

LEWISVILLE CITY COUNCIL

REGULAR SESSION

SEPTEMBER 10, 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, September 10, 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.

Arts Activity Center Design/Fire House 7

Design

(Agenda Item A)

City Manager King advised that Milton Powell was present to review the concepts for the Arts Activity Center. City Manager King stated that following the last meeting with Mr. Powell, he had refined and added some exterior renderings for the City Council's review.

Utilizing a Power Point Presentation, Mr. Powell reviewed the most current renderings for the Arts Activity Center. These renderings included the location of the City Hall compared to where the new cultural arts center would be located and early stages of the floor plan.

Mr. Powell advised that they would be contacting the various arts groups to schedule approximately an hour, to an hour and a half, meeting to review their needs.

WORKSHOP SESSION – 5:30 P.M.

**Arts Activity Center Design/Fire House 7
Design (cont'd)**

(Agenda Item A)

Mr. Powell reviewed renderings of various angles from Charles Street of the Arts Activity Center. Discussion was held regarding the flag poles and the multiple uses of these poles.

Mr. Powell then reviewed renderings of the heavy wood timbers and black accents located outside of the building that could depict early train stations. Mr. Powell also showed renderings of the courtyard that would hold approximately 200 people, tables, ticket booth, and a temporary stage. Mr. Powell advised that there would be a variety of ways that this courtyard could be utilized. Deputy Mayor Pro Tem Ueckert expressed concern about the birds coming into this area. Mr. Powell advised they would take a look at how to prevent that from happening and report back to the City Council.

Mr. Powell then reviewed the parking requirements and what would be available. He indicated that even at full capacity there would be adequate parking available for the Art Activity Center.

Mr. Powell advised that they had worked very hard to following the Old Town Design Ordinance when designing the Art Activity Center.

Mr. Powell explained that the next step would be to meet with all the arts groups in detailed programming sessions, and then they will come back with detailed costs, drawing designs, etc., to let the City Council review. Mr. Powell advised that the City was approximately a year and a half out before they could open the door of this facility.

At City Manager King's request, Mr. Powell explained the vertical elements on the outside of the building and that they would act like a sun dial that would change throughout the day.

This concluded the discussion regarding the Arts Activity Center Design.

WORKSHOP SESSION – 5:30 P.M.

**Arts Activity Center Design/Fire House 7
Design (cont'd)**

(Agenda Item A)

Assistant Fire Chief Tim Tittle introduced Gary DeVries and Stephen Hilt from BRW, Architects, Inc., who were designing Fire Station No. 7. Mr. DeVries advised that the Fire Station level of design was similar to the Arts Activity Center and they were hoping to get a concurrence from the City Council to proceed with engineer involvement to get enough detail to verify product costs. Mr. DeVries then began a PowerPoint Presentation starting with a review of the location of this station.

Mr. DeVries then reviewed photos of site area and pointed out different aspects of the property. Mr. DeVries advised that they had worked to dress up the site; however, there are overhead power lines that hang low. Mr. DeVries explained that within the current budget there is not funding to have those lines placed underground and he wanted to make sure that the City Council was aware of this situation. Mr. DeVries recommended that TXU be contacted to see if there were any possibilities of getting the lines placed underground.

Mr. DeVries continued with his PowerPoint Presentation and reviewed more photographs that rotated around the site. He explained that there currently was existing pavement that was in overall good shape and should hold up to the long term use and weight of the fire trucks.

Mr. DeVries reviewed a conceptual drawing of the new site plan starting with the apparatus bay area. Mr. DeVries then reviewed the floor plans of the first and second levels and what was contained in each area. Discussion was held regarding the possibility of the apparatus bay having a second story for a storage area. Mr. DeVries recommend that this be put in as an alternate bid item.

Mr. DeVries then reviewed the timeline schedule and current budget. Mayor Carey questioned the anticipated escalating costs for construction. Mr. DeVries indicated that he had seen anywhere from 8 – 12% increases.

Mr. DeVries advised that they had been sympathetic with the Old Town Area and had tried to incorporate some of the same features as the Arts Activity Center. Mr. DeVries reviewed some of those features.

Discussion was held regarding the history behind Fire Station Towers and what it could be used for in this station. Mr. DeVries advised that the tower was located above the fitness area and would mainly be symbolic; however, it could have certain functions if the City Council wished. Mr. DeVries reminded the City Council that this design was just an early concept.

WORKSHOP SESSION – 5:30 P.M.

