

A G E N D A

**LEWISVILLE CITY COUNCIL MEETING
SEPTEMBER 10, 2007**

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

**WORKSHOP SESSION - 5:30 P.M.
REGULAR SESSION - 7:00 P.M.**

Call to Order and Announce a Quorum is Present.

WORKSHOP SESSION - 5:30 P.M.

- A. Arts Activity Center Design/Fire House 7 Design
- 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 Tierney
- B. **PLEDGE TO THE FLAG:** Councilman Durham
- C. **PRESENTATIONS:** Texas Municipal Library Directors Association 2006 Achievement of Excellence in Libraries Award.

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 a 4.19 Acre Tract Located Between Business S.H. 121 & Midway Road, West of Holford's Prairie Road, East of the Existing Holt Facility; Further Identified as Tract 10 of the S.M. Hayden Survey, Abstract 537; as Requested By Holt Texas Properties, With Authorization From the Current Property Owner, Bill Myers (Case No. PZ20070815).

ADMINISTRATIVE COMMENTS:

The property is surrounded mainly by Light Industrial (LI) and some Agricultural Open Space (AO). The East Lewisville Plan identifies this area and its surroundings to be best suited for Light Industrial and commercial uses. Currently, the portion of the property being zoned is vacant. The applicant, Holt Texas Properties, intends on expanding their current facility by approximately 40,000 sq. ft. Holt's current eastern property line abuts this property's western boundary. The zone change request is consistent with the Light Industrial in the area. Most of the surrounding property is commercial in nature. Light Industrial allows up to 10% of the lot to be used for outside storage when properly screened, not to be confused with display of equipment which is unlimited in Light Industrial. The Planning and Zoning Commission voted 7-0 in favor of the zone change request at their August 7, 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) to Light Industrial (LI).

PRESENTATION: Gene Lewis, Planning and Community Services Manager
Wayne Ferguson, Lewisville Chamber of Commerce
Economic Development Foundation

2. **Public Hearing:** Consideration of an Ordinance for a Zone Change Request From Light Industrial (LI) to Local Commercial (LC) on a 3.3 Acre Tract Located at 417 Oak Bend Drive; Further Identified as Lot 1, Block A of the Oak Bend and Rockbrook Addition; as Requested by Gary M. Simon, the Current Property Owner (Case No. PZ20070816).

ADMINISTRATIVE COMMENTS:

The existing Dimasys office building sits on property which is currently zoned Light Industrial (LI). The applicant plans on constructing a second office building on the site. Given the surrounding residential zoning to the south and west of this property, the preliminary drawings of the proposed office building indicate that the building will not have sufficient parking spaces. This is so because LI zoning requires a 50 foot rear setback when the property abuts residential property. No such requirement exists, however, with Local Commercial (LC) zoning if there is a screening wall between the commercial and residential properties. At present, there is a six foot masonry screening wall on the south side of this site. The applicant proposes to build the second office building at an angle approximately 50 to 155 feet from the residential property to its south. The zoning change will also allow more trees to remain on site because the applicant will not have to cut them down to create space for additional parking. LC zoning does not allow outside display or outside storage. The Planning and Zoning Commission voted 7-0 in favor of the zone change request at their August 7, 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 Light Industrial (LI) to Local Commercial (LC).

PRESENTATION: Gene Lewis, Planning and Community Services Manager
Allan Hill, ALH Architects

3. **Public Hearing: Consideration of an Ordinance to Tax Tangible Personal Property in Transit Which Would Otherwise be Exempt Pursuant to Texas Tax Code, Section 11.243.**

ADMINISTRATIVE COMMENTS:

In the 2007 session, the Texas Legislature passed HB 621, which provided for an exemption of certain inventory values, when that inventory meets certain “in-transit” requirements. While this is similar to the Freeport Exemption which has already been approved by the City, this new provision provides a method whereby nearly all inventory could become exempt property if the City does not take action. The Bill automatically goes into effect January 1, 2008, unless a taxing jurisdiction “opts-out” of the exemption or provides by official action the taxation of goods-in-transit. Once the taxation is approved by a taxing authority, it remains in effect until the taxing authority “ops-in” to allow the exemption. Based on the feedback from other area cities it appears that “opting-out” of the exemption is the direction most are going.

