

**LEWISVILLE CITY COUNCIL**

**REGULAR SESSION**

**NOVEMBER 19, 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:**

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

**WORKSHOP SESSION – 6:00 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 6:07 p.m. on Monday, November 19, 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.

**Financial Plan Review**

**(Agenda Item A)**

Finance Director Lauren Crowley briefed the City Council using a PowerPoint Presentation regarding the Financial Plan Review by reviewing the Multi-Year Financial Plan.

**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.

**LEWISVILLE CITY COUNCIL  
REGULAR SESSION  
NOVEMBER 19, 2007**

**Page 2**

Mayor Carey reviewed Agenda Item C, Presentation. There was no discussion on this item.

Mayor Carey reviewed Agenda Item D, Public Hearing: Consideration of an Ordinance for a Zone Change Request From General Business (GB) to Old Town Center Business (OTC) on a 0.28 Acre Tract of Land Located on the South Side of Main Street Between Charles Street and Mill Street; and Identified as Tract 123, Abstract 696 of the J.W. King Survey, as Requested by the Property Owner Majid “Mike” Karimi (Case No. 20071125). 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-1 Approval of Minutes: 1(a). City Council Minutes of the October 15, 2007, Workshop Session and Regular Session; and 1(b). City Council Minutes of the November 5, 2007, Workshop Session and Regular Session. There was no discussion on this item.

Mayor Carey reviewed Agenda Item F-2, Approval of the Capital Improvements Advisory Committee Semi-Annual Report for the Period of April 1, 2007 Through September 30, 2007. There was no discussion on this item.

Mayor Carey reviewed Agenda Item F-3, Approval of Second Amendment to the Memorandum of Agreement Between the City of Lewisville and Lewisville Landfill TX, L.P., Related to the Timeline Extension of Infrastructure Improvements; and Authorization for the City Manager to Execute the Amendment. There was no discussion on this item.

Mayor Carey reviewed Agenda Item F-4, Approval of a Resolution Authorizing the City Manager to Hire Up to Three (3) Additional Police Officers, One (1) Additional Community Service Officer, and Two (2) Additional Public Safety Dispatchers Over the FY 2007-2008 Authorized Number of Positions to Alleviate Understaffing Caused by Turnover. City Manager King advised that the City never made it to the point we could utilize the overfilling during 2006/2007. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item G-5, Consideration of a Variance to the Lewisville City Code, Chapter 6 Land Development Regulations, Screening Walls Between Commercial and Residential Uses, for Mulkey Mason Funeral Home Located at 740 Edmonds Lane, as Requested by G&A Consultants on Behalf of Mulkey Mason Funeral Home, the Property Owner. There was no discussion on this item.

Mayor Carey reviewed Agenda Item G-6, Consideration of a Proposed Change in Police Policy to Allow for Towing Vehicles of Motorists Who Fail to Provide Proof of Financial Responsibility (Requested by Councilman Tierney). Discussion was held regarding the decision to tow would be at the Police Officers' discretion and the data base for insurance verification would be coming online January 1, 2008. Deputy Mayor Pro Tem Ueckert clarified that an individual would not have to pay the impoundment fee if there was a mistake or misunderstanding regarding their insurance coverage. Police Chief Russ Kerbow advised that he felt that the occurrence of those situations would be slim to none. Discussion was held that the towing companies have verbally agreed to not charge in those situations. Further discussion was held regarding when vehicles were towed how individuals would be removed. Police Chief Kerbow assured the City Council that the Police Officers will either escort the individual somewhere to make a call or take them home, they would not be stranded on the side of the road in a rainstorm. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item G-7, Tabled Item: Consideration of an Ordinance Amending the Lewisville City Code By Adding Provisions for the Creation of a Juvenile Case Manager Fund and Collection of Fees. There was no discussion on this item.

