

**A G E N D A**

**LEWISVILLE CITY COUNCIL MEETING  
APRIL 6, 2009**

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

**WORKSHOP SESSION - 6:30 P.M.  
REGULAR SESSION - 7:00 P.M.**

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Call to Order and Announce a Quorum is Present.

**WORKSHOP SESSION - 6:30 P.M.**

- A. Discussion of Regular Agenda Items and Consent Agenda Items

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

- A. **INVOCATION:** Mayor Pro Tem Thornhill
- B. **PLEDGE TO THE FLAG:** Councilman Durham
- C. **PROCLAMATIONS:**
1. Declaring the Week of April 12-18, 2009, as “National Library Week”;
  2. Declaring the Week of April 13-17, 2009, as “National Public Safety Telecommunicators Week”.
- D. **PRESENTATION:** Presentation of the Texas Recreation and Parks Society “Leisure and Aging Branch Outstanding Professional Award” to Ruth Tidwell.

**E. PUBLIC HEARINGS:**

- 1. Public Hearing: Consideration of an Ordinance for a Zone Change Request From Multi-Family One (MF-1) to Public Use (PU) on a 9.265 Acre Tract Located at the Southside of Lakeside Circle South of Hebron Parkway; Further Identified as Lakepointe Phase III, Lot 1A, Block F; as Requested by the Denton County Transportation Authority (Case No. PZ20090304).**

**ADMINISTRATIVE COMMENTS:**

This property was acquired by the Denton County Transportation Authority (DCTA) to provide one of three rail stops in Lewisville. Although public governmental agency uses are permitted in all zoning districts, the Public Use zoning district better reflects the actual proposed use for this site. The site is next to three existing apartment complexes on Lakeside Circle and it is directly adjacent to the newly zoned mixed use development proposed by Huffines Communities. The proposed DCTA site will include a park and ride facility and rail platform. Only the park and ride facility will be located on this lot. The actual platform will be located on railroad right-of-way adjacent to this lot. The Planning and Zoning Commission recommended approval of the zoning request on a vote of 7-0 at their February 3, 2009 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 Multi-Family One (MF-1) to Public Use (PU).

**PRESENTATION:** Gene Lewis, Planning and Community Services Manager  
Karl Crawley, Masterplan Consultants

2. **Public Hearing: Consideration of an Ordinance Establishing Reinvestment Zone Number Thirty-Six (36) for Orthofix, Inc., Being a 8.796 Acre Tract of Land in the T.A. West Survey, Abstract No. 1344, Denton County, Texas, and Also Being a Portion of Lot 1R, Block A of the Austin Ranch West Addition and in Accordance With the Plat Filed in Cabinet U, Page 690 of the Plat Records of Denton County; Consideration of a Resolution Providing the Terms and Conditions of a Tax Abatement Agreement By and Between the City of Lewisville, Texas, and Orthofix, Inc.; and Authorization for the City Manager to Execute the Agreement.**

**ADMINISTRATIVE COMMENTS:**

In January of this year, staff began incentive negotiations with site selection consultant, JacksonCooksey, regarding potential relocation of medical device manufacturing company, Orthofix, Inc., currently located in McKinney. The prospect would benefit the City of Lewisville by adding an estimated \$168,000 in development fee revenue, and an estimated additional \$695,600 in property tax revenues over the next 10 years. Performance measures in the agreement include a minimum initial investment of \$34.2 million in real and personal property value, a minimum annual payroll of \$14 million, a minimum construction and occupancy requirement of 140,000 square feet, a minimum community support donation of \$10,000, and a minimum employment of 315 full time equivalents.

**RECOMMENDATION:**

That the City Council approve the ordinance establishing Reinvestment Zone Number Thirty-Six (36); approve the resolution providing the terms and conditions of a Tax Abatement Agreement by and between the City of Lewisville, Texas, and Orthofix Inc.; and authorize the City Manager to execute the agreement.