RECOMMENDATION:

That the City Council conduct a Public Hearing; and approve the ordinance to tax tangible personal property in transit which would otherwise be exempt pursuant to Texas Tax Code, Section 11.253.

4. **Public Hearing: Consideration of the Proposed FY 2007-2008 Budget, Property Tax Revenue Increase and Property Tax Rate.**

ADMINISTRATIVE COMMENTS:

In accordance with the City Charter and applicable state laws, a public hearing is scheduled for September 10, 2007 on the proposed FY 2007-2008 budget, property tax revenue increase and property tax rate to provide an opportunity for citizen comment. The proposed budget includes changes made by Council at the budget workshop held on August 18, 2007.

RECOMMENDATION:

That the City Council conduct the Public Hearing.

5. **Public Hearing: Consideration of the FY 2007-2008 Waters Ridge Public Improvement District (PID) No. 1 Assessment and Five Year Service Plan.**

ADMINISTRATIVE COMMENTS:

The expenditures for the FY 2007-2008 PID budget are \$10,516 which represents a reduction of \$9,284 from last year's budget. The major portion of the budget includes expenditures for mowing numerous times during the growing season. Lone Star Tractor Service, Inc., submitted the lowest bid and has been awarded the mowing contract for the upcoming fiscal year. The FY 2007-2008 assessment is recommended to be \$50.05 per acre of land which has remained stable for the past three years.

RECOMMENDATION:

That the City Council approve the FY 2007-2008 Waters Ridge Public Improvement District No. 1 assessment and five year service plan.

- 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.
 - 6. **APPROVAL OF MINUTES:** City Council Minutes of the August 20, 2007, Workshop Session and Regular Session.
 - 7. **Appointment of Library Board Member Carolyn Richard as North Texas Regional Library System Assembly Representative and Library Board Members Marcia De Avila and Joel Battle as Alternates.**

ADMINISTRATIVE COMMENTS:

The Lewisville Public Library is a member of the North Texas Regional Library System. Lay persons appointed as System Assembly Representative and Alternates vote on decisions regarding funding and services available to member libraries. Appointees must be able to attend meetings throughout the 22 counties of the North Texas Regional Library System.

RECOMMENDATION:

That the City Council appoint Carolyn Richard as the North Texas Regional Library System Assembly Representative and Marcia De Avila and Joel Battle as Alternate Assembly Representatives for the September 1, 2007-August 31, 2009 term.

- 8. Approval of Acceptance of a Texas Criminal Justice Division Victim Assistance Grant Award in the Amount of \$67,674; and Authorization for the City Manager or His Designee to Execute the Grant Document.**

ADMINISTRATIVE COMMENTS:

On April 2, 2007, the Police Department (with Council approval) applied for continued funding for one officer provided by the Texas Criminal Justice Division in accordance with the Victims of Crime Act Grant. The primary duties of the officer are to coordinate and manage services for victims of crimes, domestic violence, substance abuse, traumatic injury and death. The City's portion is projected to be \$22,558 consisting of \$21,558 in actual cash match and \$1,000 in-kind match. Part of the match has been appropriated within FY 2006/2007 funds. The balance of the match is budgeted in the FY 2007/2008 budget.

RECOMMENDATION:

That the City Council approve the acceptance of grant funding in the amount of \$67,674 for the Victim Services Program Grant from the Texas Criminal Justice Division; and authorize the City Manager or his designee to execute the grant document.

- 9. Approval of a Bid Award for the Dallas Water Supply Line No. 3 Phase 1 Project to Wright Construction Company, Inc., Grapevine, Texas, in the Amount of \$1,051,341.60; and Authorization for the City Manager to Execute the Contract.**

ADMINISTRATIVE COMMENTS:

A total of thirty (30) bid invitations were issued, including four (4) downloaded from DemandStar.com. Nine (9) bids were received and opened on August 23, 2007. This project consists of construction of a new 30-inch water line from the west side of FM 2281 along the Lewisville/Carrollton border to the proposed Midway Pump Station site. Funding is available in the Midway Pump Station Capital Project.