Mayor Carey reviewed Agenda Item G-8, Tabled Item: Discussion of a Potential Ordinance to Prohibit Residency of Sex Offenders Within Certain Areas of the City (Requested by Councilman Watts). City Manager King advised that this item was just to allow the City Council to provide direction to City staff. Deputy Mayor Pro Tem Ueckert expressed concern at the way the justice system treats various degrees of sex offenders and that this ordinance may also not be able to deviate between those degrees. Discussion was held regarding consensual relations between an adult and minor, and a non-consensual relations between an adult and child. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item G-9, Acceptance of Resignation of Ron Aljoe From Place No. 7 on the Planning and Zoning Commission; Declare a Vacancy Exists; and Consideration of an Appointment to Place No. 7 on the Planning and Zoning Commission. There was no 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.

Discussion regarding the regular workshop session concluded at 6:47 p.m.. Finance Director Lauren Crowley continued briefing the City Council using a PowerPoint Presentation regarding the Financial Plan Review by reviewing the Water and Wastewater Utility Fund.

**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 6:58 p.m. on Monday, November 19, 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, November 19, 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.

**Presentation: Kick-Off of the Salvation  
Army 2007 Red Kettle Season**

**(Agenda Item C)**

Representatives from the Salvation Army were present to kick off the 2007 Red Kettle Season.

**Public Hearing: Consideration of Ordinance  
No. 3510-11-2007(Z) for a Zone Change  
Request From General Business (GB) to Old  
Town Center Business (OTC) on a 0.28 Acre  
Tract of Land Located on the South Side of  
Main Street Between Charles Street and Mill  
Street; and Identified as Tract 123, Abstract  
696 of the J.W. King Survey, as Requested by  
the Property Owner Majid "Mike" Karimi  
(Case No. 20071125)**

**(Agenda Item D)**

Mayor Carey advised that the proposed zoning classification Old Town Center Business (OTC) is in keeping with the recommendations of the Old Town Master Plan. The applicant would

like to re-zone for better flexibility regarding setbacks on the property. GB zoning allows setbacks of: front— 25 feet, sides—10 to15 feet, rear—0 to 25 feet. The new zoning states that the front façade of the buildings in OTC must be set at the front property line and the side façade of a building that is located on a lot adjoining a side street shall be located at the property line. There are no rear yard setbacks in the OTC zoning classification. The Planning and Zoning Commission voted unanimously in favor of the zone change request at their November 6, 2007, meeting.

Mayor Carey stated the City staff's recommendation was that the City Council approve the proposed ordinance amending the Lewisville City Code, Chapter 17, the Comprehensive Zoning Ordinance approving the requested zone change from General Business (GB) to Old Town Center Business (OTC).

Mayor Carey opened the public hearing.

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 Watts, the Council voted five (5) "ayes" and no (0) "nays" to close the public hearing. The motion carried.

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 0.28 Acre Tract of Land Fully and Completely Described in the Attached Exhibit "A", Ordering a Change in the Use of Said Property From General Business (GB) District Zoning to Old Town Center Business (OTC) 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. 3510-11-2007(Z)**, as previously captioned. The motion carried.

**Visitors/Citizens Forum**

**(Agenda Item F)**

Wayne Ferguson, 320 West Main Street, Lewisville, Texas, spoke on behalf of the Old Town Business Association (OTBA) regarding the success of the Farmers Market. Mr. Ferguson recommended making this event even bigger next year by utilizing the former lumberyard and

parking area. Mr. Ferguson requested that the City Council consider building a carport type structure along the north side so the vendors could pull in the alley, which would save some cost and time in the set up and tear down of the current event. He recommended that the City work with OTBA and the Old Town Development Association to assist in funding the cost of the covered parking.

No one else appeared to speak at this time.

**CONSENT AGENDA**

**(Agenda Item G)**

**MOTION:** Upon a motion made by Mayor Pro Tem Ueckert and seconded by Deputy Mayor Pro Tem Thornhill, 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:
  - a. City Council Minutes of the October 15, 2007, Workshop Session and Regular Session; and
  - b. City Council Minutes of the November 5, 2007, Workshop Session and Regular Session.
2. Approval of the Capital Improvements Advisory Committee Semi-Annual Report for the Period of April 1, 2007 Through September 30, 2007.
3. Approval of Second Amendment to the Memorandum of Agreement Between the City of Lewisville and Lewisville Landfill TX, L.P., Related to the Timeline Extension of Infrastructure Improvements; and Authorization for the City Manager to Execute the Amendment.
4. Approval of **Resolution No. 3511-11-2007(R)**: A Resolution of the City Council of the City of Lewisville, Texas, Authorizing the City Manager to Hire Up To Three (3) Additional Police Officers, One (1) Additional Community Service Officer, and Two (2) Additional Public Safety Dispatchers Over The FY 2007-2008 Authorized Number of Positions to Alleviate Understaffing Caused by Turnover.