**Arts Activity Center Design/Fire House 7
Design (cont'd)**

(Agenda Item A)

Deputy Mayor Pro Tem Ueckert advised while he does not want to duplicate City Hall, he would like to see some of the same features, such as the clock tower or dome, that are on City Hall on the Fire Station.

Discussion was held regarding various doors that can be used on Fire Station No. 7. City Manager King clarified that color depicted in the renderings was conceptual. Mr. DeVries advised that was correct, they will come back with a full palate of stone, brick, and colors at a later date.

The consensus of the City Council was they had like what Mr. DeVries had shown them during this presentation.

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 C, Presentations, Texas Municipal Library Directors Association 2006 Achievement of Excellence in Libraries Award. There was no discussion on this item.

Mayor Carey reviewed Agenda Item D-1, Public Hearing: Consideration of an Ordinance for a Zone Change Request From Agriculture-Open Space (AO) to Light Industrial (LI) on a 4.19 Acre Tract Located Between Business S.H. 121 & Midway Road, West of Holford's Prairie Road, East of the Existing Holt Facility; Further Identified as Tract 10 of the S.M. Hayden Survey, Abstract 537; as Requested By Holt Texas Properties, With Authorization From the Current Property Owner, Bill Myers (Case No. PZ20070815). 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 D-2, Public Hearing: Consideration of an Ordinance for a Zone Change Request From Light Industrial (LI) to Local Commercial (LC) on a 3.3 Acre Tract Located at 417 Oak Bend Drive; Further Identified as Lot 1, Block A of the Oak Bend and Rockbrook Addition; as Requested by Gary M. Simon, the Current Property Owner (Case No. PZ20070816). There was no discussion on this item.

Mayor Carey reviewed Agenda Item D-3, Public Hearing: Consideration of an Ordinance to Tax Tangible Personal Property in Transit Which Would Otherwise be Exempt Pursuant to Texas Tax Code, Section 11.243. City Manager King advised that if the City Council wanted to change how this was handled they could do that on an annual basis. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item D-4, Public Hearing: Consideration of the Proposed FY 2007-2008 Budget, Property Tax Revenue Increase and Property Tax Rate. There was no discussion on this item.

Mayor Carey reviewed Agenda Item D-5, Public Hearing: Consideration of the FY 2007-2008 Waters Ridge Public Improvement District (PID) No. 1 Assessment and Five Year Service Plan. There was no discussion on this item.

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

Mayor Carey reviewed Agenda Item F-6, Approval of Minutes: City Council Minutes of the August 20, 2007, Workshop Session and Regular Session. There was no discussion on this item.

Mayor Carey reviewed Agenda Item F-7, Appointment of Library Board Member Carolyn Richard as North Texas Regional Library System Assembly Representative and Library Board Members Marcia De Avila and Joel Battle as Alternates. There was no discussion on this item.

Mayor Carey reviewed Agenda Item F-8, Approval of Acceptance of a Texas Criminal Justice Division Victim Assistance Grant Award in the Amount of \$67,674; and Authorization for the City Manager or His Designee to Execute the Grant Document. 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-9, Approval of a Bid Award for the Dallas Water Supply Line No. 3 Phase 1 Project to Wright Construction Company, Inc., Grapevine, Texas, in the Amount of \$1,051,341.60; and Authorization for the City Manager to Execute the Contract. There was no discussion on this item.

Mayor Carey reviewed Agenda Item F-10, Approval of a Resolution Denying the GRIP 4 Requested Surcharge by Atmos Mid-Tex. There was no discussion on this item.

Mayor Carey reviewed Agenda Item F-11, Approval of an Appropriation in the Amount of \$165,000 From General Capital Project Available Cash to the Drainage Improvement '07 Capital Project; and Approval of a Transfer in the Amount of \$138,709 From the Day Laborer Capital Project to the Drainage Improvement '07 Capital Project. Councilman Watts stated that this issue had come up during his recent campaign. He wanted to clarify for anyone that was present at the meeting that he did not have anything to do with this item being on the agenda. Councilman Watts explained that he did not want anyone to think he was trying to upstage anyone on the City Council. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item F-12, Approval of an Agreement for City Participation in the Villas at Wellington Subdivision for Removal of the Palisades Drive Drainage Lift Station and the Associated Oversizing of Storm Sewers in the Amount of \$160,611.75; and Authorization for the City Manager to Execute the Agreement. There was no discussion on this item.

