

A G E N D A

**LEWISVILLE CITY COUNCIL MEETING
JULY 2, 2007**

**LEWISVILLE CITY HALL
151 WEST CHURCH STREET
LEWISVILLE, TEXAS 75057**

**WORKSHOP SESSION - 6:00 P.M.
REGULAR SESSION - 7:00 P.M.**

Call to Order and Announce a Quorum is Present.

WORKSHOP SESSION - 6:00 P.M.

- A. Work Place Giving Campaign
- B. Discussion of Regular Agenda Items and Consent Agenda Items
- C. Items of Interest to the Council

REGULAR SESSION - 7:00 P.M.

- A. **INVOCATION:** Councilman Thornhill
- B. **PLEDGE TO THE FLAG:** Councilman Watts
- C. **PRESENTATIONS:** The Actors Conservatory Theatre
- D. **PUBLIC HEARINGS:**
 - 1. **Public Hearing:** Consideration of an Ordinance for a Zone Change Request From Agriculture Open-Space (AO) to Light Industrial (LI) on Two Tracts Totaling 1.0 Acre Located at the Northwest Corner of Country Ridge Road and Park Street and Including the Southernmost Portion of the Unplatted Park Street Access Easement; as Requested Yousef Maleki, the Current Property Owner (Case No. PZ20070511).

ADMINISTRATIVE COMMENTS:

The site is located west of the Bankston Nissan automobile dealership about midway between IH35E and Business SH 121. Mr. Maleki owns an auto body shop adjacent to the subject tract and plans to ultimately expand his operation. The site is also located at the intersection of Park Street and Country Ridge Road. Country Ridge Road has been paved between the Nissan and Saturn dealerships and adjacent to a car wash on the SH 121 side, and most of the right-of-way has been dedicated between SH 121 and IH35E. Everything adjacent to both streets is zoned Light Industrial except for the property included with this request. The Planning and Zoning Commission voted 5-0 in favor of the zone change request at their June 5, 2007, meeting.

RECOMMENDATION:

That the City Council approve the proposed ordinance amending the Lewisville City Code, Chapter 17, the Comprehensive Zoning Ordinance approving the requested zone change from Agricultural-Open Space (AO) to Light Industrial (LI).

PRESENTATION: Gene Lewis, Planning & Community Services Manager

2. **Public Hearing: Consideration of an Ordinance for a Zone Change Request From Agriculture-Open Space (AO)/Light Industrial (LI) to Light Industrial on a 119.52 Acre Tract Located at the West Side of Railroad Street Between Bennett Lane and Business State Highway 121; as Requested by Hillwood Enterprises L.P., With the Consent of the Current Property Owners (Case No. PZ20070512).**

ADMINISTRATIVE COMMENTS:

The zone change applicant, Hillwood Enterprises, L.P., has determined that distribution warehouses similar to those in Waters Ridge and a north-south street can be located on the property. The approval of Zander Place, the former TxDOT maintenance facility, a couple of years ago included a street that would connect SH 121 to the Hillwood property and ultimately extend to Bennett Lane to connect with streets in the Waters' Ridge Addition. Expanding the existing Light Industrial throughout the property would be consistent with previous zoning requests and land use plans for the area. The Planning and Zoning Commission voted 5-0 in favor of the zone change request at their June 5, 2007, meeting.

RECOMMENDATION:

That the City Council approve the proposed ordinance amending the Lewisville Code of Ordinances, Chapter 17, the Comprehensive Zoning Ordinance approving the requested zone change from Agriculture-Open Space (AO) and Light Industrial (LI) to Light Industrial (LI).

