

A G E N D A

**LEWISVILLE CITY COUNCIL MEETING
APRIL 19, 2010**

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

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

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 Ueckert
- B. **PLEDGE TO THE AMERICAN AND TEXAS FLAGS:** Councilman Gorena
- C. **PROCLAMATION:** Declaring the Week of April 18–24, 2010, as “National Cleaning for a Reason Week”
- D. **PUBLIC HEARINGS:**
1. **Public Hearing:** Consideration of an Ordinance for a Zone Change Request From Light Industrial (LI) to Old Town Mixed Use Two (OTMU2) on a 0.27 Acre Tract Located at 527 South Kealy Avenue; Further Identified as Tract 215 of the J.W. King Survey Abstract 696; as Requested by Francisco Olivo, the Property Owner (Case No. PZ20100406).

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ADMINISTRATIVE COMMENTS:

The tract is located on the west side of Kealy Avenue just north of Purnell Street, which is the southern limit of the Old Town area. The property is currently zoned Light Industrial (LI) as is the majority of property in this area. The applicant would like to re-zone for the flexibility of uses and setbacks on the property. The requested change in zoning is in compliance with the Old Town Master Plan and staff is in favor of this request. The Planning and Zoning Commission voted 6-0 in favor of the zone change request at their April 6, 2010, meeting.

RECOMMENDATION:

That the City Council approve the proposed ordinance amending the Lewisville City Code, Chapter 17, the Comprehensive Zoning Ordinance, as set forth in the caption above.

PRESENTATION: Nika Reinecke, Director, Economic Dev. & Planning
Francisco Olivo, Property Owner

2. **Public Hearing: Consideration of an Ordinance Amending the Lewisville City Code, Chapter 17, the Zoning Ordinance, Sections 17-22.8.1, 17-22.8.2 and 17-22.8.3 Amending the Mixed Use Zoning District Regulations.**

ADMINISTRATIVE COMMENTS:

Three sections, MU-30, MU-90 and MU-SC, were adopted into the zoning ordinance in 2007. Since that time there has been one zone change requested for the mixed use zoning. Even with this one case staff has seen the need to make adjustments to the ordinance to address some of the issues that have arisen. The proposed changes to the ordinance address allowable uses and provide a list of information that is required in a concept plan and how changes to the plan are to be addressed. In each of the three zoning districts, the developer would still have to comply with all the provisions in the General Development Ordinance unless a variance is granted by the City Council. The Planning and Zoning Commission voted 6-0 in favor of the request at their March 23, 2010, meeting.

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RECOMMENDATION:

That the City Council approve the proposed ordinance amending the Lewisville City Code, Chapter 17, the Comprehensive Zoning Ordinance, as set forth in the caption above.

PRESENTATION: Nika Reinecke, Economic Dev. & Planning Director

- 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.
3. **APPROVAL OF MINUTES:** City Council Minutes of the April 5, 2010, Workshop Session and Regular Session.
4. **Approval of an Agreement With FW Services, Inc., DBA Pacesetter Personnel Services, to Supply Temporary Services for City Departments for a One Year Period With an Option to Renew for Two Additional Years; and Authorization for the City Manager to Execute the Agreement.**

ADMINISTRATIVE COMMENTS:

The City of Lewisville requested proposals for temporary services on March 11, 2010. A total of six proposals were received. Based on the estimated need for 5,000 billable hours for labor positions, the anticipated cost is \$54,400. Staff recommends the contract be extended to FW Services, Inc., DBA Pacesetter Personnel Services, based on the cost and expected quality of service.

RECOMMENDATION:

That the City Council approve the Temporary Services Agreement as set forth in the caption above; and authorize the City Manager to execute the agreement.

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- 5. Approval of an Agreement With the City of Lewisville and Mitch Dudley Enterprises Inc., Regarding the Property Known as the 25.87 Acre Thompson Addition, Other Certain Adjacent Tracts, and the 8-Acre V.R. Sutton Tract 19; and Authorization for the Mayor to Sign the Agreement.**

ADMINISTRATIVE COMMENTS:

Staff has been working with Mitch Dudley over the last several years to gain compliance on numerous violations relating to the property as described in the caption above. However, to date, several violations still exist that will take additional time and funds to correct. Therefore, staff and Mitch Dudley have prepared an agreement which will allow for compliance to be met through certain timelines and afford certain assurances to the City and Mr. Dudley.