Mayor Carey reviewed Agenda Item F-13, Approval of a Professional Services Agreement With Half Associates, Inc., in the Amount of \$72,600 for Engineering Services Relating to the Timber Creek Drainage and Erosion Study; and Authorization for the City Manager to Execute the Agreement. There was no discussion on this item.

Mayor Carey reviewed Agenda Item F-14, Approval of Final Acceptance of the Valley Ridge Northeast 30-Inch Water Line; and Authorization to Make Final Payment to Wilson Contracting Services, L.L.C., in the Amount of \$61,000.23. 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-15, Approval of the Termination of a Program Grant Agreement by and Between the City of Lewisville and Majestic Lewisville Partners II, L.P., a Delaware Limited Partnership, Dated December 18, 2006 (Property 18); Approval of a Program Grant Agreement by and Between the City of Lewisville and DFW Lewisville Partners, GP, a General Partnership (Property 18); Approval of the First Amendment to Two Program Grant Agreements by and Between the City of Lewisville and Majestic Lewisville Partners, L.P., a Delaware Limited Partnership, Dated December 18, 2006 (Property 13 & 15); Approval of the First Amendment to the Program Grant Agreement by and Between the City of Lewisville and Cobb Gifting Trust, Dated December 18, 2006 (Property 16); Approval of the Termination of the Program Grant Agreement by and Between the City of Lewisville and Cobb Gifting Trust, Dated December 18, 2006 (Property 17); and Authorization for the City Manager to Execute the Agreements. There was no discussion on this item.

Mayor Carey reviewed Agenda Item G-16, Consideration of an Ordinance Amending Chapter 8 of the Lewisville City Code Concerning Miscellaneous Offenses by Adding Clauses to Prohibit the Public Display of Facsimile Firearms and Making Other Minor Changes to Simplify the Ordinance. Councilman Thornhill advised he was in agreement with this ordinance. He further expressed his concern about allowing firearms in a City building; however, he did understand that State law allows this when someone has a concealed weapons license. City Manager King advised that they could bring a firearm into a public building, unless there is a public meeting being conducted. Police Chief Kerbow and Assistant Police Captain Jay Powell showed the City Council various facsimile firearms. Police Chief Kerbow explained that this ordinance will give the Police Officer the ability to seize the facsimile firearm and use it in a court case. He explained it will also allow them to have “teeth” behind a public education campaign. Discussion was held regarding current charges and potential charges should the City Council approve the proposed ordinance. Further discussion was held regarding that it would be at the Police Officer’s discretion to issue a ticket, similar to the Teen Curfew. There was no further discussion on this item.

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

Mayor Carey reviewed Agenda Item I-Closed Session. 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 6:45 p.m. on Monday, September 10, 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, September 10, 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, Councilman Tierney gave the invocation.

Pledge to the Flag

(Agenda Item B)

At the request of Mayor Carey, the following members of Pack 66, Den 1 gave the pledge to the flag: Wendy Trayler (Pack Leader), Peyton, Anthony, Brady, Clayton, Dylan, Matthew, Tommy, DJ, Neetin, Blake, Ethan, and Parker.

**Presentation: Texas Municipal Library
Directors Association 2006 Achievement of
Excellence in Libraries Award**

(Agenda Item C)

Mayor Carey presented the Texas Municipal Library Directors Association 2006 Achievement of Excellence in Libraries Award to Library Manager Ann Wiegand.

Mayor Carey presented a guitar to City Manager King that had been given to the City during the Annual Old Town Western Days Event from the Randy Rogers Band.

Public Hearing: Consideration of Ordinance No. 3480-09-2007(Z) for a Zone Change Request From Agriculture-Open Space (AO) to Light Industrial (LI) on a 4.19 Acre Tract Located Between Business S.H. 121 & Midway Road, West of Holford's Prairie Road, East of the Existing Holt Facility; Further Identified as Tract 10 of the S.M. Hayden Survey, Abstract 537; as Requested By Holt Texas Properties, With Authorization From the Current Property Owner, Bill Myers (Case No. PZ20070815)

(Agenda Item D-1)

Mayor Carey advised that the property is surrounded mainly by Light Industrial (LI) and some Agricultural Open Space (AO). The East Lewisville Plan identifies this area and its surroundings to be best suited for Light Industrial and commercial uses. Currently, the portion of the property being zoned is vacant. The applicant, Holt Texas Properties, intends on expanding their current facility by approximately 40,000 square feet. Holt's current eastern property line abuts this property's western boundary. The zone change request is consistent with the Light Industrial in the area. Most of the surrounding property is commercial in nature. Light Industrial allows up to 10% of the lot to be used for outside storage when properly screened, not to be confused with display of equipment which is unlimited in Light Industrial. The Planning and Zoning Commission voted 7-0 in favor of the zone change request at their August 7, 2007 meeting.

