

LEWISVILLE CITY COUNCIL

REGULAR SESSION

DECEMBER 3, 2007

Present:

Gene Carey, Mayor

Council Members:

Dean Ueckert, Mayor Pro Tem
David Thornhill, Deputy Mayor Pro Tem (absent)
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 – 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, December 3, 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.

Corridor Beautification

(Agenda Item A)

Parks and Leisure Services Director Robert Monaghan reviewed Corridor Beautification before the City Council using a PowerPoint Presentation. The City Council requested that Mr. Monaghan bring back some options for them to review.

Administrative Policies 2.7.4 and 2.12.5

(Agenda Item B)

Human Resource Director Melinda Galler reviewed Administrative Policies 2.7.4 and 2.12.5 before the City Council using a PowerPoint Presentation.

WORKSHOP SESSION – 6:30 P.M.

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

(Agenda Item C)

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, Proclamation, Recognizing December 3-7, 2007 as “Employee Learning Week”. There was no discussion on this item.

Mayor Carey reviewed Agenda Item D, Presentation, Achievement of Excellence in Procurement Award. 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: City Council Minutes of the November 19, 2007, Workshop Session and Regular Session. There was no discussion on this item.

Mayor Carey reviewed Agenda Item F-2, Approval of a Supplemental Appropriation to the Grant Fund for the Timber Creek Hike and Bike Trail in the Amount of \$1,429,563; Approval of a Supplemental Appropriation to the General Fund in the Amount of \$37,427 for a Portion of the Cash Match; Approval of a Bid Award for the Timber Creek Trail Project to Northstar Construction, Inc., Fort Worth, Texas in the Amount of \$1,387,925; and Authorization for the City Manager to Execute the Contract. There was no discussion on this item.

Mayor Carey reviewed Agenda Item F-3, Approval of the Fiscal Year 2007/2008 Ambulance Service Interlocal Cooperation Agreement Between Denton County and the City of Lewisville; and Authorization for the City Manager or His Designee to Execute the Agreement. There was no discussion on this item.

Mayor Carey reviewed Agenda Item F-4, Approval of the Fiscal Year 2007/2008 Fire Protection Services Interlocal Cooperation Agreement Between Denton County and the City of Lewisville; and Authorization for the City Manager or His Designee to Execute the 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 C)

Mayor Carey reviewed Agenda Item F-5, Approval of a Resolution for the Acceptance of a \$6,000 Grant From the Texas Department of Transportation for the Traffic Safety Program; Approval of a Supplemental Budget Appropriation to the Grant Fund in the Amount of \$6,000; and Authorization for the City Manager to Execute the Grant Document. There was no discussion on this item.

Mayor Carey reviewed Agenda Item F-6, Approval of Revisions to Administrative Policy 2.7.4 Employee Performance Evaluation/Compensation Plan. There was no discussion on this item.

Mayor Carey reviewed Agenda Item F-7, Approval of Changes to Administrative Policy 2.12.5 Extended Military Leave and Short-Term Military Leave. There was no discussion on this item.

Mayor Carey reviewed Agenda Item G-8, Consideration of a Variance to the Lewisville City Code, Chapter 9.5 Old Town Development, to Allow Vinyl Siding on a Residential Building at 331 North Charles Street, as Requested by the Property Owner, Nena Kinney. Mayor Carey requested that City Manager King explain this item. City Manager King reviewed the history of this item with the City Council. He advised that there had been an e-mail conversation between Ms. Kinney and Economic Specialist Sarah McLain that vinyl was not an approved material; however, Ms. Kinney hired a contractor and had the vinyl siding installed. Discussion was then held that the contractor was responsible for obtaining a permit and they failed to do so. City Manager King referenced the backup for this item and pointed out the e-mail for City Council review. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item G-9, Consideration of the Final Plat for 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 Two Variances to the Castle Hills Development Agreement as Requested by TRC Solutions, Inc., Representing the Property 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 C)

Mayor Carey reviewed Agenda Item G-10, Consideration of an Ordinance Amending Chapter 15 of the Lewisville City Code Concerning Automated Traffic Signal Enforcement by Changing the Time Period to Request an Administrative Adjudication Hearing and to Provide Identifying Information of the Individual Who Rented or Leased the Motor Vehicle at Issue at the Time of the Alleged Offense. Mayor Carey requested that this item be reviewed. Assistant City Attorney Liz Plaster briefly reviewed this item for the City Council. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item G-11, Consideration of a Resolution Casting Lewisville's Votes for Director to the Denton Central Appraisal District Board. Councilman Durham advised he would be abstaining from this item. City Manager King referenced the backup contained for this item and how many votes the City of Lewisville had. Discussion was held regarding how many votes had already been cast for both Lee Baker and Doug Killough. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item G-12, Consideration of a Resolution Casting Lewisville's Vote for Director to the Dallas Central Appraisal District Board. 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.

