

**A G E N D A**

**LEWISVILLE CITY COUNCIL MEETING  
DECEMBER 1, 2008**

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

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

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Call to Order and Announce a Quorum is Present.

**WORKSHOP SESSION – 6:00 P.M.**

- A. Lewisville Center for Creative Arts
- B. IH-35E Expansion Review
- C. Discussion of Regular Agenda Items and Consent Agenda Items

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

- A. **INVOCATION:** Councilman Greg Tierney
- B. **PLEDGE TO THE FLAG:** Deputy Mayor Pro Tem Watts
- C. **PUBLIC HEARING:** Consideration of an Ordinance Establishing Reinvestment Zone Number Thirty-Five (35) for Lakeview Rehabilitation Hospital Real Estate, LP, Being a 4.00 Acre Tract, Situated in the Stephen Riggs Survey, Abstract No. 1088, Denton County, Texas; Said Tract Being Part of a Called 71.897 Acre Tract Described in Deed to Alpha-Republic Investments, Ltd.; Consideration of a Resolution Providing the Terms and Conditions of an Tax Abatement Agreement Between the City of Lewisville, Texas, and Lakeview Rehabilitation Hospital Real Estate, LP; and Authorization for the City Manager to Execute the Agreement.

**ADMINISTRATIVE COMMENTS:**

Renovo Healthcare is a developer of rehabilitation hospital facilities that is partnering with Imperium Holdings to develop a 40-bed rehabilitation hospital and ancillary facilities. They have identified the property southwest of Interstate 35E and FM 407, known as the Ken Wood Property, as the center of market demand for this type of development. The economic performance measures for the project include a minimum average of eighty (80) employees over the six (6) year term, a minimum payroll average of \$3,600,000 over the six (6) year term, and a minimum initial investment of \$10,200,000. Other performance measures for the agreement include an annual community support donation of \$5,000.

**RECOMMENDATION:**

That the City Council approve the ordinance establishing Reinvestment Zone Number Thirty-Five (35); approve the resolution providing the terms and conditions of a Tax Abatement Agreement between the City of Lewisville, Texas, and Lakeview Rehabilitation Hospital Real Estate, LP; and authorize the City Manager to execute the agreement.

**PRESENTATION:** Elizabeth Trospen, Economic Development Specialist  
Stephen Schattner, Renovo Healthcare

- D. **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.
- E. **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.
1. **APPROVAL OF MINUTES:** City Council Minutes of the November 17, 2008, Workshop Session and Regular Session.
  2. **Approval of Two Program Grant Agreements by and Among the City of Lewisville, Highpoint Oaks, Ltd., and Various Robert B. Payne-Related Entities and by and Among the City of Lewisville and Various Robert B. Payne-Related Entities; and Authorization for the City Manager to Execute the Agreements.**

**ADMINISTRATIVE COMMENTS:**

Staff has been working to make improvements to infrastructure connectivity in Southwest Lewisville through the linking of Vista Ridge Mall Drive and Edmonds Lane at State Highway 121 Business. The General Development Ordinance requires that infrastructure improvements benefiting a property be constructed by the owner at the time of development. Because of the perceived benefit of the roadway connection, the City resolved to pursue construction of the roadway at its own cost as an economic development effort. The first Program Grant Agreement (PGA) among the City, Highpoint Oaks, Ltd. and various Robert B. Payne-related entities covers the terms of a right-of-way acquisition from other parties and subsequent conveyance to the City. The second PGA among the City and various Robert B. Payne-related entities covers the terms of the exchange of the City-owned parcel west of Edmonds Lane for the portion of right-of-way located on the Payne property. This agreement includes an additional provision to abandon the prescriptive roadway dividing the Payne and adjacent premises. Both agreements provide for dedication of right-of-way for Vista Ridge Mall Drive and subsequent construction by the City.

**RECOMMENDATION:**

That the City Council approve the two Program Grant Agreements by and among the City of Lewisville, Highpoint Oaks, Ltd. and various Robert B. Payne-related entities and by and among the City of Lewisville and various Robert B. Payne-related entities; and authorize the City Manager to execute the agreements.

- 3. Approval of a Resolution for the Acceptance of a Grant From the Texas Department of Transportation for the Traffic Safety Program; Approval of a Supplemental Budget Appropriation to the Grant Fund in the Amount of \$10,002; and Authorization for the City Manager or His Designee to Execute the Grant Agreement.**

**ADMINISTRATIVE COMMENTS:**

The Texas Department of Transportation is awarding the City of Lewisville \$10,002 in grant funds. The grant will enable the City to conduct a DWI enforcement program during selected holiday periods. Officers working on this program will be paid at their overtime rate. The grant will also pay for training and enforcement mileage at a formulated rate of \$1.76 per mile. These expenses are 100% reimbursable.

