use for lots that are purchased and the owners are allowed and a portion of a mobile home park also zoned R-3 Specific Use.

E – A part of the land owned by Texas Tech University, now under cultivation

W – A-1 zoning, constructed as quadraplex units.

The property is currently zoned A-1 with conditions that the property be developed as Phase 2 of the mobile home subdivision. That expansion never occurred. A copy of the original proposed preliminary plat is provided for reference. To the west is a row of A-1 quadraplex units. Zoned A-1 already, the proposed student housing project does not rise to a level for a Comprehensive Land Use Plan discussion. The current Plan illustrates the area as eligible for multifamily zoning. Zoning policy for the viability of the project as a neighbor should be the primary focus of the discussion.

The Interstate Commercial segment east of North Utica does not meet the current Comprehensive Land Use Plan. Being surrounded by the apartment complex, Tech property, the mobile home subdivision and the Loop (across the Loop at this location the zoning is commercial), the request for Interstate Commercial should not create an issue. As forwarded by the Planning Commission for approval, the motion includes the fact that the IHC portion is a minor amendment to the Comprehensive Land Use Plan.

The presence of the project was not contested by the residents of the mobile home subdivision, but several of the residents did discuss the possibility that the developer of the project provide an area of land on the south end of the project for a street or gravel drive to connect the stub that exists in the mobile home park to the stub of Amherst that intersects Troy Avenue on the west. The residents have cut across the dirt lot for years to get to Troy Avenue and back south to 4th Street since they have access only to the east bound service road of Loop 289 on North Utica. As noted above, the residents have had the expectation that formal access to Troy would eventually occur because of the now out of date plat to build Phase 2 of the mobile home subdivision. The developer of the project did not anticipate the connecting drive (and does not want to dedicate and pave a street at his cost that has no value to his project), but the applicant and his engineers are meeting with the neighbors at the request of the Planning Commission to see if a solution exists that will not interrupt the development of the apartment complex. City Engineering Department is suggesting either paving an existing alley on the south and/or building a street. An unimproved surface would not last long. The results of the private meeting should be available for the public hearing. The complex will be gated, and the use of the stub of Bates will be a dead end with a cul-de-sac or other turnaround device with curb cuts into the apartments through a gate. Screening fence locations will be required.

As noted, the primary frontage of the project is on the one-way service road of Loop 289. Also as noted above, North Utica through Whisperwood was designed with two street stubs from Troy Avenue to specifically serve the land. With the scenario noted above, the residents of the apartments will have an indirect connection back to 4th Street along Troy Avenue to Whisperwood Boulevard. All of Troy Avenue is zoned A-1 and developed as quadraplex units. Overall traffic will certainly increase, but the street was designed to handle the increased load. It is staff's opinion that a large number of the

residents will continue to choose the Loop access from 4th Street and Loop 289 or from the apartments to Quaker Avenue versus the time it takes to maneuver through Whisperwood to 4th Street. But, the back way was designed into the Whisperwood plat to create the ability to get back to 4th Street from this parcel of land since no street or private drive connection exists through the mobile home park to the south.

The Planning Commission recommended the project with the following conditions:

1. The residential zoning shall be A-3 limited to three story construction (because the total height slightly exceeds A-2).
2. The area adjacent to Loop 289 east of North Utica to the applicant's south property line shall be zoned Interstate Commercial.
3. A seven-foot masonry or stone fence, or a seven-foot masonry base with piers and wood inserts shall be built on the south and east boundary of the IHC and on the south boundary of the A-3 (the property line adjacent to the mobile home subdivision and the portion adjacent to the mobile home park) parcel. Should a public access easement on the south portion of the applicant's property be made for the residents of the mobile home subdivision, this fencing style shall be optional for the applicant, chain link may be a choice.
4. A chain link security fence shall be allowed with no setback along the west alley and a decorative fence shall be allowed with no setback shall be allowed along the Loop service road and North Utica with a provision of a vision cut off at the intersection of North Utica and the Loop service road.

#### **FISCAL IMPACT**

No fiscal impact.

Staff recommended approval of the first reading of this ordinance.

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

Motion was made by Council Member Price, seconded by Council Member Leonard to pass on first reading Ordinance No. 2007-O0104 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

#### **6.8. Civic Lubbock Inc. FY 2007-08 Budget Acceptance Resolution: Resolution No. 2007-R0402 accepting Civic Lubbock Inc. FY 2007-08 budget.**

On September 21, 2005, the City entered into a license agreement with Civic Lubbock, Inc. for all food, beverage, and other concession sales at the Lubbock Municipal Auditorium, Lubbock Municipal Coliseum, Lubbock Memorial Civic Center, Buddy Holly Center, Silent Wings Museum, and other designated municipal facilities as mutually determined by the City and Civic Lubbock, Inc.