Mayor Carey stated the City staff's recommendation was that the City Council approve the proposed ordinance amending the Lewisville Code of Ordinances, Chapter 17, the Comprehensive Zoning Ordinance approving the requested zone change from Agriculture Open-Space (AO) to Light Industrial (LI).

Mayor Carey opened the public hearing.

Gene Lewis, Planning and Community Services Manager and Wayne Ferguson, Lewisville Chamber of Commerce Economic Development Foundation, were both present to respond to any question posed by the City Council.

MOTION: Upon a motion made by Councilman Durham and seconded by Councilman Watts, the Council voted five (5) "ayes" and no (0) "nays" to close the public hearing. The motion carried.

Public Hearing: Consideration of Ordinance No. 3480-09-2007(Z) for a Zone Change Request From Agriculture-Open Space (AO) to Light Industrial (LI) on a 4.19 Acre Tract Located Between Business S.H. 121 & Midway Road, West of Holford's Prairie Road, East of the Existing Holt Facility; Further Identified as Tract 10 of the S.M. Hayden Survey, Abstract 537; as Requested By Holt Texas Properties, With Authorization From the Current Property Owner, Bill Myers (Case No. PZ20070815) (cont'd)

(Agenda Item D-1)

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, That Amends the Zoning Ordinance of the City of Lewisville, Texas, Granting Zoning Changes on the 4.19 Acre Tract of Land Fully and Completely Described in the Attached Exhibit "A", Ordering a Change in the Use of Said Property From Agriculture-Open Space (AO) District Zoning to Light Industrial (LI) District Zoning; Correcting the Official Zoning Map; Preserving All Other Portions of the Zoning Ordinance; Providing a Clause Relating to Severability; Determining That the Public Interests and General Welfare Demand a Zoning Change and Amendment Therein Made; Providing a Penalty; and Declaring an Emergency.”

MOTION: Upon a motion made by Councilman Durham and seconded by Councilman Tierney, the Council voted five (5) “ayes” and no (0) “nays” to approve and adopt **Ordinance No. 3480-09-2007(Z)**, as previously captioned. The motion carried.

Public Hearing: Consideration of Ordinance No. 3481-09-2007(Z) for a Zone Change Request From Light Industrial (LI) to Local Commercial (LC) on a 3.3 Acre Tract Located at 417 Oak Bend Drive; Further Identified as Lot 1, Block A of the Oak Bend and Rockbrook Addition; as Requested by Gary M. Simon, the Current Property Owner (Case No. PZ20070816)

(Agenda Item D-2)

Mayor Carey advised that the existing Dimasys office building sits on property which is currently zoned Light Industrial (LI). The applicant plans on constructing a second office building

Public Hearing: Consideration of Ordinance No. 3481-09-2007(Z) for a Zone Change Request From Light Industrial (LI) to Local Commercial (LC) on a 3.3 Acre Tract Located at 417 Oak Bend Drive; Further Identified as Lot 1, Block A of the Oak Bend and Rockbrook Addition; as Requested by Gary M. Simon, the Current Property Owner (Case No. PZ20070816) (cont'd)

(Agenda Item D-2)

on the site. Given the surrounding residential zoning to the south and west of this property, the preliminary drawings of the proposed office building indicate that the building will not have sufficient parking spaces. This is so because LI zoning requires a 50 foot rear setback when the property abuts residential property. No such requirement exists, however, with Local Commercial (LC) zoning if there is a screening wall between the commercial and residential properties. At present, there is a six foot masonry screening wall on the south side of this site. The applicant proposes to build the second office building at an angle approximately 50 to 155 feet from the residential property to its south. The zoning change will also allow more trees to remain on site because the applicant will not have to cut them down to create space for additional parking. LC zoning does not allow outside display or outside storage. The Planning and Zoning Commission voted 7-0 in favor of the zone change request at their August 7, 2007, meeting.

Mayor Carey stated the City staff's recommendation was that the City Council approve the proposed ordinance amending the Lewisville Code of Ordinances, Chapter 17, the Comprehensive Zoning Ordinance approving the requested zone change from Light Industrial (LI) to Local Commercial (LC).

Mayor Carey opened the public hearing.

Gene Lewis, Planning and Community Services Manager and Allan Hill, ALH Architects, were both present to respond to any questions posed by the City Council.