3. **Public Hearing: Consideration of Condemnation of the Structures Located at 339 East College Street, A1167A E. Sutton, Tract 19, Lewisville, Texas.**

**ADMINISTRATIVE COMMENTS:**

The Building Official has deemed the structures located at the property known by the legal description of 339 East College Street, A1167A E. Sutton, Tract 19 as substandard. The owners of record are Jose and Maria Sanchez. The main structure is an older residential structure and recently had a two story addition constructed over it. The owners did not apply for permits and there are no architectural drawings or engineering of the addition. Proper notification and procedures by the City has been accomplished without an acceptable response; however, additional publication in the paper of record is required. The Lewisville City Code requires that a public hearing be held in order for the City Council to determine if the structures are substandard.

**RECOMMENDATION:**

That the City Council table this item to the April 20, 2009, City Council meeting to allow for additional publication in the City's paper of record.

**PRESENTATION:** Eric Ferris, Director of Community Development

- F. **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.
- G. **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:**

- a. **City Council Minutes of the February 5-7, 2009, Called-Special Retreat Workshop Session; and**
- b. **City Council Minutes of the March 16, 2009, Workshop Session and Regular Session.**

- 5. Approval of a Supplemental Appropriation from General Capital Projects Cash to the Southwest Lewisville Capital Project in the Amount \$5,851,240; and Approval of a Supplemental Appropriation From Developer Escrows to the Southwest Lewisville Capital Project in the Amount of \$1,970,038.**

**ADMINISTRATIVE COMMENTS:**

The bid award for new roads in Southwest Lewisville including ValleyParkway from FM 3040 south to SH 121 Business; and Spinks drive from Duncan Lane to Edmonds Lane is on tonight's agenda. This is a project funded jointly by Denton County and property owners. The City received \$1,054,467 in February from Denton County as reimbursement for funds spent on the construction of a portion of Spinks Drive. This segment of Spinks Drive was constructed by Majestic Realty Company through a Program Grant Agreement with the City. An additional \$4,796,773 is anticipated in Denton County funding. Contributions from property owners and accrued interest amount to \$2,970,038, \$1,000,000 of which has already been appropriated leaving \$1,970,038 to be appropriated at this time.

**RECOMMENDATION:**

That the City Council approve the supplemental appropriations to the Southwest Lewisville Capital Project.

- 6. Approval of a Bid Award for the Southwest Lewisville Infrastructure Improvements to JRJ Paving, LP., Dallas, Texas, in the Amount of \$7,658,708.82; and Authorization for the City Manager to Execute the Contract.**

**ADMINISTRATIVE COMMENTS:**

A total of fifty-seven (57) bid invitations were downloaded from BidSync.com. Nine (9) bids were received and opened February 19, 2009. This project consists of the extension of Valley Parkway from FM 3040 to Hwy 121 and Spinks Road from Duncan Lane to the existing terminus near the Majestic property. Funding is available in the Southwest Lewisville Capital Project.

**RECOMMENDATION:**

That the City Council approve a bid award for the Southwest Lewisville Infrastructure Improvements to JRJ Paving, LP., Dallas, Texas, in the amount of \$7,658,708.82; and authorize the City Manager to execute the contract.

- 7. Approval of Bid Awards for Annual Requirements Contracts for Water and Wastewater Treatment Chemicals for Public Services to General Chemical in the Amount of \$168,360, Chemical Lime Company in the Amount of \$26,938, Harcros Chemicals in the Amount of \$16,875, Airgas in the Amount of \$20,720, and FSTI in the Amount of \$18,800 for a Total Annual Estimated Amount of \$251,693.**

**ADMINISTRATIVE COMMENTS:**

A total of fifty (50) bid invitations were downloaded from BidSync.com. Eleven (11) bids were received and opened on March 25, 2009. These chemicals are used for the treatment and disinfection processes for both Water and Wastewater. The term of the contracts will be twelve months, with options to extend for up to two (2) additional twelve month periods. Funding is available Utility Fund Public Services operating budget.