The motion carried.

**END OF CONSENT AGENDA**

**Consideration of a Variance to the Lewisville City Code, Chapter 6 Land Development Regulations, Screening Walls Between Commercial and Residential Uses, for Mulkey Mason Funeral Home Located at 740 Edmonds Lane, as Requested by G&A Consultants on Behalf of Mulkey Mason Funeral Home, the Property Owner**

---

**(Agenda Item G-5)**

Mayor Carey advised that the variance being requested was previously approved in June of 2006 with the original site plan, however, the building was not built and the site plan with this variance expired. The owners are requesting a variance in conjunction with the engineering site plan for Lot 1 pertaining to the required screening wall between the commercial zoning on Lot 1 and the apartment zoning on Lot 2, both of which they own. A funeral home is proposed on Lot 1, fronting Edmonds Lane. No construction is proposed for Lot 2 at this time. The City's development regulations require a six-foot screening wall between the two lots, but the owner is requesting to substitute a living screen of shrubs.

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

Gene Lewis, Planning and Community Services Manager was 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 approve a variance to the Lewisville City Code, Chapter 6 Land Development Regulations, Screening Walls Between Commercial and Residential Uses, for Mulkey Mason Funeral Home located at 740 Edmonds Lane, as requested by G&A Consultants on behalf of Mulkey Mason Funeral Home, the property owner to substitute a living screen of shrubs. The motion carried.

**Consideration of a Proposed Change in Police Policy to Allow for Towing Vehicles of Motorists Who Fail to Provide Proof of Financial Responsibility (Requested by Councilman Tierney)**

---

**(Agenda Item G-6)**

Mayor Carey advised that current police policy allows for impounding of vehicles involved in accidents where the motorist is unable to provide proof of financial responsibility in accordance with state law at the scene of an accident. The police department would like to expand this policy to allow for towing upon all traffic contacts where proof of financial responsibility can not be established.

Mayor Carey stated the City staff's recommendation was that the City Council approve a change in police department policy to allow towing of vehicles when the motorist is unable to provide proof of financial responsibility.

Discussion was held regarding this change would take additional time for the police officer. Police Chief Russ Kerbow advised that if it appears it is taking too much time the Watch Commander would have the option to discontinue use of the policy and it will be reviewed over a course of time if it appears to take too much of the Police Officer's time.

Councilman Durham advised he was opposed to this policy change as he felt it was excessive. He stated that he felt it was the State's responsibility and they have done nothing to fix this situation.

**MOTION:** Upon a motion made by Councilman Tierney and seconded by Councilman Watts, the Council voted four (4) "ayes" and one (1) "nays," with Councilman Durham casting the negative vote to approve a change in Police Department Policy to allow towing of vehicles when the motorist is unable to provide proof of financial responsibility. The motion carried.

**Tabled Item: Consideration of Ordinance  
No. 3512-11-2007 Amending the Lewisville  
City Code By Adding Provisions for the  
Creation of a Juvenile Case Manager Fund  
and Collection of Fees**

**(Agenda Item G-7)**

Mayor Carey advised that this item was tabled at the November 4, 2007, City Council meeting. The 79th Texas Legislature passed H.B. 1575 authorizing the creation a "juvenile case manager fund" ("Fund"). This fund allows local governments to collect a fee, not to exceed \$5.00, to pay for the salary and benefits of a juvenile case manager. The case manager will be responsible for all juvenile cases, including but not limited to teen court, with priority given to cases involving failure to attend school and parents contributing to the failure to attend school. A \$4.00 fee was approved in the fee schedule in September of 2007. This fee will allow for adequate funding of the position and is consistent with the municipal court technology fund fee which is also set at \$4.00. The fund will allow the position to be entirely self-funded by cost courts assessed against those persons for whom a judgment has been entered.