**RECOMMENDATION:**

That the City Council approve the resolution to accept the Texas Department of Transportation Grant Award; approve the supplemental budget appropriation in the amount of \$10,002; and authorize the City Manager or his designee to execute the grant agreement.

- 4. Approval of a Supplemental Appropriation to the Grant Fund in the Amount of \$310,999 for Completion of Fiscal Year 2008 Community Development Block Grant Projects.**

**ADMINISTRATIVE COMMENTS:**

A supplemental appropriation is requested to complete Community Development Block Grant (CDBG) projects already underway or budgeted from the last fiscal year. The CDBG Advisory Committee and City Council already approved each project included in the 2007 Annual Action Plan and Amendments. This action is needed to carry unspent funds forward from the prior fiscal year. The supplemental appropriation would allocate \$29,735 to the First-time Homebuyer Program, \$239,264 to the Edna-Charles Street Improvements Project and \$42,000 to the Children's Advocacy Center Facility Project.

**RECOMMENDATION:**

That the City Council approve the supplemental appropriation in the amount of \$310,999.

- 5. Approval of a Resolution Supporting the Texas Recreation and Parks Account and the State Park System.**

**ADMINISTRATIVE COMMENTS:**

The attached resolution requests members of the 81st Legislature support increased funding for the Texas Recreation and Parks Account (TRPA) and for the Texas State Park System. The resolution also requests support to insure that all grants funded through the TRPA be subject to the competitive scoring system managed by the Texas Parks and Wildlife Department.

**RECOMMENDATION:**

That the City Council approve a resolution that supports the Texas Recreation and Parks Account (TRPA) and Texas State Park System.

- 6. Acknowledgement of the Waste Management 2009 Cost of Service Rates for Residential Solid Waste/Recycling and Commercial Solid Waste Collection and Disposal Services.**

**ADMINISTRATIVE COMMENTS:**

In January, 2004, Council entered into an agreement with Waste Management of Texas, Inc., to provide solid waste services. The agreement authorizes an annual cost of service adjustment based upon Consumer Price Index (CPI). The CPI adjustment for 2009 is 5.7%, which is above the 5% agreement maximum; therefore, 5% is applied to the collection component of the rate structure. The new cost of service rates will be effective January 1, 2009.

**RECOMMENDATION:**

That the City Council acknowledge the Cost of Service Rate increase for solid waste collection and disposal services.

**F. REGULAR HEARINGS:**

- 7. Consideration of the Final Plat for Castle Hills, Phase VI, a Sections B & C, a 35.35 Acre Tract Designated Townhouse Two (TH-2), With 233 Residential Lots and Four Common Area Lots, Located on the South Side of SH 121 Between Essex Boulevard and Standridge Drive, and Both North and South of Windhaven Parkway; and Consideration of Eleven Variances to the Castle Hills Development Agreement as Requested by TRC Solutions, Inc., Representing the Property Owner.**

**ADMINISTRATIVE COMMENTS:**

Castle Hills is located in Lewisville's Extraterritorial Jurisdiction (ETJ) and, by the agreement put in place in 1996, is subject to be developed according to Lewisville's General Development Ordinance and Zoning Ordinance. City Council approved the first six variances with the preliminary plat and the original final plat. Since that time the home builder for Sections B & C is no longer involved with the project and Castle Hills has been unable to find a builder to develop the lots as currently configured. Castle Hills, however, has found two home builders who wish to develop the site with the proposed new lot configuration. The original lot layout was for attached townhomes while the new lot layout is for a detached product. In light of these changes to the site the previously approved variances are no longer valid. The developer is requesting the same six variances plus five additional variances. The Planning and Zoning Commission, at their November 18, 2008 meeting, voted 7-0 to recommend in favor of the final plat and the requested variances.

**RECOMMENDATION:**

That the City Council approve the final plat and requested variances 1-6 and 8-11 and consider variance 7.