MOTION: Upon a motion made by Councilman Tierney and seconded by Deputy Mayor Pro Tem Thornhill, the Council voted five (5) "ayes" and no (0) "nays" to close the public hearing. The motion carried.

**Public Hearing: Consideration of Ordinance
No. 3481-09-2007(Z) for a Zone Change
Request From Light Industrial (LI) to Local
Commercial (LC) on a 3.3 Acre Tract Located
at 417 Oak Bend Drive; Further Identified as
Lot 1, Block A of the Oak Bend and
Rockbrook Addition; as Requested by Gary
M. Simon, the Current Property Owner (Case
No. PZ20070816) (cont'd)**

(Agenda Item D-2)

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, That Amends the Zoning Ordinance of the City of Lewisville, Texas, Granting Zoning Changes on the 3.3 Acre Tract of Land Fully and Completely Described in the Attached Exhibit "A", Ordering a Change in the Use of Said Property From Light Industrial (LI) District Zoning to Local Commercial (LC) District Zoning; Correcting the Official Zoning Map; Preserving All Other Portions of the Zoning Ordinance; Providing a Clause Relating to Severability; Determining That the Public Interests and General Welfare Demand a Zoning Change and Amendment Therein Made; Providing a Penalty; and Declaring an Emergency.”

MOTION: Upon a motion made by Deputy Mayor Pro Tem Thornhill and seconded by Mayor Pro Tem Ueckert, the Council voted five (5) “ayes” and no (0) “nays” to approve and adopt **Ordinance No. 3481-09-2007(Z)**, as previously captioned. The motion carried.

**Public Hearing: Consideration of Ordinance
No. 3482-09-2007 to Tax Tangible Personal
Property in Transit Which Would Otherwise
be Exempt Pursuant to Texas Tax Code,
Section 11.243**

(Agenda Item D-3)

Mayor Carey advised that in the 2007 session, the Texas Legislature passed HB 621, which provided for an exemption of certain inventory values, when that inventory meets certain “in-transit” requirements. While this is similar to the Freeport Exemption which has already been approved by the City, this new provision provides a method whereby nearly all inventory could become exempt property if the City does not take action. The Bill automatically goes into effect January 1, 2008, unless a taxing jurisdiction “opts-out” of the exemption or provides by official action the taxation of goods-in-transit. Once the taxation is approved by a taxing

**Public Hearing: Consideration of Ordinance
No. 3482-09-2007 to Tax Tangible Personal
Property in Transit Which Would Otherwise
be Exempt Pursuant to Texas Tax Code,
Section 11.243**

(Agenda Item D-3)

authority, it remains in effect until the taxing authority “ops-in” to allow the exemption. Based on the feedback from other area cities it appears that “opting-out” of the exemption is the direction most are going.

Mayor Carey stated the City staff’s recommendation was that the City Council conduct a Public Hearing; and approve the ordinance to tax tangible personal property in transit which would otherwise be exempt pursuant to Texas Tax Code, Section 11.253.

Mayor Carey opened the public hearing.

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 close the public hearing. The motion carried.

Councilman Watts advised that he felt if surrounding cities were going to continue and tax these goods then the City of Lewisville should also; however, if they were not, then the City should not continuing taxing. City Manager King advised that whatever decision the City Council made at this meeting was not permanent, that it could be changed on an annual basis. Councilman Watts expressed his desire to allow the property to not be taxed at this time and if a revenue change is needed at a later date changes could be made.

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, to Tax Tangible Personal Property in Transit Which Would Otherwise be Exempt Pursuant to Texas Tax Code, Section 11.253; Providing for Other Matters Relating Thereto; Providing for Severability; Providing a Repealer; and Declaring an Emergency.”

MOTION: Upon a motion made by Mayor Pro Tem Ueckert and seconded by Mayor Pro Tem Ueckert, the Council voted four (4) “ayes” and one (1) “nays,” with Councilman Watts casting the negative vote to approve and adopt **Ordinance No. 3482-09-2007(Z)**, as previously captioned. The motion carried.

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

(Agenda Item D-4)

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

The City staff's recommendation was that the City Council conduct the Public Hearing.

Mayor Carey opened the public hearing.

Mayor Carey advised that a second public hearing will be held at 7:00 p.m. on September 17, 2007 here in the Council Chambers. Mayor Carey further advised that the votes on the Fiscal Year 2007-08 property tax rate, property tax revenue increase, and budget will take place during the special called city council meeting on September 24, 2007 also beginning at 7:00 p.m. here in the Council Chambers.