Mayor Carey stated the City staff's recommendation was that the City Council approve the proposed 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 the Lewisville City Code by Adding Provisions for the Creation of a Juvenile Case Manager Fund and Collection of Fees; Providing a Repealer; Providing for Severability; Providing an Effective Date; and Declaring an Emergency.”

**MOTION:** Upon a motion made by Deputy Mayor Pro Tem Thornhill and seconded by Councilman Durham, the Council voted five (5) “ayes” and no (0) “nays” to approve and adopt **Ordinance No. 3512-11-2007**, as captioned previously. The motion carried.

**Tabled Item: Discussion of a Potential Ordinance to Prohibit Residency of Sex Offenders Within Certain Areas of the City (Requested by Councilman Watts)**

**(Agenda Item G-8)**

Mayor Carey advised that this item was discussed and tabled at the August 21, 2006 and June 5, 2007, City Council meetings. Various cities in Texas have been enacting local ordinances that prohibit residency of certain sex offenders within certain locations. Typically, these ordinances define sexual offenders as persons registered on the Texas Department of Public Safety database due to violations involving persons under sixteen years of age. Most restrict residency from within 1000 feet of areas “frequented” by children such as public parks, public or private schools, or day care centers. There are often various “exceptions” or affirmative defenses provided as well. The pros/cons of such ordinances are many and range from protecting children from predators to unintended effects such as driving predators “underground,” the cost of enforcement, and disproportionate relocation of offenders into certain communities or neighborhoods.

Mayor Carey stated the City staff's recommendation was that the City Council provide direction to staff regarding any desired research and ordinance options.

Councilman Watts stated that these ordinances have been popping up in area cities in the past year and his concern was that if the City of Lewisville did not do something similar, then the City could become a repository for sex offenders.

Chief Kerbow reviewed the current number of registered sex offenders residing in the City of Lewisville. Discussion was held which area cities currently had this type of ordinance and the number of sex offenders residing in those cities. Mayor Pro Tem Ueckert stated that he did not feel that Lewisville will become a repository for sex offenders as he felt the Police Department is monitoring these type of offenders. Mayor Pro Tem Ueckert stated that he felt the State should be acting on this issue so that area cities are not all enacting different rules. Mayor Pro Tem Ueckert also expressed his concern on how the law handles the various offenders by using the example of an adult with a consenting minor or an adult with a non-consenting child and that the law treats them both the same.

Mayor Pro Tem Ueckert expressed concern that while the proposed change would prohibit some residents from living within 1,000 feet of the offenders, it would force other residents to live in close proximity. He stated that he felt this was affecting resident's property rights.

Councilman Durham advised that he was opposed to this proposed ordinance. Councilman Durham stated that he has an issue with the legislature's classification of sex offenders and felt this would be a knee jerk reaction. Councilman Durham questioned what percentage of the registered sex offenders would fit within the "stranger danger" category. Chief Kerbow advised that it would be very low, most would fall in the category of family unit offenders.

Deputy Mayor Pro Tem Thornhill advised that the data does not support that these type of ordinances make that much of a difference. He further advised that while he does not want Lewisville to become a haven for sex offenders, he did not feel it would.

Councilman Tierney advised that he concurred with Councilman Durham. Councilman Tierney also referenced Mayor Pro Tem Ueckert's comments that this proposed ordinance can creates zones where the City would actually be encouraging these offenders to reside. Councilman Tierney stated he understood Councilman Watts' concerns regarding area cities enacting these types of ordinances and that while he did not support this ordinance, he may in the future if those concerns came about. Councilman Tierney advised that he felt this was something that needed to be monitored.

Mayor Carey advised that he had hoped that the State would have take some action on this issue; however, since they did not, he would be in favor of this proposed ordinance due to the number of area cities also enacting similar rules.

