

LEWISVILLE CITY COUNCIL

REGULAR SESSION

AUGUST 20, 2007

Present:

Gene Carey, Mayor

Council Members:

Dean Ueckert, Mayor Pro Tem
David Thornhill, Deputy Mayor Pro Tem
Lathan Watts
Greg Tierney
Rudy Durham

City Staff:

Claude King, City Manager
Donna Barron, Assistant City Manager
Steve Bacchus, Assistant City Manager
Julie Heinze, City Secretary
Ronald J. Neiman, City Attorney

WORKSHOP SESSION – 5:30 P.M.

With a quorum of the Council Members present, the workshop session of the Lewisville City Council was called to order by Mayor Carey at 5:30 p.m. on Monday, August 20, 2007, in the City Council Conference Room of the Lewisville City Hall, 151 West Church Street, Lewisville, Texas. All City Department Heads were in attendance.

Buxton Retail Report

(Agenda Item A)

Elizabeth Trosper, Economic Development Specialist presented the following PowerPoint Presentation regarding Buxton Retail Report:

Methodology

- Prizm NE Consumer Profile Segmentation
 - 3 variables (affluence, age, children at home)
 - Purchasing, Recreation & Media Habits
- Drive-time Trade Areas
- Dominant Segment Profile for Trade Area
- Retailer Match
- Marketing & Recruitment

Ms. Trosper reviewed a slide showing a Dominant Segment Match Sample.

WORKSHOP SESSION – 5:30 P.M.

Buxton Retail Report (cont'd)

(Agenda Item A)

Lewisville Sites:

- Site One: FM 407 & Summit
- Site Two: Main & Valley
- Site Three: MacArthur & FM 3040

Site One: FM 407 & Summit

Trade Area Map: 7-Minute Drive-Time

Site One: FM 407 & Summit

Psychographic Profile

Top 3 Segments

1. Winner's Circle (Segment 6) – (16.73%)
2. Kids-N-Cul-de-Sacs (Segment 18) – (12.88%)
3. Upward Bound (Segment 13) – (8.47%)

Site One: FM 407 & Summit – consumer expenditures list as follows: - advised this was on a yearly basis. These are the total for this site area.

<i>Consumer Variable - Major Categories</i>	<i>Total Estimated Dollars</i>
Food at Home	\$155,354,880
Food Away from Home	\$148,600,840
Alcoholic Beverages	\$35,639,590
Smoking Products & Supplies	\$21,104,880
Personal Care Products & Services	\$28,303,880
Day Care	\$10,184,850
Household Furnishings & Services	\$186,907,380
Housing Expenses	\$34,354,550
Apparel	\$137,846,580
Sports & Recreation	\$42,193,980
Miscellaneous	\$80,416,650
Education	\$39,443,030
Automotive	\$255,852,290
Health Care	\$98,231,370
TOTAL	\$1,274,434,750

WORKSHOP SESSION – 5:30 P.M.

Buxton Retail Report (cont'd)

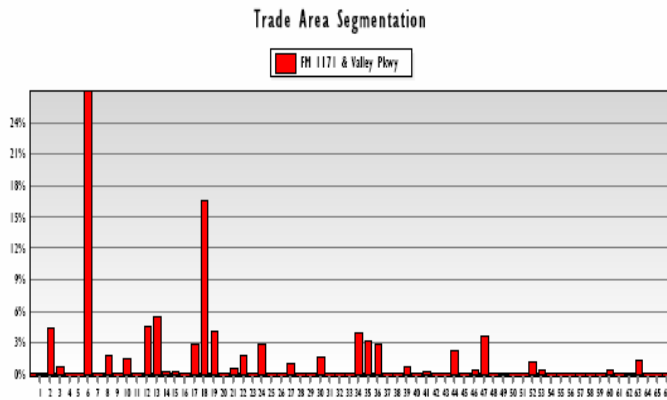
(Agenda Item A)

Trade Potential Variables	Site I
Estimated Household Count	23,815
Number of Households in Dominant Segments	18,334
Traffic Count	23,950
Estimated Product Category Potential	\$1,274,434,750

Site Two: Main Street & Valley Parkway

Trade Area Map: 7-Minute Drive-Time – Location Map

**Site Two: Main Street & Valley Parkway
 Psychographic Profile**



Source: Claritas, Inc. PRIZM® NE, © 2006

Top 3 Segments

1. Winner's Circle (Segment 6) – (28.69%)
2. Kids-N-Cul-de-Sacs (Segment 18) – (16.59%)
3. Upward Bound (Segment 13) – (5.55%)

WORKSHOP SESSION – 5:30 P.M.

Buxton Retail Report (cont'd)

(Agenda Item A)

Site Two: Main Street & Valley Parkway

<i>Consumer Variable - Major Categories</i>	<i>Total Estimated Dollars</i>
Food at Home	\$238,712,330
Food Away from Home	\$233,116,800
Alcoholic Beverages	\$55,750,520
Smoking Products & Supplies	\$31,044,800
Personal Care Products & Services	\$44,048,210
Day Care	\$17,024,880
Household Furnishings & Services	\$299,411,090
Housing Expenses	\$53,152,550
Apparel	\$221,469,770
Sports & Recreation	\$69,555,270
Miscellaneous	\$128,889,130
Education	\$65,637,360
Automotive	\$398,048,690
Health Care	\$148,265,070
TOTAL	\$2,004,126,470

Source: Claritas, Inc. PRIZM® NE, © 2006

Trade Potential Variables	Site 2
Estimated Household Count	36,320
Number of Households in Dominant Segments	27,091
Traffic Count	63,860
Estimated Product Category Potential	\$2,004,126,470

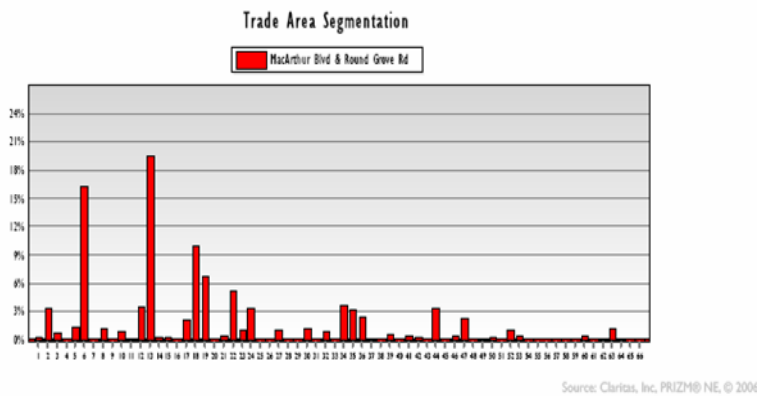
Site Three: FM 3040 & MacArthur

Trade Area Map: 10-Minute Drive-Time – map location

Buxton Retail Report (cont'd)

(Agenda Item A)

**Site Three: FM 3040 & MacArthur
Psychographic Profile**



Top 3 Segments

1. Upward Bound (Segment 13)– (19.39%)
2. Winner’s Circle (Segment 6)– (16.28%)
3. Kids-N-Cul-de-Sacs (Segment 18)– (9.91%)

WORKSHOP SESSION – 5:30 P.M.