RECOMMENDATION:

That the City Council approve the agreement as set forth in the caption above; and authorize the Mayor to sign the agreement.

- 6. Approval of Final Acceptance of the Serendipity Village Improvements Project Including Change Order No. 1 for Willow Grove Park 30-Inch Waterline Replacement; and Authorization to Make Final Payment to Gilco Contracting, Inc., in the Amount of \$144,055.28.**

ADMINISTRATIVE COMMENTS:

On April 7, 2008, the City Council awarded a contract to Gilco Contracting, Inc., in the amount of \$6,943,706.38 including contingencies for the construction of the Serendipity Village Improvement project, a 2003 G.O. Bond project. Additionally, the City Council approved one change order on November 16, 2009, in the amount of \$171,592.50 to replace a 30-inch waterline in Willow Grove Park, which was absorbed within the existing contingencies of the existing contract. The work has been completed in accordance with the contract documents and it is now in order to formally accept the projects and make final payment. The final payment in the amount of \$144,055.28 is available in the Serendipity Village Capital Project. The warranty period is two years from the date of final acceptance by the City Council.

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RECOMMENDATION:

That the City Council accept and make final payment regarding the Serendipity Village Improvements and Willow Grove Park 30-Inch Waterline Replacement Projects as set forth in the caption above.

- 7. Approval of a Resolution Relating to Providing Proper and Adequate Funding for the Texas Department of Transportation to Perform Maintenance of Rights-of-Way and Infrastructure of Property Owned by the State Highway System (Requested by Councilman Tierney).**

ADMINISTRATIVE COMMENTS:

In recent years, the Texas Department of Transportation (TxDOT) maintenance of state highways and IH35E appears to have deteriorated. Lack of maintenance to the roadways has increased traffic safety concerns as well as the negative appearance that the roadways exhibit. The prepared resolution is directed toward the Texas Legislature, Texas Transportation Commission and the regional and local offices of the TxDOT.

RECOMMENDATION:

That the City Council approve the resolution as set forth in the caption above.

- 8. Approval of a Memorandum of Understanding for City of Lewisville Participation in the Texas-New Mexico Power 2010 Texas CitySmart Program; and Authorization for the City Manager to Execute the Agreement.**

ADMINISTRATIVE COMMENTS:

The Texas-New Mexico Power (TNMP) CitySmart Program provides support to local government customers through energy performance benchmarking, energy master planning, technical assistance, and cash incentives for projects that result in peak demand savings. During the 1999 and 2007 legislative sessions bills were passed to reduce electrical consumption and require providers to assist local governments and school districts in accomplishing this task. The Memorandum of Understanding allows TNMP to assist the city in continuing development of programs necessary to reduce energy consumption.

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RECOMMENDATION:

That the City Council approve the agreement as set forth in the caption above.

- 9. Approval of Waiving the Penalty and Interest on Property Tax Accounts 526726DEN, 526727DEN, 526728DEN, 526729DEN and 526731DEN (Lakepointe Office Park Condominium, Building 7, Units 701 – 704 and Building 8, Unit 802, Respectively), for the 2008 Tax Year.**

ADMINISTRATIVE COMMENTS:

LPOP Partners LP, the taxpayer of the above identified properties, has requested a waiver of the penalty and interest assessed against the 2008 property taxes on said properties, which total \$478.07. The original tax statements in October 2008 indicated zero taxes, and there is no record of correct tax statements being mailed by the County Tax Assessor/Collector until May 11, 2009. The taxes were paid promptly on June 1, 2009, with a note that the penalty and interest were being paid under protest. Based on the information provided by the Denton County Tax Assessor/Collector and the City's tax collection attorney, staff recommends that the City Council waive the penalty and interest at issue.

RECOMMENDATION:

That the City Council approve the waiver of the penalty and interest on the property tax accounts as set forth in the caption above.