Mayor Pro Tem Ueckert recommended that a resolution with very strong wording be sent to legislators on a State wide basis, from all area cities, requesting that the legislature does something on a State wide basis so all cities would be affected equally. Discussion was held

regarding Mayor Pro Tem Ueckert's recommendation. Further discussion was held regarding when area cities passed similar ordinances if Lewisville saw a spike in registered sex offenders. Police Chief Kerbow advised that the number of registered sex offenders rose slightly; however, the City generally stays in the 70 – 75 range. The City Council requested that Police Chief Kerbow keep them advised of the number of registered sex offenders in the City of Lewisville and surrounding cities.

Discussion was held regarding how other States handle the registered sex offenders. City Manager King advised that staff would have to do some research to determine how the various States handle their registered sex offenders.

**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 direct City staff to prepare a resolution to send to all State representatives, senators, and the Governor to request that they take action on this issue, and to ask sister cities to join in a joint resolution. The motion carried.

Councilman Watts made a motion that the City staff present the City Council with options that would employ the 1,000 foot distance requirement in parks, schools, and any other area where children frequent. Due to the motion receiving no second, it failed.

**Acceptance of Resignation of Ron Aljoe  
From Place No. 7 on the Planning and  
Zoning Commission; Declare a Vacancy  
Exists; and Consideration of an Appointment  
to Place No. 7 on the Planning and Zoning  
Commission**

**(Agenda Item G-9)**

Mayor Carey advised that Ron Aljoe has submitted an e-mail advising that he is resigning from the Planning and Zoning Commission, effective December 31, 2007. The resignation of Ron Aljoe has created a vacancy in Place No. 7 of the Planning and Zoning Commission.

Mayor Carey stated the City staff's recommendation was that the City Council accept the resignation of Ron Aljoe from Place No. 7 on the Planning and Zoning Commission; declare a vacancy exists; and consider appointment to fill the vacancy on the Planning and Zoning Commission.

Mayor Pro Tem Ueckert thanked Mr. Aljoe for his many years of time and service.

**MOTION:** Upon a motion made by Mayor Pro Tem Ueckert and seconded by Councilman Durham, the Council voted five (5) “ayes” and no (0) “nays” to accept the resignation and declare a vacancy exists. The motion carried.

**Reports**

**(Agenda Item H)**

- Mayor Pro Tem Ueckert wished everyone a wonderful Thanksgiving.
- Councilman Watts echoed Mayor Pro Tem Ueckert’s comments and complimented the Salvation Army for the good they do all year long.
- Mayor Carey thanked Assistant City Manager Donna Barron for attending the recent National League of Cities with members of the City Council.
- Deputy Mayor Pro Tem Thornhill wished everyone a happy Thanksgiving.
- Mayor Carey encouraged everyone to drive very careful over the holiday season.

There were no additional reports at this time.

Mayor Carey adjourned the regular session of the Lewisville City Council into Closed Session at 8:28 p.m. Monday, November 19, 2007, in accordance with the requirements of the Open Meetings Law.

**Closed Session**

**(Agenda Item I)**

In accordance with Texas Government Code, Subchapter D, Section 551.072 (REAL ESTATE), the Lewisville City Council convened into Closed Session at 8:30 p.m. on Monday, November 19, 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):

2. Appointment to the Planning & Zoning Commission

Section 551.087 (ECONOMIC DEVELOPMENT):

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

The Closed Session was adjourned at 9:19 p.m. on Monday, November 19, 2007.

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

**(Agenda Item J)**

Mayor Carey reconvened the Regular Session of the Lewisville City Council at 9:20 p.m. on Monday, November 19, 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.

**Appointment to the Planning & Zoning  
Commission**

**(Agenda Item I-2)**

**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 appoint James Davis to Place No. 7 of the Planning and Zoning Commission effective January 1, 2008. The motion carried.

There was no additional action taken on the items discussed during the Closed Session.

**Adjournment**

**(Agenda Item K)**

**MOTION:** Upon a motion made by Mayor Pro Tem Ueckert and seconded by Councilman Watts, the Council voted five (5) "ayes" and no (0) "nays" to adjourn the Regular Session of the Lewisville City Council at 9:21 p.m. on Monday, November 19, 2007. The motion carried.

These minutes approved by the Lewisville City Council on the 3<sup>rd</sup> day of December, 2007.

APPROVED

---

Gene Carey  
MAYOR

ATTEST:

---

Julie Heinze  
CITY SECRETARY