Buxton Retail Report (cont'd)

(Agenda Item A)

Site Three: FM 3040 & MacArthur

<i>Consumer Variable - Major Categories</i>	<i>Total Estimated Dollars</i>
Food at Home	\$388,209,290
Food Away from Home	\$390,207,080
Alcoholic Beverages	\$93,815,930
Smoking Products & Supplies	\$47,931,460
Personal Care Products & Services	\$72,954,860
Day Care	\$28,098,070
Household Furnishings & Services	\$496,460,330
Housing Expenses	\$87,260,470
Apparel	\$375,564,850
Sports & Recreation	\$118,374,670
Miscellaneous	\$218,599,860
Education	\$116,840,570
Automotive	\$653,267,980
Health Care	\$246,278,200
TOTAL	\$3,333,863,620

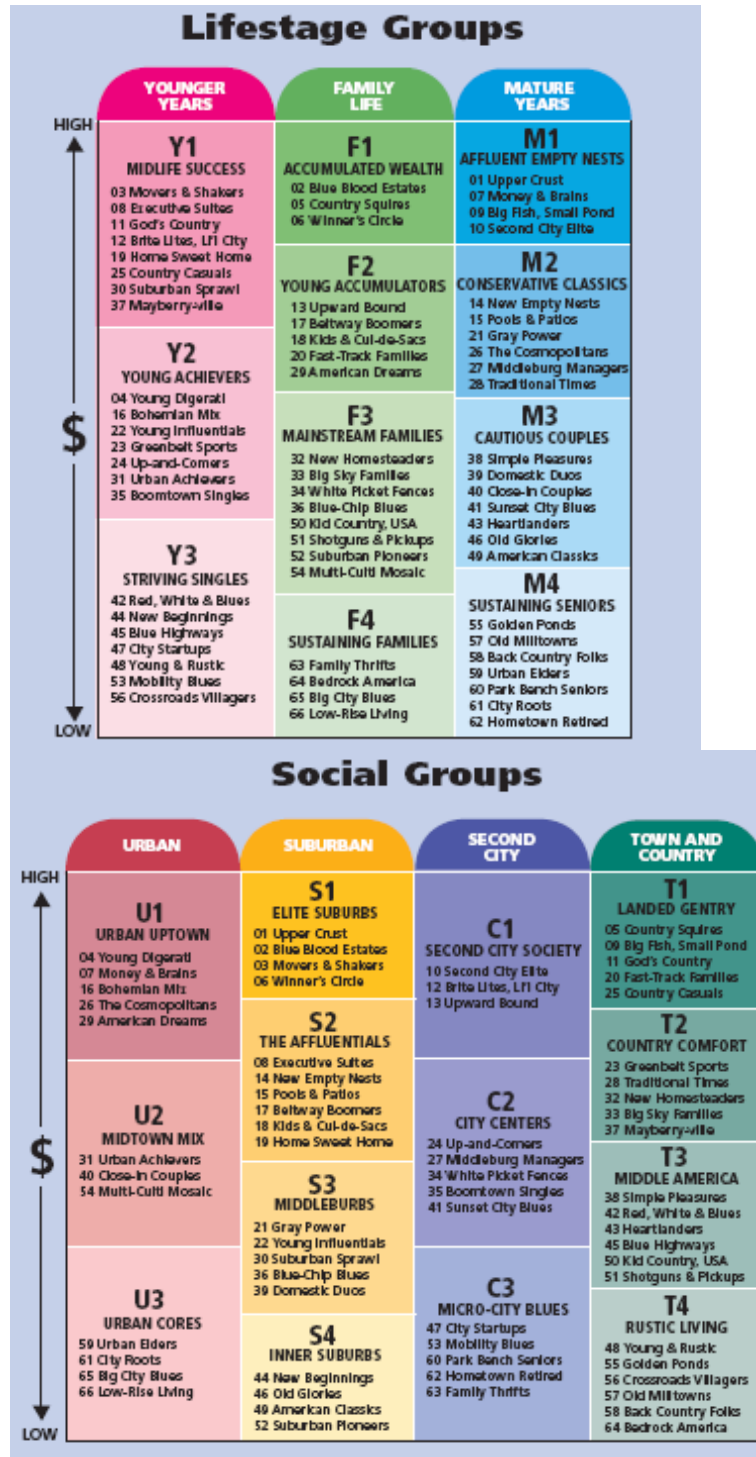
Source: Claritas, Inc. PRIZM® NE, © 2006

Trade Potential Variables	Site 3
Estimated Household Count	60,259
Number of Households in Dominant Segments	47,100
Traffic Count	99,700
Estimated Product Category Potential	\$3,333,863,620

WORKSHOP SESSION – 5:30 P.M.

Buxton Retail Report (cont'd)

(Agenda Item A)



WORKSHOP SESSION – 5:30 P.M.

Buxton Retail Report (cont'd)

(Agenda Item A)

Retailer Match & Marketing

- Consumer Profile Matching
 - Segments Greater than 3% of Retailer Customer Base
 - Void Analysis/Cannibalization Study
- Retailer Operational Status
 - What is Their Site Selection Criteria?
 - Do They Have Expansion Plans?
 - Are They Franchisee Driven?
- Marketing

- **Site One: 49 Retailers**
 - 22 In Infringing Trade Area
 - 27 Good Matches
- **Site Two: 70 Retailers**
 - 41 In Infringing Trade Area
 - 29 Good Matches
- **Site Three: 166 Retailers**
 - 109 In Infringing Trade Area
 - 57 Good Matches
- 113 Good Matches (All Sites)
- 20 Turnkey Marketing Reports Produced

Where Are We?

- 20 Turnkey Site Proposals to Retailers
- 15 Match Lists to Property Representatives
- Met with 26 ICSC Participants
 - Distributed Over 100 Report Summaries
- Launched Retail Page
 - Trade Area Reports (Retailers & Tenant Reps)
 - Match Lists (Property Reps)
- Feedback...

Where Are We?

- Expansion Plans
 - Many 2-3 Years in the Pipeline
- Infringing Trade Area
 - New Locations Post-Match

WORKSHOP SESSION – 5:30 P.M.

Buxton Retail Report (cont'd)

(Agenda Item A)

Next Steps...

- Continue Marketing
 - Follow Up on 20 Site Proposals
 - Proposals to Comprehensive Retailer List
 - Maintain Contact
- Collect & Evaluate Feedback
 - Redevelopment Opportunities
 - Investigate Negative Responses

Ms. Trosper's presentation concluded at 6:17 p.m.