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 6:52 p.m. on Monday, December 3, 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, December 3, 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, Pack 66 and Cub Scouts Dens 5 and 9 gave the pledge to the flag. The members were as follows: Trint Alexander, John Anderson, Scott Piazza, Collin Alexander, Sean Owen, Ian Metzinger, Eric Woelke, and Leaders Margaret Malin and Frank Woelke.

**Proclamation: Recognizing December 3-7, 2007
as "Employee Learning Week"**

(Agenda Item C)

Mayor Carey read and presented a proclamation recognizing December 3-7, 2007, as "Employee Learning Week" to the following City of Lewisville employees: Training Coordinator Sharon Kohl, HR Coordinator Nancy Davis, Utilities Manager Karen Emadiazar, Library Manager Ann Wiegand, Assistant Police Chief Jerry Galler, Fiscal Services Manager Clifford Howard, and Police Chief Russ Kerbow.

**Presentation: Achievement of Excellence in
Procurement Award**

(Agenda Item D)

Mayor Carey presented an Achievement of Excellence in Procurement Award to City of Lewisville Purchasing Manager Todd White.

Visitors/Citizens Forum:

(Agenda Item E)

No one appeared at this time.

CONSENT AGENDA

(Agenda Item F)

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 and adopt all items on the Consent Agenda, as recommended and as follows:

1. APPROVAL OF MINUTES: City Council Minutes of the November 19, 2007, Workshop Session and Regular Session.

CONSENT AGENDA (cont'd)

(Agenda Item F)

2. Approval of a Supplemental Appropriation to the Grant Fund for the Timber Creek Hike and Bike Trail in the Amount of \$1,429,563; Approval of a Supplemental Appropriation to the General Fund in the Amount of \$37,427 for a Portion of the Cash Match; Approval of a Bid Award for the Timber Creek Trail Project to Northstar Construction, Inc., Fort Worth, Texas in the Amount of \$1,387,925; and Authorization for the City Manager to Execute the Contract.
3. Approval of the Fiscal Year 2007/2008 Ambulance Service Interlocal Cooperation Agreement Between Denton County and the City of Lewisville; and Authorization for the City Manager or His Designee to Execute the Agreement.
4. Approval of the Fiscal Year 2007/2008 Fire Protection Services Interlocal Cooperation Agreement Between Denton County and the City of Lewisville; and Authorization for the City Manager or His Designee to Execute the Agreement.
5. Approval of **Resolution No. 3513-12-2007(R)**: A Resolution of the City Council of the City of Lewisville, Texas, to Approve the Texas Department of Transportation Grant Agreements for the Fiscal Year 2008 Selective Traffic Enforcement Impaired Driving Mobilization Program; and Authorizing the City Manager to Execute the Agreement.
6. Approval of Revisions to Administrative Policy 2.7.4 Employee Performance Evaluation/Compensation Plan
7. Approval of Changes to Administrative Policy 2.12.5 Extended Military Leave and Short-Term Military Leave

The motion carried.

END OF CONSENT AGENDA

Consideration of a Variance to the Lewisville City Code, Chapter 9.5 Old Town Development, to Allow Vinyl Siding on a Residential Building at 331 North Charles Street, as Requested by the Property Owner, Nena Kinney

(Agenda Item G-8)

Mayor Carey advised that Ms. Kinney has installed vinyl siding on the majority of her home without obtaining a building permit. Upon notice from the City that a building permit is required, Ms. Kinney has stopped work and applied for a permit. However, since vinyl siding is not an allowable material in Old Town per the Old Town Development Ordinance (OTDO). Ms. Kinney was denied a letter of design approval by the Old Town Design Review Committee on November 12, 2007. Ms. Kinney is now requesting a variance from City Council to keep the vinyl siding on her home and finish the work.

Mayor Carey stated the City staff's recommendation was that the City Council consider the variance to the Lewisville City Code, Chapter 9.5 Old Town Development for Nena Kinney at 331 North Charles Street.

Ms. Kinney, 331 North Charles Street, Lewisville, Texas, spoke before the City Council regarding her request.