**RECOMMENDATION:**

That the City Council approve bid awards for annual requirements contracts for Water and Wastewater Treatment Chemicals for Public Services to General Chemical in the amount of \$168,360, Chemical Lime Company in the amount of \$26,938, Harcros Chemicals in the amount of \$16,875, Airgas in the amount of \$20,720, and FSTI in the amount of \$18,800 for a total annual estimated amount of \$251,693.

- 8. Approval of Revisions to Administrative Policies 2.12.1 – Vacation; 2.12.2 –Holiday; and 2.7.2 – Base Pay.**

**ADMINISTRATIVE COMMENTS:**

The Human Resources Department staff has completed a review of all Human Resources Administrative Policies to ensure compliance with changes in the law and in personnel practices. Staff proposes minor revision to several policies, which include: Administrative Policy 2.12.1, Vacation - removes the limitation that vacation can only be used in 30 minute increments, which can now be administered with current payroll software; Administrative Policy 2.12.2, Holiday - Policy was revised in 1995 to allow holidays to accrue on the first day of the pay period. However, one reference to this accrual change was not corrected in 1995 creating a conflict within the policy; and Administrative Policy 2.7.2, Base Pay - When hiring department directors, the City must offer a competitive benefits package to hire quality candidates. This provides flexibility related to benefit package offers comparable to what is already allowed in relation to salary.

**RECOMMENDATION:**

That the City Council approve changes to Administrative Policies 2.12.1 – Vacation; 2.12.2 –Holiday; and 2.7.2 – Base Pay.

- 9. Approval of the Capital Improvements Advisory Committee Semi-Annual Report for the Period of April 1, 2008 Through September 30, 2008.**

**ADMINISTRATIVE COMMENTS:**

The Semi-Annual Report is to provide information on the progress of the Capital Improvements Plan associated with the Impact Fee Program and the Land Use Assumption Plan. In accordance with the Local Government Code, Section 395, the Capital Improvements Advisory Committee has reviewed the Semi-Annual Report and is recommending Council approval.

**RECOMMENDATION:**

That the City Council approve the Semi-Annual Report for the period of April 1, 2008 through September 30, 2008.

- 10. Approval of a Program Grant Agreement by and Between the City of Lewisville and Roberts Sisters Partnership; and Authorization for the City Manager to Execute the Agreement.**

**ADMINISTRATIVE COMMENTS:**

Staff has been working on an infrastructure connection in Southwest Lewisville linking Vista Ridge Mall Drive and Edmonds Lane at State Highway 121 Business. On December 1, 2008, the City Council approved two Program Grant Agreements (PGAs) between Payne and Realty Capital arranging for purchase of the Sloan right-of-way, abandonment of a 20-foot prescriptive road, and the exchange of a City-owned property for the Payne right-of-way. The proposed PGA is largely provisions in which the City has already committed in the Payne and Realty Capital agreements, and also pertains to timing of the project, median openings, curb cuts and signalization.

**RECOMMENDATION:**

That the City Council approve the Program Grant Agreement; and authorize the City Manager to execute the agreement.

- 11. Approval of Resolutions Approving the Acquisition of Certain Property in the City by the Denton County Transportation Authority Through the Right of Eminent Domain.**

**ADMINISTRATIVE COMMENTS:**

Pursuant to State law, DCTA has formally requested that the City approve DCTA's right of eminent domain to secure a 1.111 acre tract of land owned by James S. Buxton, Jr. situated in the Peter K. Wagner Survey, Abstract No. 1342, Denton County, Texas and a 1.432 acre tract of land owned by Slalom, Ltd. situated in the Peter K. Wagner Survey, Abstract No. 1342, Denton County, Texas. (Generally located along the service road of the northbound side of I-35-E south of Garden Ridge overpass.) The site will be used for DCTA's Highland Village/Lewisville Lake rail station.

**RECOMMENDATION:**

That the City Council approve the resolutions.