WORKSHOP SESSION – 6:30 P.M.

**Discussion of Regular Agenda Items and
Consent Agenda Items**

(Agenda Item B)

Mayor Carey reviewed Agenda Item A, Invocation. There was no discussion on this item.

Mayor Carey reviewed Agenda Item B, Pledge to the Flag. There was no discussion on this item.

Mayor Carey reviewed Agenda Item D, Visitors/Citizens Forum. There was no discussion on this item.

Mayor Carey reviewed Agenda Item E-1, Approval of Minutes: City Council Minutes of the August 6, 2007, Workshop Session and Regular Session. There was no discussion on this item.

Mayor Carey reviewed Agenda Item E-2, Approval of Acceptance of a \$4,000 Grant From the Texas Comptroller of Public Accounts for the Tobacco Education and Prevention Initiative Program; and Authorization for the City Manager to Execute the Grant Agreement. There was no discussion on this item.

WORKSHOP SESSION – 6:30 P.M.

**Discussion of Regular Agenda Items and
Consent Agenda Items (cont'd)**

(Agenda Item B)

Mayor Carey reviewed Agenda Item F-3, Consideration of the Preliminary Plat of Castle Hills, Phase VI, a 163.81 Acre Tract Proposed for Townhouse Two (TH-2), Estate Townhouse (ETH) and Undesignated Commercial Uses Generally Bounded by S.H. 121 to the North, KCS Railroad to the Southwest, and a TXU Transmission Line to the Southeast; and Consideration of Four Variances to the Castle Hills Development Agreement as Requested by Dean Plunk, Project Manager with TRC Engineers, Inc., Representing the Property Owner. There was no discussion on this item.

Mayor Carey reviewed Agenda Item F-4, Consideration of the Final Plat for Bulloch Addition, an Addition to the City of Lewisville Located at the Southeast Corner of Purnell Street and Hardy Street, Which Includes a Request for Two Plat Related Variances; and, Consideration of Four Engineering Site Plan Related Variances to the Lewisville City Code, Chapter 6, Land Development Regulations, as Requested by Scott Bulloch, the Owner of Bulloch Fabricating. City Manager King reviewed the back up information with the City Council. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item F-5, Tabled Item: Consideration of a Variance to the Lewisville City Code, Chapter 11 Signs to Allow Both a Monument Sign and a Wall Sign on the Primary Building Façade as Requested by Barry E. Bentle on Behalf of Miracle Home Health at 571 West Main Street. City Attorney Neiman advised that the deed restrictions had been received late this afternoon. He requested that this item be tabled indefinitely. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item F-6, Consideration of a Request for a Variance to the Lewisville City Code, Section 6-54, Regarding When An Engineering Site Plan is Required, for a Proposed Building on the Delay Middle School Campus, Located at 136 Purnell Street, as Requested by Neal Wilson, Director of Athletics for the Lewisville Independent School District. There was no discussion on this item.

Mayor Carey reviewed Agenda Item F-7, Consideration of a Request for Five Variances to the Lewisville City Code, Chapter 6, Land Development Regulations, for a Proposed Development Associated With Lewisville High School, Located at 1098 West Main Street, as Requested by Kyle Hogue, G&A Consultants, Inc., Representing the Owner. There was no discussion on this item.

WORKSHOP SESSION – 6:30 P.M.

**Discussion of Regular Agenda Items and
Consent Agenda Items (cont'd)**

(Agenda Item B)

Mayor Carey reviewed Agenda Item F-8, Consideration of a Variance to the Lewisville City Code, Section 6-144 - Screening Walls, for the Brownstones at Vista Ridge, Located on the West Side of Rockbrook Drive, South of FM 3040; as Requested by Jason Rose of JR Rose Development Companies, the Property Owner. City Manager King advised that staff has concerns about maintenance of the area; however, strong HOA documents had been received that makes them responsible for maintenance. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item F-9, Consideration of a Variance to the Fee Ordinance Related to Pet Registration Fees; Consideration of a Variance to the Special Events Ordinance Related to Overnight Housing of Stock Animals; Consideration of Sale and Consumption of Alcohol on City Property as Required by Administrative Policy 4.1.1, City Facilities; and Consideration of Temporary Street Closures on Main Street and Mill Street for Western Day 2007 Festival. Discussion was held regarding TABC requiring fencing at this event for the beer garden. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item F-10, Consideration of a Two-Year Bank Depository Contract With Three (3) One-Year Renewal Options With Wachovia Bank, N.A., as Depository for City Funds; and Authorization for the City Manager to Execute the Contract. There was no discussion on this item.

Mayor Carey reviewed Agenda Item F-11, Consideration of an Ordinance Adopting Provisions for the Automated Traffic Signal Enforcement Program in the City of Lewisville, Texas. There was no discussion on this item.

Mayor Carey reviewed Agenda Item F-12, Discussion of the Restriction of Smoking in Designated Public Places (as Requested by Mayor Carey). City Manager King advised that staff needs to know what direction the City Council wants to go with this topic. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item G, Reports. There was no discussion on this item.

Items of Interest to the Council

(Agenda Item B)

There were no items of interest discussed by the City Council at this time.

With no further discussion, the workshop session of the Lewisville City Council was adjourned at 6:54 p.m. on Monday, August 20, 2007.

REGULAR SESSION - 7:00 P.M.

With a quorum of the Council Members present, the regular session of the Lewisville City Council was called to order by Mayor Carey at 7:00 p.m. on Monday, August 20, 2007, in the Council Chambers of the Lewisville City Hall, 151 West Church Street, Lewisville, Texas.

Invocation

(Agenda Item A)

At the request of Mayor Carey, Mayor Pro Tem Ueckert gave the invocation.

Pledge to the Flag

(Agenda Item B)

At the request of Mayor Carey, Deputy Mayor Pro Tem Thornhill gave the pledge to the flag.

**PRESENTATIONS: Plaques and
Certificates of Appreciation to Outgoing
Members of the City's Boards/Commissions/
Committees**

(Agenda Item C)

Mayor Carey presented plaques and certificates of appreciation to outgoing board/commission/committee members.

Visitors/Citizens Forum

(Agenda Item D)

John Gorena, 417 Creekwood Lane, Lewisville, Texas, 75067, spoke before the City Council regarding his opposition to a Day Labor Site within the City of Lewisville.

No one else appeared to speak at this time.

CONSENT AGENDA

(Agenda Item E)

MOTION: Upon a motion made by Mayor Pro Tem Ueckert and seconded by Councilman Tierney, the Council voted five (5) "ayes" and no (0) "nays" to approve and adopt all items on the Consent Agenda, as recommended and as follows:

1. APPROVAL OF MINUTES: City Council Minutes of the August 6, 2007, Workshop Session and Regular Session.
2. Approval of Acceptance of a \$4,000 Grant From the Texas Comptroller of Public Accounts for the Tobacco Education and Prevention Initiative Program; and Authorization for the City Manager to Execute the Grant Agreement.