G. REGULAR HEARINGS:

- 10. Consideration of a Variance to the Lewisville City Code, Article VIII, Section 2-201, Fee Schedule, for the LLELA Special Event on April 24, 2010, as Requested on Behalf of the Lewisville Lake Environmental Learning Area Consortium.**

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ADMINISTRATIVE COMMENTS:

LLELA is proposing an event known as "Celebrate Earth Day 2010" and is a general public awareness event. LLELA is requesting a variance to not pay special event and service fees as required by the Lewisville City Code. The event will be a one (1) day event on April 24, 2010 and is being held in conjunction with the Keep Lewisville Beautiful Clean up and Parks and Recreation Services Dam Run. Staff has determined that the event meets all the criteria for a special event permit. The total of the fee waiver including fire department services is \$1,223.12.

RECOMMENDATION:

That the City Council approve the request to waive all special event fees as set forth in the caption above.

PRESENTATION: Cleve Joiner, Building Official

- 11. Consideration of a Variance to the Lewisville City Code, Article VIII, Section 2-201, Fee Schedule, for Defenders of Freedom to Waive Fees for the Vista Ridge Amphitheater.**

ADMINISTRATIVE COMMENTS:

Defenders of Freedom has requested the City Council to consider waiving fees for the Ride For Wounded Warriors to be held at the Vista Ridge Amphitheater tentatively scheduled for May 22, 2010.

RECOMMENDATION:

That the City Council consider the request to waive rental and staffing fees for the Vista Ridge Amphitheater for the Ride For Wounded Warriors and require facility deposit and appropriate insurance.

PRESENTATION: Donna Cranston, Defenders of Freedom

- 12. Consideration of a Variance to the Lewisville City Code, Article V, Special Events, for the Parker House Located at 2301 North Stemmons Freeway, as Requested by Mark East of DFW Fright Nights (Requested by Councilman Gorena).**

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ADMINISTRATIVE COMMENTS:

Mark East, Owner of DFW Fright Nights, claiming a hardship, is requesting that the Parker House (Haunted House) located at 2301 North Stemmons Freeway remain on site as constructed with all equipment associated with the event. Mr. East is also requesting that the event take place from September 24, 2010 through October 31, 2010. After the event is over, Mr. East will return the property to the original condition by December 1, 2010. Mr. East further agrees to add an additional 60 feet of 8-foot solid wood fence on the northwest side of the property to screen the event from the adjacent neighborhood.

RECOMMENDATION:

That the City Council consider the requests to allow the event to be held from September 24, 2010 through October 31, 2010 and to allow the event materials and equipment to remain on the property until December 1, 2010.

PRESENTATION: Cleve Joiner, Building Official

- 13. Consideration of a Variance to the Lewisville City Code, Section 11-14 Prohibited Signs, Regarding an Off-Premise Sign to be Located on the Frontage Road of SH 121 at the Intersection of Cookie Lane, Just North of FM 544 as Requested by Sunridge Management Group on Behalf of Amaranth at 544, Active Senior Living Community.**

ADMINISTRATIVE COMMENTS:

A 96-square foot off-premise sign is being proposed at Highway 121 and Cookie Lane, to be located approximately just north of FM 544. The sign is twelve (12) feet in height and will be located approximately twenty (20) feet back from the curb. Due to the location of the Amaranth Active Senior Living Community, their staff feels that an off-premise sign would benefit them with early notification to possible clients traveling on Hwy 121 directing potential clients to the facility for lease. Amaranth at 544 has an agreement with Lakepointe Marina at 121, GP, LLC to allow this off-premise sign to be placed on their property. The request is similar to the Lakeside at 121 Apartments and the Bella Madera Apartment, which were approved by the City Council in October 2008 and January 2009 respectively which are in the same area. Staff has concerns over the amount of signage already in the area.

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RECOMMENDATION:

That the City Council deny the requested variance as set forth in the caption above.