MOTION: Upon a motion made by Councilman Watts and seconded by Councilman Durham, the Council voted five (5) "ayes" and no (0) "nays" to close the public hearing. The motion carried.

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

(Agenda Item D-5)

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

Mayor Carey stated the City staff's recommendation was that the City Council approve the FY 2007-2008 Waters Ridge Public Improvement District No. 1 assessment and five year service plan.

Mayor Carey opened the public hearing.

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

(Agenda Item D-5)

MOTION: Upon a motion made by Deputy Mayor Pro Tem Thornhill and seconded by Councilman Tierney, the Council voted five (5) “ayes” and no (0) “nays” to close the public hearing. The motion carried.

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 the FY 2007-2008 Waters Ridge Public Improvement District No. 1 assessment and five year service plan. The motion carried.

Visitors/Citizens Forum

(Agenda Item E)

Wayne Ferguson, 320 Main, Lewisville, Texas 75057, gave a brief update and explanation of the expansion of the Holt facilities. He also thanked the City Council for the recent Western Days Event. Mr. Ferguson further expressed his appreciation to the Fire and Police Departments for their quick response at his home for a medical emergency that occurred during the parade. He stated that they had done a wonderful job of advance planning.

Greg Hayden, 454 Frankie Lane, Lewisville, Texas 75057, spoke before the City Council regarding the potential day labor site and his opposition to this being built in the City of Lewisville. Mr. Hayden advised he would rather see the funds spent on the 287 Enforcement.

John Gorena, 417 Creekwood Lane, Lewisville, Texas 75067, spoke before the City Council regarding the smoking ban and advised although it was within the City Council’s power and right to create a ban, he felt it was wrong to do so. Mr. Gorena expressed his opinion that even though he does not care for smoking, he felt it is the restaurant owner’s right to have smoking in their establishment and it is not right to tell someone they cannot smoke, as it is a legal drug and it is their right. Mr. Gorena recommended that the City Council not put this item on the ballot and that they instead go citywide and have signs placed at establishments that advise if the business is a smoking venue or if they have true separation of smoking and non smoking areas. Mr. Gorena encouraged the City Council to not punish the businesses that want to have smoking. Mr. Gorena then addressed tangible property and questioned how much more the City Council wanted to tax. He stated that if the City needs more money then maybe they should look at better spending. Mr. Gorena concluded by stating that if Lewisville is a City that does not tax these businesses, then maybe Lewisville will be more desirable to businesses.

Visitors/Citizens Forum (cont'd)

(Agenda Item E)

Elaine Bass, 1841 Tucson Drive, Lewisville, Texas, 75077, spoke before the City Council and reminded them that the last time she had spoken before them she had asked them to create measures to eliminate illegal immigrants. Ms. Bass stated that she was opposed to a day laborer site. She thanked the City Council for not funding this center now and advised she would like the funds that had been allocated for this site to be spent on the 287G Program offered by the Federal Government. Ms. Bass requested that the City Council make English the official language and that they stop printing documents in Spanish as she felt they were catering to the illegals by supplying them information in their language.

No one else appeared to speak at this time.

CONSENT AGENDA

(Agenda Item F)

MOTION: Upon a motion made by Councilman Durham 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:

6. APPROVAL OF MINUTES: City Council Minutes of the August 20, 2007, Workshop Session and Regular Session.
7. Appointment of Library Board Member Carolyn Richard as North Texas Regional Library System Assembly Representative and Library Board Members Marcia De Avila and Joel Battle as Alternates.
8. Approval of Acceptance of a Texas Criminal Justice Division Victim Assistance Grant Award in the Amount of \$67,674; and Authorization for the City Manager or His Designee to Execute the Grant Document.
9. Approval of a Bid Award for the Dallas Water Supply Line No. 3 Phase 1 Project to Wright Construction Company, Inc., Grapevine, Texas, in the Amount of \$1,051,341.60; and Authorization for the City Manager to Execute the Contract.
10. Approval of Resolution No. 3483-09-2007(R): A Resolution of the City of Lewisville, Texas, Denying the Request of Atmos Energy Corp., Mid-Tex Division for an Annual Gas Reliability Infrastructure Program (GRIP) Rate Increase in This Municipality, as a Part of the Company's Statewide Gas Utility Distribution System; Supporting Statutory Reform of the Texas GRIP Statute, Finding That the Meeting at Which This Resolution is Passed is Open to the Public; and Providing for Notice of This Resolution to Atmos Energy Corp., Mid-Tex Division and the City's Legislative Delegation.