The motion carried.

END OF CONSENT AGENDA

Consideration of the Preliminary Plat of Castle Hills, Phase VI, a 163.81 Acre Tract Proposed for Townhouse Two (TH-2), Estate Townhouse (ETH) and Undesignated Commercial Uses Generally Bounded by S.H. 121 to the North, KCS Railroad to the Southwest, and a TXU Transmission Line to the Southeast; and Consideration of Four Variances to the Castle Hills Development Agreement as Requested by Dean Plunk, Project Manager with TRC Engineers, Inc., Representing the Property Owner

(Agenda Item F-3)

Mayor Carey advised that the following variances are being requested by the developer for the subject phase: a) to allow TH-2 Zoning for Sections A, B, & C with a minimum dwelling size of 1400 square feet per deed restriction; b) to allow 41-foot street right of ways with 6-foot sidewalk and utility easements for sections A & B; c) to allow 44-foot street right of ways with 6-foot sidewalk and utility easements for sections C & D; and d) waive the alley requirement for sections A, B, C, & D. The Planning and Zoning Commission at their August 7, 2007 meeting voted 7-0 to approve the preliminary plat and the variances.

Mayor Carey stated the City staff's recommendation was that the City Council approve the preliminary plat and the requested variances.

David Salmon, Assistant City Engineer and Eric Stanley, Bright Properties, were present to respond to any questions posed by the City Council.

MOTION: Upon a motion made by Councilman Durham and seconded by Deputy Mayor Pro Tem Thornhill, the Council voted five (5) "ayes" and no (0) "nays" to approve the Preliminary Plat of Castle Hills, Phase VI, a 163.81 acre tract proposed for Townhouse Two (TH-2), Estate Townhouse (ETH) and Undesignated Commercial Uses Generally Bounded by S.H. 121 to the North, KCS Railroad to the Southwest, and a TXU Transmission Line to the Southeast; and approved the following four variances to the Castle Hills Development Agreement: a) to allow TH-2 Zoning for Sections A, B, & C with a minimum dwelling size of 1400 square feet per deed restriction; b) to allow 41-foot street right of ways with 6-foot sidewalk and utility easements for sections A & B; c) to allow 44-foot street right of ways with 6-foot sidewalk and utility easements for sections C & D; and d) waive the alley requirement for sections A, B, C, & D. The motion carried.

Consideration of the Final Plat for Bulloch Addition, an Addition to the City of Lewisville Located at the Southeast Corner of Purnell Street and Hardy Street, Which Includes a Request for Two Plat Related Variances; and, Consideration of Four Engineering Site Plan Related Variances to the Lewisville City Code, Chapter 6, Land Development Regulations, as Requested by Scott Bulloch, the Owner of Bulloch Fabricating

(Agenda Item F-4)

Mayor Carey advised that the owner of the property intends to expand the existing metal fabricating business from 48,450 square feet to 71,030 square feet and has accumulated additional property adjacent to the existing business to facilitate the expansion, thus requiring a re-plat for the property and a new engineering site plan submittal. The developer is requesting the following variances: a) to allow dedication of a 5-foot sidewalk and utility easement along Hardy Street on Lot 1, Block A in lieu of dedicating an additional 5 (five) feet of right-of-way; b) to waive the requirement to improve both Hardy Street and McKenzie Street; c) to allow four (4) 12'x80' and three (3) 12'x60' loading spaces in lieu of the required six 12'x 80' loading spaces; d) to waive the requirement to provide an 80% masonry exterior finish on the proposed building; e) to allow the construction of a wooden screening fence between the commercial and residential properties in lieu of the required masonry wall; and, f) to waive the requirement to provide a fire sprinkler system on both the proposed and existing building areas. The Planning & Zoning Commission considered the plat and the two plat related variances (variances a & b), at their June 19, 2007 meeting and voted 5-0 to recommend approval of the final plat and variance "a" (right-of-way dedication on Hardy Street). The commission voted 3-2 to recommend denial of variance "b" (street improvements on Hardy Street and McKenzie Street).

Mayor Carey stated the City staff's recommendation was that the City Council approve the final plat and variance "a" (right-of-way on Hardy Street), consider variance "b" (street improvements on Hardy and McKenzie Streets) approve variance "c" (loading spaces) and deny variance "d" (exterior finish), variance "e" (screening wall), and variance "f" (fire sprinklers).

David Salmon P.E., Assistant City Engineer, reviewed the variances requested for the City Council. Mr. Salmon also reviewed a location map of where this building was located and the site plan on the overhead projector.

City Manager King referenced the Hoymeyer exhibit and advised that the variance is only applicable to the new building not the existing building. Deputy Mayor Pro Tem Thornhill questioned what the intent of the ordinance was to require masonry. Discussion was held regarding the reason for requiring masonry and not allowing the building to maintain the same

Consideration of the Final Plat for Bulloch Addition, an Addition to the City of Lewisville Located at the Southeast Corner of Purnell Street and Hardy Street, Which Includes a Request for Two Plat Related Variances; and, Consideration of Four Engineering Site Plan Related Variances to the Lewisville City Code, Chapter 6, Land Development Regulations, as Requested by Scott Bulloch, the Owner of Bulloch Fabricating (cont'd)

(Agenda Item F-4)

material. Community Development Director Eric Ferris advised that the intent had been to eventually bring buildings up to compliance.

Cleve Joiner, Fire Marshall, spoke before the City Council regarding the variance request dealing with fire sprinklers. He advised that this is a multi-use facility and described those various uses and other hazards in this building. Mr. Joiner advised that his concern is threefold, the materials, employees, and firefighters if they had to respond to this facility in the event something occurred. Mr. Joiner gave examples of existing locations that have expanded and per the ordinance were required to retrofit to sprinkler the facility. Mr. Joiner advised that Mr. Bulloch could build a separate facility and would only be required to sprinkler the new building and not the existing facility per ordinance. Mr. Joiner explained the fire codes that were in place at the time the current building was built did not require this building to have a sprinkler system due to the size and use.

Scott Bulloch spoke before the City Council explaining the variance he was requesting. Mr. Bulloch gave a brief history of the business and what he has in place for fire protection. Mr. Bulloch reviewed past variances he had been granted and why he had stayed in Lewisville. He explained that his business is growing in size of parts, not business, and to make a profit they needed more space to operate economically. Mr. Bulloch stated that he felt it would cost him up to \$700,000 to build the building he is asking the variances for; however, if the variances are not granted it will cost him up to \$1.2 million. Mr. Bulloch advised that the tanks are chained up and located away from everything else and there are not as many as the Fire Marshall felt there were. Mr. Bulloch offered to put a sprinkler system in the area the tanks are located. He stated he did not feel there was a reason to do this over the whole facility. Mr. Bulloch advised he was willing to work with the City and the fire personnel and allow them to come in during the year to make sure everything was being done appropriately. He concluded by stating that he cannot do things cost effectively if he is not granted the variances.