PRESENTATION: Gene Lewis, Planning & Community Services Manager
Len Murray, Vantage Companies

- 3. Public Hearing: Consideration of an Ordinance Amending the Lewisville City Code, Chapter 17 Zoning, Creating Three New Sections 17-22.8.1, Mixed Use-Shopping Center; 17-22.8.2, Mixed Use-30; and 17-22.8.3, Mixed Use-90, To Regulate Mixed Use Developments.**

ADMINISTRATIVE COMMENTS:

Since the City adopted mixed use regulations for the Old Town redevelopment area, there has been discussion about having mixed use regulations for other parts of Lewisville. The two areas of most interest in these discussions have been for existing shopping centers which may need a vehicle for new investment as well as for larger undeveloped tracts that might be suitable for a true mixed use layout. The MU-30 and MU-90 districts are proposed as a way to provide viable mix-use developments on tracts of at least 30 or 90 acres. The MU-SC regulations are designed primarily to offer more options for existing shopping centers with vacant or underused space. The biggest difference in the MU-30 and MU-90 zoning districts from all other zoning districts is the requirement for submitting a concept plan with the zoning request to identify the layout, size and percentage of each use and the maximum number of residential units being requested. If the developer deviates from the number of units or amount of commercial space by more than 10 percent on his plat or engineering site plan, a rezoning would be required. These two districts are designed specifically for the developer who knows what he wants to build and not for a speculator who just wants to zone and sell the land. The Planning and Zoning Commission recommended approval of the ordinance 5-0 at their meeting on June 5.

RECOMMENDATION

That the City Council approve the proposed ordinances creating three new sections 17-22.8.1, Mixed Use-Shopping Center; 17-22.8.2, Mixed Use-30; and 17-22.8.3, Mixed Use-90.

PRESENTATION: Gene Lewis, Planning and Community Services Manager

- E. **VISITORS/CITIZENS FORUM:** At this time, any person with business before the Council not scheduled on the agenda may speak to the Council. No formal action can be taken on these items at this meeting.
- F. **CONSENT AGENDA:** All of the following items on the Consent Agenda are considered to be self-explanatory by the Council and will be enacted with one motion. There will be no separate discussion of these items unless a Council Member or citizen so request. For a citizen to request removal of an item, a speaker card must be filled out and submitted to the City Secretary.
4. **APPROVAL OF MINUTES:** **City Council Minutes of the June 18, 2007, Workshop Session and Regular Session.**
5. **Tabled Item:** **Approval of Supplemental Appropriation from the Grant Fund Balance in the Amount of \$82,063 to the Grant Fund; Approval of a Bid Award for CDBG Concrete Curb and Gutter Project to Ken-Do Contracting, LP, DeSoto, Texas, in the Amount of \$389,574.15; Approval of a Total Budget of \$393,063; and Authorization for the City Manager to Execute the Contract.**

ADMINISTRATIVE COMMENTS:

A total of forty-eight (48) bid invitations were issued, including six (6) downloaded from DemandStar.com. Six (6) bids were received and opened May 3, 2007. This project involves the rehabilitation of concrete curb, gutter, and drive approaches of three streets in the Rolling Ridge Addition: Rolling Ridge, Ridgecrest and University Drive. Currently, funding is available in the CDBG Block Grant Budget in the amount of \$311,000.

RECOMMENDATION:

That the City Council approve a supplemental appropriation in the amount of \$82,063 to the Grant Fund; approve a bid award for CDBG Concrete Curb and Gutter Project to Ken-Do Contracting, LP, DeSoto, Texas, in the amount of \$389,574.15; approve of a total budget of \$393,063; and authorize the City Manager to execute the contract.

- 6. Approval of a Resolution Suspending the July 30, 2007 Effective Date of Proposed Atmos Energy Corp. Interim GRIP Rate Adjustments; Authorizing Participation With Atmos Cities Steering Committee (ACSC); Authorizing Intervention in Administrative and Court Proceedings Involving GRIP Rate Adjustments; and Requiring Reimbursement of Reasonable Legal and Consultant Ratemaking Costs.**

ADMINISTRATIVE COMMENTS:

The law mandates that a Gas Reliability Infrastructure Program (GRIP) surcharge request cannot become effective until sixty (60) days following the filing. The effective date may be suspended by a city for 45 days. If the City does not take action to suspend the filing, the Company may begin implementing a monthly surcharge (\$0.59 on all residential customers, \$1.47 for commercial customers, and \$28.74 for industrial customers) after July 30, 2007. The resolution suspends the effective date to the maximum extent permitted by law to allow the cities time to evaluate the filing, determine whether the filing complies with law, and if lawful, to determine what further strategy to pursue. Additionally, Atmos has just received a rate increase of approximately \$5 million and should be collecting sufficient revenues to earn its allowed return without the necessity for a surcharge to recover incremental investment.