CONSENT AGENDA (cont'd)

(Agenda Item F)

11. Approval of an Appropriation in the Amount of \$165,000 From General Capital Project Available Cash to the Drainage Improvement '07 Capital Project; and Approval of a Transfer in the Amount of \$138,709 From the Day Laborer Capital Project to the Drainage Improvement '07 Capital Project.
12. Approval of an Agreement for City Participation in the Villas at Wellington Subdivision for Removal of the Palisades Drive Drainage Lift Station and the Associated Oversizing of Storm Sewers in the Amount of \$160,611.75; and Authorization for the City Manager to Execute the Agreement.
13. Approval of a Professional Services Agreement With Halff Associates, Inc., in the Amount of \$72,600 for Engineering Services Relating to the Timber Creek Drainage and Erosion Study; and Authorization for the City Manager to Execute the Agreement.
14. Approval of Final Acceptance of the Valley Ridge Northeast 30-Inch Water Line; and Authorization to Make Final Payment to Wilson Contracting Services, L.L.C., in the Amount of \$61,000.23.
15. Approval of the Termination of a Program Grant Agreement by and Between the City of Lewisville and Majestic Lewisville Partners II, L.P., a Delaware Limited Partnership, Dated December 18, 2006 (Property 18); Approval of a Program Grant Agreement by and Between the City of Lewisville and DFW Lewisville Partners, GP, a General Partnership (Property 18); Approval of the First Amendment to Two Program Grant Agreements by and Between the City of Lewisville and Majestic Lewisville Partners, L.P., a Delaware Limited Partnership, Dated December 18, 2006 (Property 13 & 15); Approval of the First Amendment to the Program Grant Agreement by and Between the City of Lewisville and Cobb Gifting Trust, Dated December 18, 2006 (Property 16); Approval of the Termination of the Program Grant Agreement by and Between the City of Lewisville and Cobb Gifting Trust, Dated December 18, 2006 (Property 17); and Authorization for the City Manager to Execute the Agreements.

The motion carried.

END OF CONSENT AGENDA

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

(Agenda Item G-16)

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

Mayor Carey stated the City staff's recommendation was that the City Council adopt the proposed ordinance.

Chief Kerbow advised the intent of the ordinance change was to assist officers with firearms calls they get that are facsimiles. He stated that the Police Department appreciates any assistance the City Council can them. Chief Kerbow referenced a recent death in Denton where a facsimile gun was used and the individual holding the gun was shot as the officers did not know it was not a real gun.

Councilman Tierney and Deputy Mayor Pro Tem Thornhill advised that they were in favor of this proposed ordinance and supporting the Police Officers.

Councilman Watts stated that after speaking with several people he felt the wording of the ordinance was too broad. Councilman Watts stated that he was not sure if there was a legislative fix for these types of situations and behavior. He expressed concern if the proposed ordinance was approved and guns that look real are banned, what would come next, perhaps knives. Councilman Watts referenced a recent situation in which a Police Officer in Haltom City fired on a kid with a pipe because it looked like a gun. Councilman Watts stated that after talking with some State Representatives their concern was if the City of Lewisville does this at a city level and other cities do not then it could increase the likelihood of someone not knowing about the ban and having a facsimile firearm. Councilman Watts suggested that an interim study be done to see if a uniform ban across the State might have a greater impact.

Mayor Pro Tem Ueckert advised that he supported the staff and Police Department on this proposed ordinance. He referenced Mr. Ferguson's comments about the wonderful Police and Fire Departments. Mayor Pro Tem Ueckert stated that he felt the intent of the Police Department was to prevent a tragedy from happening, not to keep little kids from playing with

**Consideration of an Ordinance Amending
Chapter 8 of the Lewisville City Code
Concerning Miscellaneous Offenses by
Adding Clauses to Prohibit the Public
Display of Facsimile Firearms and Making
Other Minor Changes to Simplify the
Ordinance (cont'd)**

(Agenda Item G-16)

cap guns. Mayor Pro Tem Ueckert stated that he has full confidence that the Police Department will use this proposed ordinance with the right intention. He stated that currently there is nothing an officer can do in a road rage situation when a facsimile gun is involved; however, this proposed ordinance would allow a Police Officer to fine them with a Class C Misdemeanor to stop that behavior from occurring. Mayor Pro Tem Ueckert stated that he has received questions from citizens regarding why the City does not ban these facsimile guns from being sold in the store; however, he felt that would be going too far.