Consideration of the Final Plat for Bulloch Addition, an Addition to the City of Lewisville Located at the Southeast Corner of Purnell Street and Hardy Street, Which Includes a Request for Two Plat Related Variances; and, Consideration of Four Engineering Site Plan Related Variances to the Lewisville City Code, Chapter 6, Land Development Regulations, as Requested by Scott Bulloch, the Owner of Bulloch Fabricating (cont'd)

(Agenda Item F-4)

Mayor Pro Tem Ueckert thanked Mr. Bulloch for his business and for the kind words he had said about staff. Mayor Pro Tem Ueckert expressed concern about the masonry requirement and questioned if Mr. Bulloch would look at placing some type of façade along the front side down Hardy and Purnell. Mr. Bulloch advised that he had discussed doing something of that nature along those areas, such as a wainscot wall. Mayor Pro Tem Ueckert requested that Mr. Bulloch and staff discuss something of this nature.

Mayor Pro Tem Ueckert referenced the screening wall located where some residential neighbors resided who were opposed and requested that perhaps a wrought iron fence along with living screening that would be irrigated to make it look pleasing be installed. Mr. Bulloch recommended a nice wood fence that would face the neighbor's side so it looked like they had a yard. Mr. Bulloch stated he was willing to work on this.

Mayor Pro Tem Ueckert stated that he is a big fan of sprinkler systems and he understood the cost is expensive; however, it does save lives. Mayor Pro Tem Ueckert stated that if he installed according to standards then the amount he saved on his insurance would pay for the system in 11 to 12 years. Mr. Bulloch stated that the insurance on his building is only \$7,000 a year and it would take longer than that to recoup his cost. Mr. Bulloch advised that they had put a metal wall down the building to separate the welding area on a temporary basis until they could expand. Mr. Bulloch offered again to sprinkler the area where the items of concern were located. Mayor Pro Tem Ueckert stated that the only way he could buy off on that is if both the Fire Chief and Fire Marshal bought off on that offer.

Councilman Watts questioned how many employees Mr. Bulloch had employed. Mr. Bulloch advised he felt it was approximately 90. Councilman Watts stated that he would agree with Mayor Pro Tem Ueckert regarding the variances on the wall and screening fence if a middle ground could be agreed upon; however, he could not sign off on the sprinklers unless the Fire Chief and Fire Marshal agreed.

Mr. Bulloch advised they would be willing to work with the City Council regarding the variance for the street.

Consideration of the Final Plat for Bulloch Addition, an Addition to the City of Lewisville Located at the Southeast Corner of Purnell Street and Hardy Street, Which Includes a Request for Two Plat Related Variances; and, Consideration of Four Engineering Site Plan Related Variances to the Lewisville City Code, Chapter 6, Land Development Regulations, as Requested by Scott Bulloch, the Owner of Bulloch Fabricating (cont'd)

(Agenda Item F-4)

Deputy Mayor Pro Tem Thornhill questioned what the cost for installing a sprinkler system. Mr. Bulloch advised that he had not gotten a firm bid yet; however, it would be more to sprinkle the existing building. He advised that one quote was close to \$200,000 to sprinkle the whole facility. Mr. Bulloch expressed concern regarding the infrastructure was present to install a sprinkler system. Mayor Pro Tem Ueckert advised he was in agreement with Mayor Pro Tem Ueckert and Councilman Watts regarding the other variance and that he could not support the variance for the sprinkler system nor the wood fence.

At Councilman Tierney's request, Mr. Bulloch explained how the two buildings were separated. Mr. Bulloch advised that they would have to go back look at their plans if they were required to sprinkle the facility. Councilman Tierney stated that he understood and respected the fire officials' stance; however, it seemed silly that if there were two separate buildings Mr. Bulloch would not have to sprinkle the existing facility. Mr. Ferris stated that the buildings would have to be separated by 20 feet, not six inches. Councilman Tierney stated that he liked what Mr. Bulloch had recommended about sprinkling the areas of concern if that was possible. Councilman Tierney stated he would like to see Mr. Bulloch work with City staff.

City Manager King stated that he felt that was asking the fire officials to agree to variances to International Code and he did not feel that would be appropriate. Mayor Carey agreed with City Manager King's statements. Mayor Carey stated he would like to see the building have a sprinkler system. Mayor Carey stated he was in favor of allowing the other variances with the recommendations already made by City Council.

Councilman Tierney stated he was okay with the street escrow. Discussion was held regarding Mayor Pro Tem Ueckert's recommendation that Mr. Bulloch do some type of façade to the building facing residential. Councilman Tierney stated that he was comfortable with Mr. Bulloch working with staff regarding the façade and screening.

Consideration of the Final Plat for Bulloch Addition, an Addition to the City of Lewisville Located at the Southeast Corner of Purnell Street and Hardy Street, Which Includes a Request for Two Plat Related Variances; and, Consideration of Four Engineering Site Plan Related Variances to the Lewisville City Code, Chapter 6, Land Development Regulations, as Requested by Scott Bulloch, the Owner of Bulloch Fabricating (cont'd)

(Agenda Item F-4)

Councilman Durham requested that this item be tabled to allow the applicant time to work with staff. Discussion was held with Mr. Bulloch how much time he felt he needed to work with staff regarding the 80% masonry and screening. Consensus was to bring back at the second meeting in September.

Angela Lewallen, 507 N. Charles Street, Lewisville, Texas, representing Habitat for Humanity of Denton County spoke before the City Council. She advised that Habitat held the mortgages for the duplex and the six homes along Hardy Street and they are concerned about the economic and safety impacts of increasing the traffic of large trucks on a street that has already been called substandard. She expressed concerns that the homeowners may be confused regarding this being good for their property values.

Maria Trammell, 697 Hardy Street, Lewisville, Texas 75057, spoke before the City Council regarding her concerns on how much time would she have to get out of her home if this facility ever caught fire. Fire Chief Rick Lasky advised that a lot of things come into play and it would be difficult to address her concern. Ms. Trammell advised that she did not feel comfortable with the expansion of this facility and that Mr. Bulloch was not protecting his employees and the neighbors across the street. She requested that the City Council take her concerns into consideration,.

Anthony Flores, 697 Hardy Street, Lewisville, Texas 75057, spoke before the City Council regarding his concerns that the street this facility is located on is substandard. He advised that there is a lot of heavy truck traffic on this street. He questioned how long this area would be put on the back burner.

Mayor Carey advised that Ted Christian, had submitted a card indicating his opposition to this request.