- 14. Consideration of a Variance to the Lewisville City Code, Section 11-10, Permissible Signs Regarding a Wall Sign Located at 498 East SH 121 as Requested by National Indoor Storage and Reynolds Signs.**

ADMINISTRATIVE COMMENTS:

National Indoor Storage is requesting to alter the storefront signage at their business located at 498 East SH 121. They are requesting to erect a new wall sign that will exceed City of Lewisville Sign Ordinance provisions. They are requesting a variance to erect an additional wall sign of 51 square feet for a total of 354.07 square feet of wall signs. The ordinance only allows a maximum of 318.75 square feet of wall signage for this elevation. This is an overage of 35.32 square feet.

RECOMMENDATION:

That the City Council consider the request for variance as set forth in the caption above.

PRESENTATION: Cleve Joiner, Building Official

- 15. Consideration of a Request for City In-Kind Support for the American Cancer Society Relay For Life Event, Located at the Killough LHS North Campus, 1301 Summit Avenue, as Requested by Laura Patrey, Event Chair Southeast Denton County Relay For Life.**

ADMINISTRATIVE COMMENTS:

The 2010 Southeast Denton County Relay for Life event will be held from Friday, May 14, 2010 at 7:00 p.m. to 7:00 a.m. Saturday, May 15, 2010. A request is being made to: a) provide City in-kind support of ten (10) tents and staff time to set up and take down tents related to the event; and, b) to waive any associated fees for the event including fees for personnel to put up and take down tents. City Council approved the request for the event last year.

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RECOMMENDATION:

That the City Council consider the request for in-kind support for the American Cancer Society Relay For Life event as set forth in the caption above.

- 16. Consideration of Naming I-35E "Liberty Freeway" (Requested by Councilman Gorena).**

ADMINISTRATIVE COMMENTS:

The City of Farmers Branch recently passed a resolution attaching "Liberty Freeway" name to I35 within their corporate limits. It is technically a nickname because the official addressing along the corridor was not changed. There are various approaches to naming state highways depending on the purpose and intent, ranging from state official naming to local official naming to nicknaming. I35 in Lewisville currently does not have an official local designation, however, it has numerous other names that are recognized by addressing authorities such as the city, the post office, central appraisal district and Denco 911. In addition, the state of Texas currently recognizes all of I35 from north to south as the "Purple Heart Trail". Also, the city has recently commenced work on a master plan for I35 to address a wide spectrum of issues that will impact the corridor for many years into the future, including aesthetics, imagery, redevelopment, standards, infrastructure design, etc. Naming of the corridor (perhaps even officially) would be within the scope of issues for this committee to consider.

RECOMMENDATION:

That the council include naming options in the scope of issues to be considered by the I35 Corridor Plan Steering Committee and not take any further action at this time.

- 17. Consideration of a Request for Variances to Lewisville City Code, Section 2-201, Fee Schedule, Regarding the Waiver of Special Event Fees; Section 11-14, Signs on Public Property; and Request for In-Kind Support, as Requested by Rebecca Behnke for the 2010 Cinco de Mayo Event.**

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ADMINISTRATIVE COMMENTS:

Dallas Tortilla & Tamale Factory owner Rebecca Behnke intends to hold a public Cinco de Mayo event on Saturday, May 1, in Old Town Lewisville. She has asked the city to waive all event permit fees, provide staff support for the event, approve closing Church Street for the event, and allow event signage in City rights-of-way. City Council has approved these requests for this event in past years.

RECOMMENDATION:

That the City Council consider the requested variances, requested road closure and requested in-kind support related to the 2010 Cinco de Mayo event.

- 18. Consideration of Declaring a Vacancy in Place No. 7 on the Park Board; and Consideration of an Appointment to Fill the Vacancy on the Park Board.**

ADMINISTRATIVE COMMENTS:

In accordance with the City Council's attendance policy, Patrick Booth has missed three consecutive meetings (during the months of December, January, and March – there was no scheduled meeting in February) of the Park Board and is automatically removed from membership on this committee.

RECOMMENDATION:

That the City Council consider declaring a vacancy in Place No. 7 on the Park Board; and consider an appointment to fill the vacancy.

- H. **REPORTS:** Reports about items of community interest regarding which no action will be taken.
- I. **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

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- 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).