**PRESENTATION:** Gene Lewis, Planning and Community Services Manager  
Eric Stanley, Castle Hills Development Company

- 8. Consideration of a Variance to the Lewisville City Code, Section 6-95(b) Regarding Water and Sanitary Sewer Easement Setbacks; and Consideration of a Conceptual Variance to the Lewisville City Code, Section 6-98(d)(2)(b) Regarding Paving Over a Waterline Easement for a Project Located on Both Sides of Vista Drive, North of Round Grove Road, as Requested by Steve Homeyer, P.E., Representing the Owner.**

**ADMINISTRATIVE COMMENTS:**

The subject site is zoned Local Commercial (LC) and is located on both sides of Vista Drive north of Round Grove Road. An office park is proposed for the site. Staff is currently reviewing a final plat for the entire property on both sides of Vista Drive and an engineering site plan for the portion east of Vista Drive. A site plan has not been submitted for review on the west side of Vista Drive. The applicant has requested a variance for the property east of Vista Drive to reduce the required building set back adjacent to a waterline easement from 10 feet to 5 feet and has requested a conceptual variance for the property on the side west of Vista Drive to allow parking lot pavement to encroach into the 15-foot waterline easement.

**RECOMMENDATION:**

That the City Council deny the requested variances.

**PRESENTATION:** T. S. Kumar, P.E., City Engineer  
Steve Homeyer P.E., Homeyer Engineering, Inc.

- 9. Consideration of a Resolution Opposing the Continued Preemption of Municipal Regulation of Certain Intra-State Gas Utilities; Urging Legislative Action to Permit Greater Local Regulatory Oversight; and Providing an Effective Date.**

**ADMINISTRATIVE COMMENTS:**

On July 14, 2008, the Town of Dish passed a resolution requesting the Texas State Legislature give a municipality greater authority over natural gas midstream pipeline companies. They notified approximately 100 other Barnett Shale cities requested that they also pass a similar resolution. At this time, over twenty cities, including the City of Fort Worth, as well as the Texas Municipal League have joined Dish in passing the resolution. Under the present Texas law, gas companies are able to create public utility companies, with the power to condemn property for installation of their lines. This can result in duplicative and redundant pipeline networks causing unnecessary fragmentation of land and creation of unusable slivers of land. This resolution requests that the Texas State Legislature give cities more regulatory authority in these matters.

**RECOMMENDATION:**

That the City Council approve the resolution.

- 10. Consideration of an Ordinance Approving Participation in the CAPP Long-Term Power Purchase Agreement; and Authorization for the City Manager to Execute the Acknowledgements and Contracts.**

**ADMINISTRATIVE COMMENTS:**

The City is a member of the Cities Aggregation Power Project ("CAPP"), a non-profit political subdivision corporation aggregator. The attached ordinance commits the City to purchasing electric power for a portion of its annual energy needs (approximately 70%) through the CAPP Power Purchase Agreement (PPA) for 24 years by paying the proportionate share of CAPP's debt issuance for prepaid capacity from Luminant, et al. and to pay a capacity payment equal to its proportionate amount of the debt service obligation associated with CAPP's prepayment of PPA capacity costs. The ordinance approves the Energy Sales Contract between CAPP and the City (the "Member Contract") and authorizes the City officers and employees as may be appropriate to take all actions necessary to carry out the terms of this ordinance and the Member Contract. Among the documents is a Disclosure Acknowledgement detailing risks and considerations of the long term agreement.

**RECOMMENDATION:**

That the City Council consider the ordinance; and authorize the City Manager to execute the necessary acknowledgements and contracts.

- 11. Consideration of an Ordinance Amending the Lewisville City Code, Chapter 2, Article VIII, Section 2-201, Fee Schedule Related to Solid Waste Rates.**

**ADMINISTRATIVE COMMENTS:**

On January 26, 2004, Waste Management entered into an agreement to provide residential and commercial solid waste collection. The agreement allows for cost of service increase based upon the Dallas Fort Worth Urban Consumer Price Index. The CPI adjustment for 2009 is 5%. The rate increase is effective January 1, 2009. Although the rate increase to Waste Management is by contract, the City must set the customer rates for residential and commercial customers. Staff recommends increasing customer rates to correspond to the CPI cost of service increase of 5%. Residential rates will increase from \$ 11.12 to \$11.44.

**RECOMMENDATION:**

That the City Council adopt the ordinance.

- 12. Consideration of an Ordinance Amending Chapter 15, Section 15-104(a), of the Lewisville City Code; Restricting Operation of Trucks With More Than Two Axles From Certain Portions of Purnell Street.**

**ADMINISTRATIVE COMMENTS:**

The section of Purnell Street from Mill Street to Interstate Highway 35E was included as a candidate roadway in the report "Lewisville Truck Prohibition Study," performed by Kimley-Horn and Associates and presented to the City Council by Wayne Kurfees at the Council workshop on September 15, 2008. Council took action to prohibit trucks on several of the candidate roadways during the November 17<sup>th</sup> Council meeting and asked Staff to prepare an ordinance for consideration, to further include this section of Purnell Street.