Councilman Durham advised that he was opposed to the proposed ordinance and he did not feel it would help change anything. He questioned Chief Kerbow if road rage could be consider a terrorist threat. Chief Kerbow advised that it could; however, generally the person reporting the incident does not want to press charges and incorrectly assumes that the Police Department will still be able to follow through.

Mayor Carey stated that this is similar to the Teen Curfew ordinance which allows a Police Officer to make a determination when it should be enforced. Mayor Carey advised he supported this ordinance.

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 8 of the Lewisville City Code; by Prohibiting the Display of Facsimile Firearms; by Deleting Section 8-2, Firearms in City Buildings, and Incorporating Said Section Into Section 8-1, Control of Weapons, Making Minor Changes to Other Sub-Sections as Noted; Providing for Defenses; 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 Tierney and seconded by Deputy Mayor Pro Tem Thornhill, the Council voted three (3) “ayes” and two (2) “nays,” with Councilman Durham and Councilman Watts casting the negative vote to approve an Ordinance Amending Chapter 8 of the Lewisville City Code Concerning Miscellaneous Offenses by Adding Clauses to Prohibit the Public Display of Facsimile Firearms and Making Other Minor Changes to Simplify the Ordinance. The motion carried.

**Consideration of an Ordinance Amending
Chapter 8 of the Lewisville City Code
Concerning Miscellaneous Offenses by
Adding Clauses to Prohibit the Public
Display of Facsimile Firearms and Making
Other Minor Changes to Simplify the
Ordinance (cont'd)**

(Agenda Item G-16)

City Attorney Ron Neiman advised that due to the lack of a 4/5's vote by the Council to adopt the ordinance on an emergency basis, the ordinance will have to be read on three separate days to meet the City Charter requirements.

Reports

(Agenda Item I)

- Director of Public Services Carole Bassinger gave an update on the status of the lake.
- Assistant City Manager Donna Barron advised that the Fall Music Series would be kicking off tomorrow night.
- Director of Community Development Eric Ferris wished Economic Development Director Zane Miller good luck and farewell as he was leaving City employment.
- Mayor Pro Tem Ueckert offered his appreciation to Economic Development Director Zane Miller and wished him well. Mayor Pro Tem Ueckert also thanked the City staff for their hard work during Western Week. He concluded by stating that the City is fortunate to have such wonderful management which continues to shine everyday.
- Councilman Watts reviewed the funds that had been allocated for the day laborer site. He also encouraged everyone to take time out tomorrow to say a prayer for the families impacted on September 11th.
- Mayor Carey echoed comments on the Western Days event. Mayor Carey also advised that the Doggie Dive In had gone well on Saturday.
- Deputy Mayor Pro Tem Thornhill reiterated the comments regarding Western Days and how well the parade had went. He thanked City staff for all their hard work.
- Councilman Tierney also reiterated the comments regarding Western Days. He stated that City staff had done an excellent job, especially with the amount of people in attendance. He further stated that this event has skyrocketed since the City took this event over from the Old Town Business Association. Councilman Tierney referenced the concert series starting tomorrow.

There were no additional reports at this time.

Mayor Carey adjourned the regular session of the Lewisville City Council into Closed Session at 7:51 p.m. Monday, September 10, 2007, in accordance with the requirements of the Open Meetings Law.

Closed Session

(Agenda Item J)

In accordance with Texas Government Code, Subchapter D, Section 551.072 (REAL ESTATE), the Lewisville City Council convened into Closed Session at 7:50 p.m. on Monday, September 10, 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 551.087 (ECONOMIC DEVELOPMENT):

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

The Closed Session was adjourned at 9:10 p.m. on Monday, September 10, 2007.

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

(Agenda Item K)

Mayor Carey reconvened the Regular Session of the Lewisville City Council at 9:10 p.m. on Monday, September 10, 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 L)

MOTION: Upon a motion made by Councilman Tierney and seconded by Councilman Durham, the Council voted five (5) "ayes" and no (0) "nays" to adjourn the Regular Session of the Lewisville City Council at 9:10 p.m. on Monday, September 10, 2007. The motion carried.

These minutes approved by the Lewisville City Council on the 1st day of October, 2007.

APPROVED

Gene Carey
MAYOR

**LEWISVILLE CITY COUNCIL
REGULAR SESSION
SEPTEMBER 10, 2007**

Page 22

ATTEST:

Julie Heinze
CITY SECRETARY