RECOMMENDATION:

That the City Council approve a bid award for the Dallas Water Supply Line No.3 Phase 1 Project to Wright Construction Company, Inc., Grapevine, Texas, in the amount of \$1,051,341.60; and authorize the City Manager to execute the contract.

- 10. Approval of a Resolution Denying the GRIP 4 Requested Surcharge by Atmos Mid-Tex.**

ADMINISTRATIVE COMMENTS:

On July 2, 2007, the City Council suspended the effective date of the GRIP 4 surcharge proposed by Atmos Mid-Tex. By law, all cities that suspended the effective date must take final action on or before September 13, 2007. After review of Atmos Mid-Tex's GRIP filing for the 2006 rate year, Lloyd Gosselink, legal counsel for the Atmos Gas cities, recommends that the City adopt a resolution denying the requested surcharge.

RECOMMENDATION:

That the City Council approve the resolution denying the GRIP 4 requested surcharge by Atmos Mid-Tex.

- 11. Approval of an Appropriation in the Amount of \$165,000 From General Capital Project Available Cash to the Drainage Improvement '07 Capital Project; and Approval of a Transfer in the Amount of \$138,709 From the Day Laborer Capital Project to the Drainage Improvement '07 Capital Project.**

ADMINISTRATIVE COMMENTS:

Drainage improvements for the Villas at Wellington subdivision are currently under construction at the northeast corner of Bellaire Boulevard and Valley Parkway. The City is participating in a portion of the drainage improvements to eliminate the Palisades storm sewer lift station. Drainage improvements on Decker Street and Lester Street are in design and will be moving into the construction phase in the near future. In addition, staff has developed a Professional Services Agreement to perform a drainage study within the Timbercreek drainage basin. Funding for the projects is recommended from an appropriation from the General Capital project available cash and from a transfer of funds from the Day Laborer capital project.

RECOMMENDATION:

That the City Council approve the appropriation in the amount of \$165,000 from General Capital Project Available Cash to the Drainage Improvement '07 capital project; and approve the transfer of \$138,709 from the Day Laborer Capital Project to the Drainage Improvement '07 Capital Project.

- 12. Approval of an Agreement for City Participation in the Villas at Wellington Subdivision for Removal of the Palisades Drive Drainage Lift Station and the Associated Oversizing of Storm Sewers in the Amount of \$160,611.75; and Authorization for the City Manager to Execute the Agreement.**

ADMINISTRATIVE COMMENTS:

The Villas at Wellington Subdivision located on the northeast corner of Bellaire Boulevard and Valley Parkway, is currently under construction. From the beginning of the project, staff has been working with the developers to eliminate the Palisades Drive Storm Sewer Lift Station located to the north of this proposed project. On April 16, 2007, the City Council approved a variance to provide City participation in the construction costs of a certain portion of the storm sewer associated with the offsite storm sewer lift station removal. As staff indicated when the variance was considered, removal of the lift station will also need to be funded by the City. The developer has submitted final costs for the downstream storm sewer participation and the lift station removal based on bids. The proposed costs have been reviewed by staff and authorization for payment must be approved by the City Council.

RECOMMENDATION:

That the City Council approve an agreement for City participation in the Villas at Wellington Subdivision for removal of the Palisades Drive Drainage Lift Station and the associated oversizing of storm sewers in the amount of \$160,611.75; and authorize the City Manager to execute the agreement.

- 13. Approval of a Professional Services Agreement With Halff Associates, Inc., in the Amount of \$72,600 for Engineering Services Relating to the Timber Creek Drainage and Erosion Study; and Authorization for the City Manager to Execute the Agreement.**

ADMINISTRATIVE COMMENTS:

Residents along Timber Creek have historically encountered flooding and erosion issues. The heavy rains during the past spring and summer caused additional erosion and damage to private property. The Timber Creek Drainage and Erosion Study is proposed to provide an analysis of drainage characteristics and erosion on Timber Creek from Valley Parkway to approximately 700 feet downstream of Edmonds Lane. Staff has negotiated a Professional Services Agreement with Halff Associates, Inc., in the amount of \$72,600 to include data collection, field surveys, a stream bank stability assessment, soils analysis, creation of new hydrologic and hydraulic models for Timber Creek, and will result in an assessment of erosion rates, future impacts of erosion, and a list of possible alternatives to address erosion along with the physical impacts, pros and cons and implementation cost for each alternative.