The term of the license agreement is for eight years and includes a provision that requires Civic Lubbock, Inc. to prepare and submit a budget to the City for the upcoming fiscal year. The provision also states that the budget shall be prepared on forms satisfactory to the City and shall present this budget to the City Council prior to the beginning of each fiscal year.

The Civic Lubbock, Inc. Board approved its FY 2007-08 budget during their meeting on August 27, 2007.

#### **FISCAL IMPACT**

The net loss of \$172,459 includes a non-cash amount of \$58,408 for Select-a-Seat depreciation, reducing the budgeted net loss on a cash basis to \$114,051. This deficit will be covered by funds in the Unrestricted Net Assets, as listed in the Civic Lubbock, Inc. Balance Sheet. This deficit may be further reduced as additional events are booked throughout the year.

Staff recommended approval of this resolution.

Motion was made by Council Member Leonard, seconded by Mayor Pro Tem Gilbreath to pass Resolution No. 2007-R0402 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

- 6.9. Board Appointments - City Secretary: Consider one appointment to the Building Board of Appeals, two appointments to the Health/Education Facilities Authority, Board of Directors, one appointment to the Permit & License Appeal Board, two appointments to the Reese Redevelopment Authority Board of Directors, one appointment to the Urban Design/Historic Preservation Commission, two appointments to the Airport Board, three appointments to the Lubbock Economic Development Alliance, four appointments to Market Lubbock Economic Development Corporation Board of Directors, and seven appointments to the Citizens' Photographic Traffic Signal Enforcement Committee.**

Motion was made by Council Member Price, seconded by Council Member Jones to appoint Terry Drum to the Building Board of Appeals. Motion carried: 7 Ayes, 0 Nays.

Motion was made by Council Member DeLeon, seconded by Council Member Price to reappoint Walker Metcalf and James Morris to the Health/Education Facilities Authority Board of Directors. Motion carried: 7 Ayes, 0 Nays.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Jones to appoint Steve Warren to the Permit & License Appeal Board. Motion carried: 7 Ayes, 0 Nays.

Motion was made by Council Member DeLeon, seconded by Council Member Price to reappoint Greg Garland and Dean Smith to the Reese Redevelopment Authority Board of Directors. Motion carried: 7 Ayes, 0 Nays.

Motion was made by Council Member DeLeon, seconded by Council Member Jones to appoint Clifton Ellis to the Urban Design/Historic Preservation Commission. Motion carried: 7 Ayes, 0 Nays.

Regular City Council Meeting  
September 27, 2007

Motion was made by Council Member Leonard, seconded by Council Member Gilbreath to reappoint Brad Moran and appoint Bill Young to the Airport Board.

Council Member DeLeon offered a friendly amendment to the motion to reappoint Brad Moran and appoint Gilbert Flores to the Airport Board. Council Member Leonard did not accept the friendly amendment.

Motion was then made by Council Member DeLeon, seconded by Council Member Price to amend the motion and reappoint Brad Moran and appoint Gilbert Flores to the Airport Board. After discussions were had, vote was taken on the amendment to the motion, which carried: 5 Ayes, 2 Nays. Mayor Pro Tem Gilbreath and Council Member Leonard voted Nay.

Council Member Leonard stated for the record, "I have nothing but the utmost respect for Gilbert Flores. In fact, Gilbert and I used to be next door neighbors when he lived in District 4, over on Nashville, and so I like Gilbert. We have a good acquaintance, and I have a lot of respect for him. It has nothing to do with whether I like one or the other."

Vote was then taken on the amended motion of reappointing Brad Moran and appointing Gilbert Flores to the Airport Board. Motion carried: 7 Ayes, 0 Nays.

Motion was made by Council Member DeLeon, seconded by Mayor Pro Tem Gilbreath to reappoint David Alderson, Mike McDougal, and Tony Whitehead to the Lubbock Economic Development Alliance. Motion carried: 7 Ayes, 0 Nays.

Motion was made by Council Member DeLeon, seconded by Mayor Pro Tem Gilbreath to reappoint David Alderson, Mike McDougal, Rob Meyer, and Jon Whitmore to the Market Lubbock Economic Development Corporation Board of Directors. Motion carried: 7 Ayes, 0 Nays.

Mayor Miller suggested appointing seven members and two ex-officio members from the Citizens Traffic Commission to the Citizens' Photographic Traffic Signal Enforcement Committee. City Attorney Anita Burgess recommended to the Mayor that, since state law requires it, each member of the governing body should make one appointment to the committee. Consensus from Council was to hold on nominations to the Citizens' Photographic Traffic Signal Enforcement Committee until the October 11, 2007 City Council Meeting, so that each Council Member will be ready to nominate a citizen of their choice.

**10:48 A. M. COUNCIL ADJOURNED**

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