- 12. Approval of an Electric Utility Easement to Texas New Mexico Power Company (TNMP) on City Property for the Installation of a Street Light on Sylvan Creek Bend and Associated Underground Conduit and Appurtenances Along the North West Property Line of Iris Lane Park; and Authorization for the City Manager to Execute the Easement Document.**

**ADMINISTRATIVE COMMENTS:**

The Public Services Department received a request from a resident in the 800 block of Sylvan Creek Drive for additional street lighting. Staff determined that street light spacing on Sylvan Creek Drive near Iris Lane Park was not consistent with spacing standards in the General Development Ordinance and sent a request to Texas New Mexico Power Company. Texas New Mexico Power Company indicated that a 10-foot wide easement within Iris Lane Park would be required to install the street light and underground conduit. City staff has prepared the easement document and the document has been reviewed and approved as to form by Texas New Mexico Power Company, the City Attorney's Office and the Parks and Leisure Services Department.

**RECOMMENDATION:**

That the City Council approve the easement; and authorize the City Manager to execute the easement document.

- 13. Approval of the Reappointment of Steven L. Bacchus as the City of Lewisville Representative on the Upper Trinity Regional Water District (UTRWD) Board of Directors.**

**ADMINISTRATIVE COMMENTS:**

Steve Bacchus presently serves as the City of Lewisville Representative on the UTRWD Board of Directors. His term will be expiring on May 31, 2009. Reappointment will be for a four year period.

**RECOMMENDATION:**

That the City Council approve the reappointment of Steven L. Bacchus as the City of Lewisville representative on the UTRWD Board of Directors.

**H. REGULAR HEARINGS:**

- 14. Tabled Item: Consideration of an Ordinance Amending the Lewisville City Code, Article XVIII, Section 7-601 Through 7-619 Regulating the Drilling and Production of Oil and Gas Wells Within the City of Lewisville by Providing Additional Landscaping and Fencing Requirements, Changing Noise Regulations, and Other Related Matters.**

**ADMINISTRATIVE COMMENTS:**

This item was tabled at the March 2 and March 16 City Council meetings. Also at the March 16<sup>th</sup> meeting, staff was directed to implement a 30-day comment period on the proposed revisions. This period will run through April 22, but some comments have already been received and evaluated. In addition to the changes originally proposed, staff has made some new modifications based on the comments received to date. These new changes provide clarification to wording in the ordinance, tighten the time allowed for violations to be corrected, clarify distance measurement criteria for parks, and add a requirement for a pressure gauge to detect underground leaks.

**RECOMMENDATION:**

That the City Council approve the ordinance amending the Lewisville City Code Article XVIII Sections 7-601 through 7-619 regulating the drilling and production of oil and gas wells within the City.

**PRESENTATION:** Eric Ferris, Community Development Director

- 15. Consideration of a Request for Two Variances to the Lewisville City Code - Chapter 6, Land Development Relating to a Proposed Engineering Site Plan for the New Delay Middle School (Formerly Milliken), Located on the West Side of Savage Drive, North of Lake Park Road as Requested by G&A Consultants Representing Lewisville Independent School District.**

**ADMINISTRATIVE COMMENTS:**

The Lewisville Independent School District intends to re-open the former Milliken Middle School replacing Delay Middle School. A new engineering site plan is required to comply with the current General Development Ordinance. On March 2, 2009 the City Council granted two variances and denied two variances. Since the March 2, 2009 City Council Meeting, LISD has revised the proposed site plan to provide additional parking on the site and is applying for two similar, but different, variances: 1) to reduce the number of additional required parking spaces for the site; 2) to allow more than 2 cubic feet per second of drainage runoff per driveway to flow into Savage Lane.

**RECOMMENDATION:**

That the City Council approve the requested variances.