Consideration of the Final Plat for Bulloch Addition, an Addition to the City of Lewisville Located at the Southeast Corner of Purnell Street and Hardy Street, Which Includes a Request for Two Plat Related Variances; and, Consideration of Four Engineering Site Plan Related Variances to the Lewisville City Code, Chapter 6, Land Development Regulations, as Requested by Scott Bulloch, the Owner of Bulloch Fabricating (cont'd)

(Agenda Item F-4)

Councilman Durham recommended that this item be tabled to the September 17, 2007, City Council meeting to allow Mr. Bulloch time to work with City staff. He stated that if staff is not able to work out a solution, they can advise the City Council. Councilman Tierney questioned City staff regarding stated comments regarding the street being substandard. City Manager King advised that the streets are substandard from the standpoint that they do not comply with modern standards due to the lack of curb and gutters; however, they are in good condition as far as an asphalt road, especially compared to many other areas. City Manager King stated that one of the bond package proposals was for money for this area designed to improve the streets, the City Council just had to determine which streets and the overlays to complete the reconstruction.

Mayor Pro Tem Ueckert addressed Ms. Lewallen's concerns and stated that when Habitat had come to the City requesting to build homes in this Light Industrial area, that per the ordinance were substandard homes, the City Council had requested that they look and see if Habitat could find other properties or existing homes that were in need of heavy repair and rebuild those homes. He further stated that Habitat had stated the reason they wanted to build in this area was because these properties were inexpensive due to the Heavy and Light Industrial zoning in this area. Mayor Pro Tem Ueckert reminded everyone that this business was located here prior to the Habitat homes being built, and that was why Habitat had chose this particular area.

Steve Homeyer, P.E., Homeyer Engineering, Inc., was present to respond to any questions posed by the City Council.

MOTION: Upon a motion made by Councilman Durham and seconded by Mayor Pro Tem Ueckert, the Council voted five (5) "ayes" and no (0) "nays" to table to allow staff to work with applicant to see if a solution could be agreed upon. The motion carried.

Tabled Item: Consideration of a Variance to the Lewisville City Code, Chapter 11 Signs to Allow Both a Monument Sign and a Wall Sign on the Primary Building Façade as Requested by Barry E. Bente on Behalf of Miracle Home Health at 571 West Main Street

(Agenda Item F-5)

Mayor Carey advised that the proposed sign is a wall sign to be installed on the primary façade (the South elevation) of the building at 571 West Main Street. At the August 6, 2007 City Council meeting, this item was tabled while the applicant obtained documentation to show that owner would only allow one additional wall sign on the primary façade and would remove the sign when the tenant vacated the building. Currently, the applicant is working with staff, but has not yet obtained the necessary documentation. Staff recommends that City Council table the item until the applicant has the necessary documentation to proceed.

The City staff's recommendation was that the City Council table indefinitely the variance to the Lewisville City Code, Chapter 11 Signs for Miracle Home Health at 571 West Main Street.

Sarah McLain, Economic Development Specialist, was present to respond to any questions posed by the City Council.

MOTION: Upon a motion made by Councilman Durham and seconded by Councilman Tierney, the Council voted five (5) "ayes" and no (0) "nays" to table this item indefinitely. The motion carried.

Consideration of a Request for a Variance to the Lewisville City Code, Section 6-54, Regarding When An Engineering Site Plan is Required, for a Proposed Building on the Delay Middle School Campus, Located at 136 Purnell Street, as Requested by Neal Wilson, Director of Athletics for the Lewisville Independent School District

(Agenda Item F-6)

Mayor Carey advised that the Lewisville Independent School District is upgrading all middle school campuses by adding a weight room/physical education building to all sites. The building will be made of brick and/or block to match the existing main campus building and will be approximately 2,000 square feet in size. An engineering site plan is required for the Delay Middle School site. Representatives from the Lewisville Independent School District are requesting that the engineering site plan requirements be waived allowing for the construction of

Consideration of a Request for a Variance to the Lewisville City Code, Section 6-54, Regarding When An Engineering Site Plan is Required, for a Proposed Building on the Delay Middle School Campus, Located at 136 Purnell Street, as Requested by Neal Wilson, Director of Athletics for the Lewisville Independent School District (cont'd)

(Agenda Item F-6)

the building. In addition, the district will provide a conceptual site plan exhibit that will address the location and setbacks for the building.

Mayor Carey stated the City staff's recommendation was that the City Council approve the variance request.

Coach Neal Wilson, 1485 Juniper Lane, Lewisville, Texas 75077, reviewed the Lewisville Independent's request for the City Council.

MOTION: Upon a motion made by Deputy Mayor Pro Tem Thornhill and seconded by Councilman Watts, the Council voted five (5) "ayes" and no (0) "nays" to approve the proposed building on the Delay Middle School Campus, located at 136 Purnell Street, as requested by Neal Wilson, Director of Athletics for the Lewisville Independent School District. The motion carried.

Consideration of a Request for Five Variances to the Lewisville City Code, Chapter 6, Land Development Regulations, for a Proposed Development Associated With Lewisville High School, Located at 1098 West Main Street, as Requested by Kyle Hogue, G&A Consultants, Inc., Representing the Owner

(Agenda Item F-7)

Mayor Carey advised that two additional buildings are proposed to be constructed at the Lewisville High School campus. A new two-story fine arts building, approximately 40,000 square feet in size, and a new activities building, approximately 4,000 square feet in size, are proposed for the campus. An engineering site plan has been submitted for City staff to review that contains five (5) variances that were previously approved by the City Council, but need to be reconsidered due to the new construction. The variances include: a) to waive the deceleration lane requirements related to Valley Parkway; b) to allow the existing drives to remain within the control of access zone along Valley Parkway; c) to waive driveway spacing requirements for existing drive approaches; d) to waive current landscape requirements; and, e) to waive the current screening wall requirements along certain portions of the property. After review of the

**Consideration of a Request for Five
Variances to the Lewisville City Code,
Chapter 6, Land Development Regulations,
for a Proposed Development Associated With
Lewisville High School, Located at 1098 West
Main Street, as Requested by Kyle Hogue,
G&A Consultants, Inc., Representing the
Owner (cont'd)**

(Agenda Item F-7)

engineering site plan, staff has determined that the impact of the new construction is minimal compared to existing conditions.

Mayor Carey stated the City staff's recommendation was that the City Council approve the requested variances.

Eric Ferris, Director of Community Development and Kyle Hogue, P.E., G&A Consultants, Inc., were both present to respond to any questions posed by the City Council.