**RECOMMENDATION:**

That the City Council approve the ordinance restricting the operation of trucks with more than two axles on Purnell Street from Mill Street to Interstate Highway 35E.

**PRESENTATION:** T. S. Kumar, P.E., City Engineer

- 13. Consideration of Direction to Staff Regarding Regulation of Electronic Reader Board Signs (as Requested by Councilman Ueckert).**

**ADMINISTRATIVE COMMENTS:**

The Lewisville City Code was amended on March 5, 2007 with the current sign ordinance. The sign ordinance specifically prohibits a flashing, scrolling or animated sign, or sign with intermittent or varying intensity of illumination or color, whether deliberate or as a consequence of a defect in the sign or the illumination source, except for a sign indicating the time, date, and temperature. Recently, the City Council has had several requests to provide variances allowing these types of prohibited signs. Council may wish to provide direction to staff regarding possible amendments to the Sign Ordinance for this type of sign.

**RECOMMENDATION:**

That the City Council provide direction to staff.

- 14. Second Reading: Consideration of Three Ordinances Amending the Lewisville City Code, Section 15-104(a) for Additional Truck Prohibitions on Certain Streets.**

**ADMINISTRATIVE COMMENTS:**

At the November 17, 2008, City Council meeting, the Council approved the subject ordinances. However, due to the lack of a 4/5's vote by the Council to adopt the ordinances on an emergency basis, the ordinances have to be read on three separate days to meet the City Charter requirements. This will be the second reading.

**RECOMMENDATION:**

That the City Attorney provide the second reading of the ordinances.

- 15. Consideration of Names for the Denton County Transportation Authority (DCTA) "A-Train" Stations Within Lewisville.**

**ADMINISTRATIVE COMMENTS:**

Denton County Transportation Authority (DCTA) is moving forward with plans for a regional rail line. One of the rail stations is to be located at the intersection of Garden Ridge Boulevard and IH35E, inside the city limits of Lewisville. The proposed name for this station has been “Lewisville Lake” station. On November 11, 2008, the City of Highland Village passed a resolution proposing the name of this station be changed to “Highland Village/Lewisville Lake” station. Council input is requested regarding the possible renaming of the station. In addition to considering “Highland Village/Lewisville Lake” station other alternative names for this station as well as other stations in Lewisville may be considered.

**RECOMMENDATION:**

That the City Council consider the names for the DCTA stations in Lewisville and provide direction to staff.

- 16. Consideration of Waiving the Third Floor Rental Fee for the Lewisville Area Chamber of Commerce Women’s Division Breakfast Event on December 4, 2008.**

**ADMINISTRATIVE COMMENTS:**

The Lewisville Area Chamber of Commerce Women’s Division conducts an alternating breakfast and lunch meeting every month. Their December breakfast is scheduled for December 4, 2008 and will include a presentation given by City staff on the annual Holiday at the Hall Event. Rental of the third floor is \$150 an hour with a two hour minimum along with a \$500 deposit. They would like to hold their breakfast on the third floor to highlight Holiday at the Hall in Old Town and are requesting that the rental fee for this event be waived; however, they will be submitting payment for the deposit.

**RECOMMENDATION:**

That the City Council consider waiving the third floor rental fee for the Lewisville Area Chamber of Commerce Women’s Division Breakfast Event on December 4, 2008.

- 17. Consideration of an Alternate Representative to the Regional Transportation Council.**

**ADMINISTRATIVE COMMENTS:**

The North Central Texas Council of Government (NCTCOG) recently notified staff of changes to the Regional Transportation Council (RTC) bylaws. These changes include revisions to the membership structure based on population changes. Under this new structure, Lewisville shares a seat with the cities of Flower Mound, The Colony, Trophy Club and Roanoke. In addition, a new provision was added to permit each seat on the RTC to have an alternate member that can attend meetings and vote in the absence of the primary member. The NCTCOG has asked that each City notify them of their primary and alternate member selection. At the November 17, 2008, City Council meeting, Council confirmed Councilman Durham for the primary seat. The City Council should consider selection of the alternate member.

**RECOMMENDATION:**

That the City Council consider selection of an alternate member for the Regional Transportation Council.

- G. **REPORT:** Holiday at the Hall
- H. **CLOSED SESSION:** In Accordance with Texas Government Code, Subchapter D,
  - 1. Section 551.072 (Real Estate): Property Acquisition
  - 2. Section 551.087 (Economic Development): Deliberation Regarding Economic Development Negotiations
- I. **RECONVENE** into Regular Session and Consider Action, if Any, on Items Discussed in Closed Session.
- J. **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>
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