RECOMMENDATION:

That the City Council approve the resolution.

- 7. Approval of Administrative Policy 1.7.3 Park Memorial Program.**

ADMINISTRATIVE COMMENTS:

The policy provides a methodology for the control and management of memorial requests in parks owned and operated by the City. The policy provides for memorials including trees, park benches, and bricks. It also provides for consistency of memorials and details maintenance responsibilities.

RECOMMENDATION:

That the City Council adopt the policy.

- 8. Termination of Historic Preservation Agreements for Costs Associated With Façade Improvements by and Between the City of Lewisville and Michael Noyes at 122 West Main Street; by and Between the City of Lewisville and Janice James at 102 West Main Street; by and Between the City of Lewisville and Kenneth and Carol Lancaster at 112 West Main Street; by and Between the City of Lewisville and Kenneth and Carol Lancaster at 116 West Main Street; and Authorization for the City Manager to Execute the Agreement Terminations.**

ADMINISTRATIVE COMMENTS:

In 2005, Historic Preservation Agreements were executed between the City of Lewisville and each of the above parties for partial reimbursement for costs associated with façade renovations. As stipulated in the Historic Preservation Agreements and the Economic Development Incentive Policy approved by City Council, grant awardees must “complete construction within one (1) year from the date the grant is approved”. These four agreements that were executed in 2005 have failed to complete construction and are therefore in default. Staff notified or attempted to notify each that they were in default of the agreement by writing and no extensions have been requested in relation to these agreements. At this time, staff is requesting that these agreements be terminated to allow funds to be released back to the City for other grant applicants. The total funds allocated for these four agreements to be released back to the City are \$66,915.

RECOMMENDATION:

That the City Council terminate the Historic Preservation Agreements; and authorize the City Manager to execute the agreement terminations.

G. REGULAR HEARINGS:

- 9. Consideration of a Variance to the Lewisville City Code, Chapter 11, Signs, to Allow Size of a Wall Sign; Consideration of a Variance to the Lewisville City Code, Chapter 2, Fees, Waiver of Variance Request Fee, as Requested by Kathie Gaultille on Behalf of Christian Community Action at 200 South Mill Street.**

ADMINISTRATIVE COMMENTS:

Christian Community Action (CCA) is proposing to reface part of the existing wall sign on 200 South Mill. The existing sign is legal nonconforming for Old Town. However, refacing a portion of the sign triggers a sign permit and compliance with the current Sign Ordinance. The wall sign is currently larger than 50 square feet which is the maximum allowed for a wall sign on a primary façade in Old Town according to the Sign Ordinance. Therefore, to reface part of the sign and obtain a sign permit, the sign would need to be removed and redesigned to be smaller. Instead, CCA is requesting a variance to allow the sign to remain as it is with the exception of replacing the heart portion of the sign. This change will not alter the dimensions of the sign. The variance to the sign ordinance requested is to allow a wall sign on a primary façade larger than fifty square feet in area. CCA is also requesting that the variance request fee of \$350 be waived.

RECOMMENDATION:

That the City Council consider the variance to the Lewisville City Code, Chapter 11 Signs for Christian Community Action at 200 South Mill Street; and consider waiving the variance request fee.

- 10. Consideration of an Ordinance Amending the Lewisville City Code, Chapter 2, Administration, Article VIII, Fees, Section 2-201, Fees for the Placement of Memorial Trees, Benches, and Bricks in City Owned Parks.**

ADMINISTRATIVE COMMENTS:

The purpose of the memorial policy is to provide a methodology for the control and management of memorial requests in parks owned and operated by the City. The ordinance provides for fees that will cover the cost for the Parks Division to install the memorials.

RECOMMENDATION:

That the City Council approve the ordinance amending the fee schedule.

- 11. Consideration of an Ordinance Amending Chapter 7 of the Lewisville City Code Concerning Sale of Alcoholic Beverages (as Requested by Councilman Tierney).**

ADMINISTRATIVE COMMENTS:

The Texas Alcoholic Beverage Code allows the holder of a mixed beverage late hours permit to sell or offer to sell mixed beverages until 2 a.m. on any day if the governing body of the municipality adopts an ordinance authorizing the extended hours. The proposed ordinance would allow the holder of a mixed beverage late hours permit to sell or offer to sell mixed beverages until 2 a.m. on any day.