MOTION: Upon a motion made by Councilman Tierney and seconded by Councilman Durham, the Council voted five (5) "ayes" and no (0) "nays" to approve the request for the following five variances to the Lewisville City Code, Chapter 6, Land Development Regulations, for a proposed development associated with Lewisville High School, Located at 1098 West Main Street, as requested by Kyle Hogue, G&A Consultants, Inc., representing the owner: a) to waive the deceleration lane requirements related to Valley Parkway; b) to allow the existing drives to remain within the control of access zone along Valley Parkway; c) to waive driveway spacing requirements for existing drive approaches; d) to waive current landscape requirements; and, e) to waive the current screening wall requirements along certain portions of the property. The motion carried.

**Consideration of a Variance to the Lewisville
City Code, Section 6-144 - Screening Walls,
for the Brownstones at Vista Ridge, Located
on the West Side of Rockbrook Drive, South
of FM 3040; as Requested by Jason Rose of
JR Rose Development Companies, the
Property Owner**

(Agenda Item F-8)

Mayor Carey advised that the site is located at the southwest quadrant of Round Grove Road and Rockbrook Drive. A masonry screening wall is required where residential zoning abuts commercial zoning. The property sits between the large Chapel Hill Apartments development, where a wall is not required, and retail businesses along Round Grove Road, where a masonry screening wall is required. The proposed wrought iron fence with landscaping as

Consideration of a Variance to the Lewisville City Code, Section 6-144 - Screening Walls, for the Brownstones at Vista Ridge, Located on the West Side of Rockbrook Drive, South of FM 3040; as Requested by Jason Rose of JR Rose Development Companies, the Property Owner (cont'd)

(Agenda Item F-8)

proposed will provide a more appealing separation than a masonry screening wall that only goes a portion of the way around the site. An engineering site plan is currently under review and, with the exception of this particular variance, all other requirements meet City codes.

Mayor Carey stated that the City Council approve the variance request to waive the required masonry screening wall in lieu of the proposed wrought iron fence and landscaping.

Gene Lewis, Planning & Community Services Manager and Jason Rose, JR Rose Development Companies, were both present to respond to any questions posed by the City Council.

MOTION: Upon a motion made by Councilman Watts and seconded by Deputy Mayor Pro Tem Thornhill, the Council voted five (5) "ayes" and no (0) "nays" to approve a variance to the Lewisville City Code, Section 6-144 - Screening Walls, for the Brownstones at Vista Ridge, located on the west side of Rockbrook Drive, South of FM 3040, to allow a proposed wrought iron fence with landscaping; as requested by Jason Rose of JR Rose Development Companies, the property owner,. The motion carried.

Consideration of a Variance to the Fee Ordinance Related to Pet Registration Fees; Consideration of a Variance to the Special Events Ordinance Related to Overnight Housing of Stock Animals; Consideration of Sale and Consumption of Alcohol on City Property as Required by Administrative Policy 4.1.1, City Facilities; and Consideration of Temporary Street Closures on Main Street and Mill Street for Western Day 2007 Festival

(Agenda Item F-9)

Mayor Carey advised that the 2007 Western Day festival is scheduled for Saturday, September 1. Several variances and Council approvals are necessary to carry out the festival activities. A variance to the fee ordinance is requested for waiving of the pet registration fee from August 21 to September 1 to coincide with an emphasis on pets at this year's festival. A

Consideration of a Variance to the Fee Ordinance Related to Pet Registration Fees; Consideration of a Variance to the Special Events Ordinance Related to Overnight Housing of Stock Animals; Consideration of Sale and Consumption of Alcohol on City Property as Required by Administrative Policy 4.1.1, City Facilities; and Consideration of Temporary Street Closures on Main Street and Mill Street for Western Day 2007 Festival (cont'd)

(Agenda Item F-9)

variance is also requested to the ordinance related to overnight housing of stock animals during special events in order keep the 32 longhorn cattle that will lead off the parade in Old Town from 7:00 a.m. Saturday, September 1 until 11:00 a.m. Sunday, September 2. Council approval is requested for the sale and consumption of alcohol on City property so that a beer garden can be set up on the west parking lot of City Hall. Finally, staff is requesting Council approval for the closing of the streets which will be used for the festival.

Mayor Carey stated the City staff's recommendation was that the City Council approve the requested variances to the Fee Ordinance and Special Events Ordinance; approve alcohol sales on city property during Western Day; and approve temporary street closures on Main and Mill Streets.

MOTION: Upon a motion made by Councilman Tierney and seconded by Mayor Pro Tem Ueckert, the Council voted five (5) "ayes" and no (0) "nays" to approve a variance to the Fee Ordinance Related to Pet Registration Fees until September 8th; approve a a variance to the Special Events Ordinance Related to Overnight Housing of Stock Animals; approve the sale and consumption of alcohol on city property as required by Administrative Policy 4.1.1, City Facilities; and approve temporary street closures on Main Street and Mill Street for Western Day 2007 Festival. The motion carried.

Consideration of a Two-Year Bank Depository Contract With Three (3) One-Year Renewal Options With Wachovia Bank, N.A., as Depository for City Funds; and Authorization for the City Manager to Execute the Contract

(Agenda ItemF-10)

Mayor Pro Tem Ueckert advised that he would be abstaining from discussion and consideration of this item.

Consideration of a Two-Year Bank Depository Contract With Three (3) One-Year Renewal Options With Wachovia Bank, N.A., as Depository for City Funds; and Authorization for the City Manager to Execute the Contract (cont'd)

(Agenda Item F-10)

Mayor Carey advised that on June 13, 2007, the City mailed a request for proposal for Depository and Safekeeping Service applications to prospective banking institutions with banking facilities located within the City. The request for proposal requested information for the cost of both services currently being received as well as the cost for anticipated new services not currently being provided. Two qualified banking institutions submitted proposals. Both proposals were evaluated on the criteria listed in the request for proposal. Wachovia Bank, N.A. received the highest overall score from the evaluation panel.

Mayor Carey stated the City staff's recommendation was that the City Council approve a two-year Bank Depository Contract with three (3) one-year renewal options with Wachovia Bank, N.A. as Depository for City Funds; and authorize the City Manager to execute the contract.

MOTION: Upon a motion made by Councilman Durham and seconded by Councilman Tierney, the Council voted four (4) "ayes" and no (0) "nays" to approve a two-year Bank Depository Contract with three (3) one-year renewal options with Wachovia Bank, N.A. as Depository for City Funds; and authorized the City Manager to execute the contract. The motion carried.

Mayor Pro Tem Ueckert returned to his place on the dais.

Consideration of Ordinance No. 3478-08-2007 Adopting Provisions for the Automated Traffic Signal Enforcement Program in the City of Lewisville, Texas

(Agenda Item F-11)

Mayor Carey advised that on July 16, 2007, City Council approved the implementation and operation of a photographic red light enforcement program in the City of Lewisville. An ordinance has been prepared imposing civil penalty for violations and enforcement procedures.

Mayor Carey stated the City staff's recommendation was that the City Council adopt the ordinance for the automatic traffic signal enforcement program.