**PRESENTATION:** David Salmon, P.E., Assistant City Engineer  
Von Beougher, P.E., G & A Consultants, Inc.

- 16. Consideration of an Agreement to Participate in Tax Increment Reinvestment Zone Number Two, Between the City of Lewisville and Denton County, and Authorization for the City Manager to Execute the Agreement.**

**ADMINISTRATIVE COMMENTS:**

The agreement to participate in Tax Increment Reinvestment Zone Number Two, (an approximate 427 acre site located at the intersection of IH-35 and SH 121 adjacent to the upcoming DCTA rail stop) between the City of Lewisville and Denton County, establishes the terms and limitations in which the City and County will participate in the zone. The agreement covers duration and participation, increment participation by each taxing authority, bond limit, use of funds, deposit and collection of funds, limit of obligation by the county and county board representation.

**RECOMMENDATION:**

That the City Council approve the agreement to participate in Tax Increment Reinvestment Zone, Number Two between the City of Lewisville and Denton County; and authorize the City Manager to execute the agreement.

**PRESENTATION:** Nika Reinecke, Economic Development Director

- 17. Tabled Item: Consideration of an Appointment to Place No. 3 on the Library Board.**

**ADMINISTRATIVE COMMENTS:**

At the March 16, 2009, City Council meeting, Council accepted the resignation of Marcia DeAvila from the Library Board. The resignation of Marcia DeAvila has created a vacancy in Place No. 3 of the Library Board. The City Council will need to consider a new appointment to fill the vacancy in Place No. 3.

**RECOMMENDATION:**

That the City Council consider an appointment to fill the vacancy created by the resignation of Marcia DeAvila from the Library Board.

- 18. Consideration of a Request For a Variance to the Lewisville City Code, Article VIII, Off Street Parking, for Temporary Event Parking Located at the Southeast Corner of FM 3040 and Duncan Lane, as Requested by the Town of Flower Mound.**

**ADMINISTRATIVE COMMENTS:**

The Town of Flower Mound is hosting an event titled "Wild About Flower Mound" on April 17, 2009 through April 18, 2009. The event will be held at Bakers Field Park in Flower Mound. A variance is being requested to allow a temporary grass parking lot, located in the City of Lewisville, on property owned by the Lewisville Independent School District. The proposed parking area is located at the southeast corner of FM 3040 and Duncan Lane. Staff has met with representatives of the Town of Flower Mound and is in support of this request.

**RECOMMENDATION:**

That the City Council approve the requested variance.

- 19. Consideration of a Three Party Escrow Agreement to Allow Simultaneous Construction of Public and Private Infrastructure Improvements Requested by Peregrine Development; and Authorization for the City Manager, or His Designee, to Execute the Escrow Agreement.**

**ADMINISTRATIVE COMMENTS:**

Peregrine Development is in the process of developing the Arthur James Addition, a multi-use commercial project site. The project includes public infrastructure improvements to include water and sanitary sewer with an estimated value of \$215,619. Waterside Hospitality Inc. has purchased a 1.98 acre tract from the developer for a Candlewood Suites extended stay hotel and is anxious to begin site improvements in order to secure financing for the project by a lender imposed March 31 deadline. The Candlewood site is located at the northwest corner of the property with access to I-35 Frontage Road. Peregrine Development is responsible for construction of the offsite public water and sewer to the Candlewood site. The developer is seeking a variance to obtain engineering site plan approval, a building permit and simultaneous construction of public offsite and private onsite improvements including building construction. No building permit will be issued for vertical construction beyond the foundation until mandated fire and life safety features such as fire access lanes and functional fire hydrants are completed and pass inspection. In addition, staff recommends several conditions to be included in a development agreement between the City, Peregrine and Waterside.

**RECOMMENDATION:**

That the City Council consider the Three-Party Escrow Agreement to allow simultaneous construction of public and private infrastructure improvements; and, if approved, authorize the City Manager, or his designee, to execute the agreement subject to execution of a development agreement specifying certain conditions for Peregrine and Waterside.

**PRESENTATION:** David Salmon, Assistant City Engineer

**I. REPORT:**

1. 2009 First Quarter Boards/Commissions/Committees Attendance Reports

**AGENDA  
LEWISVILLE CITY COUNCIL  
APRIL 6, 2009**

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