RECOMMENDATION:

That the City Council consider the proposed Ordinance.

- 12. Consideration of an Ordinance Amending Chapters 2 and 7 of the Lewisville City Code Concerning Administration and Sale of Alcoholic Beverages.**

ADMINISTRATIVE COMMENTS:

The Texas Alcoholic Beverage Code allows municipalities to collect up to one-half of the state fee for certain alcohol-related permits. Currently, the City collects one-half of the state fee for off-premise alcohol sales permits and mixed beverages in restaurants by food and beverage certificate holders only permits. In addition, the City collects a \$200 processing fee at the time of submission for these permits. On May 9, 2007, the Director of Licensing for the TABC issued a letter opinion stating that municipalities do not have the authority to assess additional fees, such as service fees, in relation to an application for a permit. Therefore, our office recommends that the City Code be amended to repeal the processing fee for both types of permits and that the City refund processing fees that were collected from May 9, 2007, to date. Moreover, the proposed ordinance provides for the collection of a late hours permit fee.

RECOMMENDATION:

That the City Council adopt the proposed Ordinance.

- 13. Tabled Item: Discussion and Consideration of Appointments to Various City Boards/Commissions/Committees.**

ADMINISTRATIVE COMMENTS:

On June 30, various terms of office on the City's boards, commissions, and committees will be expiring. Those positions have been identified and current appointees notified. At the May 21, 2007, meeting, the City Council authorized Mayor Carey and Mayor Pro Tem Ueckert to conduct interviews for the existing vacancies.

RECOMMENDATION:

That the City Council proceed with the appointment process.

- 14. Consideration of Nominations to the North Central Texas Council of Governments Regional Transportation Council.**

ADMINISTRATIVE COMMENTS:

On June 4, 2007, Council nominated Councilman Rudy Durham to fill the remainder of former Councilman Mike Nowels' term on the North Central Texas Council of Governments Regional Transportation Council (RTC). Following Council's nomination, the NCTCOG re-evaluated the procedure for filling an unexpired term. They have now concluded that all cities in a "cluster group" (our cluster group includes Lewisville, Flower Mound, Highland Village, Corinth, Lake Dallas, Little Elm, and The Colony) should select the representative to fill the remainder of the term by the standard, weighted vote, which is the procedure used when a seat is originally filled. The number of votes per city is based on the maximum of the daytime or nighttime population of the cities represented. A nominee needs 127,975 votes to win. A representative is required to be selected by July 6, 2007.

RECOMMENDATION:

That the City Council designate Councilman Rudy Durham as their nominee to the North Central Texas Council of Governments Regional Transportation Council.

- 15. Consideration of Approval of the Southern Denton County Neighbor to Neighbor Program as the Exclusive Fund Raising Federation for the City of Lewisville.**

ADMINISTRATIVE COMMENTS:

The Southern Denton County (SDC) Neighbor to Neighbor is a newly established fund raising federation representing Lewisville area social service agencies. The Greater Lewisville United Way has previously been the exclusive fund raising federation for the City of Lewisville. Staff is requesting City Council direction in appointing a fund raising federation.

RECOMMENDATION:

That the City Council consider this issue.

H. **REPORTS:**

- Second Quarter Boards/Commissions/Committees Attendance Reports
- Official state designation of Lewisville Lake as "Urban Bass Fishing Capital of Texas"

I. **CLOSED SESSION:** In Accordance with Texas Government Code, Subchapter D, Section 551.072 (REAL ESTATE):

1. Property Acquisition

Section 551.087 (ECONOMIC DEVELOPMENT):

2. Deliberation Regarding Economic Development Negotiations

J. **RECONVENE** into Regular Session and Consider Action, if Any, on Items Discussed in Closed Session.

K. **ADJOURNMENT**

<p>The City Council reserves the right to adjourn into closed session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by <u>Texas Government Code</u> Section 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.087 (Economic Development).</p>