Consideration of Ordinance No. 3478-08-2007 Adopting Provisions for the Automated Traffic Signal Enforcement Program in the City of Lewisville, Texas (cont'd)

(Agenda Item F-11)

City Attorney Ron Neiman read the ordinance caption into the record as follows:

“An Ordinance of the City Council of the City of Lewisville, Texas, Amending Chapter 15, of the Lewisville City Code, by Adopting Provisions for the Automated Traffic Signal Enforcement Program; Providing for a Repealer; Providing for Severability; Providing a Penalty; Providing an Effective Date; and Declaring an Emergency.”

MOTION: Upon a motion made by Councilman Watts and seconded by Deputy Mayor Pro Tem Thornhill, the Council voted five (5) “ayes” and no (0) “nays” to approve and adopt **Ordinance No. 3478-08-2007**, as captioned previously. The motion carried.

Discussion of the Restriction of Smoking in Designated Public Places (as Requested by Mayor Carey)

(Agenda Item F-12

Mayor Carey advised that currently no state law or city ordinance bans smoking in public places. House Bill 9, which banned smoking in designated public places, was introduced by Representative Crownover in the last legislative session. The bill passed in the House but failed in the Senate. Forty-seven Texas cities have passed an ordinance that bans smoking in some form. The City Council has considered this issue in the past and directed staff to put an incentive program in place that would encourage restaurants to ban smoking. This program was placed on hold pending the outcome of HB 9. Mayor Carey requested that this issue be reexamined in light of the fact that the statewide bill failed to pass.

Mayor Carey stated the City staff’s recommendation was that the City Council provide staff direction as to whether or not they wish to develop a more restrictive smoking ordinance and as to whether or not this change should be made by Council action or a public election; and call a special meeting for August 27, 2007 to approve the election order.

Mayor Carey stated that he felt that the citizens should be allowed to vote on this topic. Mayor Carey reviewed how other cities have handled this topic and that half had allowed the citizens to vote and half the City Council had made the determination.

**Discussion of the Restriction of Smoking in
Designated Public Places (as Requested by
Mayor Carey) (cont'd)**

(Agenda Item F-12)

Councilman Durham reminded the City Council that several months ago the City Council elected to not vote on this topic and do an incentive program for at least a year; however, that had been put on hold pending legislative action. Councilman Durham expressed concern that the City Council was abdicating making a decision and taking this to the voters. Councilman Durham stated that if someone does not like smoking then they can choose to not go to a restaurant that has smoking.

Mayor Pro Tem Ueckert advised that he did not have a problem taking this issue to the voters.

Councilman Watts indicated that he felt the citizens had elected the City Council to make these decisions, not take this topic to the voters. He stated that he felt it was the City Council's responsibility to make this determination and that if taken to an election the City Council was not doing the job they were had been elected to make. Councilman Watts indicated that if the voters did not like the decision the City Council had made then they could make that known during a City Council election by not reelecting the members.

Deputy Mayor Pro Tem Thornhill advised that he was not sure it was his job to tell someone if they could smoke or not, that should be up to the patron. He stated that he would like to see this issue go to the voters to be decided.

Councilman Tierney stated that this was a hot topic nationwide and he felt it was best served to let voters decide. Councilman Tierney further stated that sooner or later the funds will have to be spent on an election to determine to what extent where smoking would be allowed, whether it is in restaurants, bowling alleys, stores, public buildings, etc.,

City Attorney Ron Neiman advised that staff would need to know what the City Council wanted in order to prepare a proposed ordinance.

Councilman Tierney advised he wanted to move forward and send this issue to the citizens in an election. He further advised he wanted to take small steps and in the future the City Council can tighten up the smoking prohibition if they need.

Councilman Durham advised that at the least restaurants should be included. Councilman Tierney advised the Texas Restaurant Association supports a statewide smoking ban with the stipulation that it be clear cut straight across the board in all eating and drinking establishments.

MOTION: Upon a motion made by Councilman Tierney and seconded by Councilman Durham, the Council voted four (4) “ayes” and one (1) “nays” to direct City staff and the City Attorney to draft an ordinance to potentially take to the voters in a November Election for the City Council to review at a Called-Special Meeting on August 27, 2007, to incorporate restaurants and bars only, and offer options as far as patio dining and entryways into buildings. The motion carried.

Reports

(Agenda Item G)

- Director of Parks and Leisure Services Robert Monaghan advised that the lake level was going down and most of the roadways were out of the water. He stated that Lake Park and Tower Bay should be open August 29th.
- Assistant City Attorney Donna Barron invited everyone out to Western Days on September 1st in the Old Town Area starting at 10 a.m. Ms. Barron reviewed the scheduled events that would be part of Western Days.

There were no additional reports at this time.

Mayor Carey adjourned the regular session of the Lewisville City Council into Closed Session at 9:14 p.m. Monday, August 20, 2007, in accordance with the requirements of the Open Meetings Law.

Closed Session

(Agenda Item H)

In accordance with Texas Government Code, Subchapter D, Section 551.072 (REAL ESTATE), the Lewisville City Council convened into Closed Session at 9:20 p.m. on Monday, August 20, 2007, City Council Conference Room of the Lewisville City Hall, 151 West Church Street, Lewisville, Texas, in order to discuss matters pertaining to the following:

1. Property Acquisition

Section 551.074 (PERSONNEL MATTERS):

- 2a. City Manager Claude King
- 2b. City Attorney Ronald J. Neiman
- 2c. Chief Municipal Court Judge Brian Holman
- 2d. City Secretary Julie Heinze

Section 551.087 (ECONOMIC DEVELOPMENT):

Closed Session (cont'd)

(Agenda Item H)

3. Deliberation Regarding Economic Development for a Potential Company Relocation.

The Closed Session was adjourned at 9:30 p.m. on Monday, August 20, 2007.

Reconvene into Regular Session and Consider Action, if any, on Items Discussed in Closed Session

(Agenda Item I)

(Councilman Watts was not present at the dais.)

Mayor Carey reconvened the Regular Session of the Lewisville City Council at 9:33 p.m. on Monday, August 20, 2007, in the Council Chambers of the Lewisville City Hall.

Mayor Carey opened the floor for action to be taken on the items discussed in the Closed Session. There was no action taken on the items discussed during the Closed Session.

Adjournment

(Agenda Item J)

MOTION: Upon a motion made by Councilman Tierney and seconded by Deputy Mayor Pro Tem Thornhill, the Council voted four (4) "ayes" and no (0) "nays" to adjourn the Regular Session of the Lewisville City Council at 9:33 p.m. on Monday, August 20, 2007. The motion carried.

These minutes approved by the Lewisville City Council on the 10th day of September, 2007.

APPROVED

Gene Carey
MAYOR

ATTEST:

Julie Heinze
CITY SECRETARY