RECOMMENDATION:

That the City Council approve the Professional Services Agreement with Halff Associates, Inc., in the amount of \$72,600; and authorize the City Manager to execute the agreement.

- 14. Approval of Final Acceptance of the Valley Ridge Northeast 30-Inch Water Line; and Authorization to Make Final Payment to Wilson Contracting Services, L.L.C., in the Amount of \$61,000.23.**

ADMINISTRATIVE COMMENTS:

On February 5, 2007, the City Council awarded a contract to Wilson Contracting Services, L.L.C., in the amount of \$1,383,226.10 for the construction of the Valley Ridge Northeast 30-Inch Water Line Project. The work has been completed in accordance with the contract documents and it is now in order to formally accept the project and make final payment. The final payment in the amount of \$61,000.23 is available in the Valley Ridge Northeast 30-Inch Waterline Capital Project. The warranty period is two years from the date of final acceptance by the City Council.

RECOMMENDATION:

That the City Council accept the Valley Ridge Northeast 30-Inch Water Line Project; and authorize final payment in the amount of \$61,000.23 to Wilson Contracting Services, L.L.C.

- 15. Approval of the Termination of a Program Grant Agreement by and Between the City of Lewisville and Majestic Lewisville Partners II, L.P., a Delaware Limited Partnership, Dated December 18, 2006 (Property 18); Approval of a Program Grant Agreement by and Between the City of Lewisville and DFW Lewisville Partners, GP, a General Partnership (Property 18); Approval of the First Amendment to Two Program Grant Agreements by and Between the City of Lewisville and Majestic Lewisville Partners, L.P., a Delaware Limited Partnership, Dated December 18, 2006 (Property 13 & 15); Approval of the First Amendment to the Program Grant Agreement by and Between the City of Lewisville and Cobb Gifting Trust, Dated December 18, 2006 (Property 16); Approval of the Termination of the Program Grant Agreement by and Between the City of Lewisville and Cobb Gifting Trust, Dated December 18, 2006 (Property 17); and Authorization for the City Manager to Execute the Agreements.**

ADMINISTRATIVE COMMENTS:

In December of 2006, the City Council approved a series of Program Grant Agreements (PGA) for the cost sharing of Valley Parkway and Spinks Road. Each of the PGA's provides that the property owners will dedicate the area necessary to construct the public improvements and pay 50% of the cost of construction public infrastructure in exchange for the City paying the other 50%. As the project matures, a series of modifications are being presented to reflect changes in ownership, legal names and timing of construction. None of the modifications are substantive in nature but reflect changes in the process or responsibility of constructing the improvements.

RECOMMENDATION:

That the City Council approve the modifications to the Program Grant Agreements; and authorize the City Manager to execute the agreements.

G. REGULAR HEARINGS:

- 16. Consideration of an Ordinance Amending Chapter 8 of the Lewisville City Code Concerning Miscellaneous Offenses by Adding Clauses to Prohibit the Public Display of Facsimile Firearms and Making Other Minor Changes to Simplify the Ordinance.**

ADMINISTRATIVE COMMENTS:

Chapter 8 of the Lewisville City Code is proposed to be amended to define facsimile firearms and prohibit their public display in a manner that alarms or could alarm any person in a public place within the corporate limits of the city. In addition, Section 8-2, Firearms in City Buildings, is eliminated and changes are incorporated into Section 8-1 to address carrying of firearms in city buildings in accordance with state law.

RECOMMENDATION:

That the City Council adopt the proposed ordinance.

H. REPORTS:

**AGENDA
LEWISVILLE CITY COUNCIL
SEPTEMBER 10, 2007**

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

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 Texas Government Code 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).