At the request of the Mayor Carey, City Manager King advised that the contractor was responsible for obtaining permits and determining the regulations prior to commencing construction. Discussion was held regarding Ms. McLain e-mail to Ms. Kinney that vinyl siding was not allowed in the Old Town Area.

Councilman Tierney advised that the home did look better; however, he was concerned regarding a precedent being set. Councilman Tierney advised that Ms. Kinney's contractor had let her down in not checking and making sure what was allowed. Councilman Tierney expressed concern that in the future other homeowners may think they could get away with starting and then requesting a variance and it being approved. Ms. Kinney advised that she had discussed this with neighbors around her that they were not aware vinyl siding was not allowed.

Consideration of a Variance to the Lewisville City Code, Chapter 9.5 Old Town Development, to Allow Vinyl Siding on a Residential Building at 331 North Charles Street, as Requested by the Property Owner, Nena Kinney (cont'd)

(Agenda Item G-8)

Discussion was held what Ms. Kinney's options would be if the City Council did not granted the requested variance. City Manager King advised that Ms. Kinney could take down the vinyl siding and leave the home in the condition it was prior to starting.

Discussion regarding information being sent out to the homeowners in Old Town Area when rules and regulations changed. Mayor Carey stated that the contractor that put the vinyl siding on the home knew he should have gotten the permit.

Mayor Pro Tem Ueckert advised he felt for Ms. Kinney for being out the money and encouraged her to get with the insulation company that put it on as they should have known they had to get a permit from the City. Mayor Pro Tem Ueckert stated that in the July 10th e-mail that said vinyl is not an allowable material in Old Town for siding and that she had been told she could not use that material; however, she choose to go ahead and use the siding. Mayor Pro Tem Ueckert stated that there were several months of workshop sessions, publications in newspaper regarding changes so the public is made aware.

Councilman Durham an error was made on the property and have to figure out how to handle the variance. He advised he as in favor of granting the variance. Councilman Durham referenced a pervious variance that had recently been done. He stated that the property had only been trying to beautify their property and it looks good.

Mayor Pro Tem Ueckert made a motion to deny this request. Due to a lack of second, the motion died.

The City Council requested that City staff researched a recent variance that was given on Charles Street in which there was a similar situation. The contractor for Ms. Kinney then addressed the City Council. The City Council discussed with him why he had not obtained a permit for the installation of the vinyl siding.

The City Council determined to move on to Agenda Item G-9 to allow City staff to continue to research the previous variance.

Consideration of a Variance to the Lewisville City Code, Chapter 9.5 Old Town Development, to Allow Vinyl Siding on a Residential Building at 331 North Charles Street, as Requested by the Property Owner, Nena Kinney (cont'd)

(Agenda Item G-8)

The City Council returned to this agenda item. Research by City staff had determined that during the November 1, 2004, City Council meeting, the City Council had approved a variance for vinyl siding on Charles Street.

MOTION: Upon a motion made by Councilman Tierney and seconded by Councilman Watts, the Council voted three (3) “ayes” and one (1) “nays,” with Mayor Pro Tem Ueckert casting the negative vote to approve a variance to the Lewisville City Code, Chapter 9.5 Old Town Development, to allow vinyl siding on a residential building at 331 North Charles Street, as requested by the property owner, Nena Kinney. The motion carried.

Consideration of the Final Plat for 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 Two Variances to the Castle Hills Development Agreement as Requested by TRC Solutions, Inc., Representing the Property Owner

(Agenda Item G-9)

Castle Hills is located in Lewisville’s Extraterritorial Jurisdiction (ETJ) and, by the agreement put in place in 1996, is subject to be developed according to Lewisville’s General Development Ordinance and Zoning Ordinance. The following variances were approved by the City Council on August 20, 2007 at the time of the preliminary plat; 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 rights-of-way with 6-foot sidewalk and utility easements for sections A & B; c) to allow 44-foot street rights-of-way with 6-foot sidewalk and utility easements for sections C & D; and d) waive the alley requirement for sections A, B, C, & D. During the final design of the project, two more variances were identified. Variance e): To allow street designs to vary from the minimum allowable vertical curve design speed. Variance f): To allow street designs to vary from the minimum allowable horizontal curve design speed. The Planning and Zoning

Consideration of the Final Plat for 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 Two Variances to the Castle Hills Development Agreement as Requested by TRC Solutions, Inc., Representing the Property Owner (cont'd)

(Agenda Item G-9)

Commission, at their November 20, 2007 meeting, voted 7-0 to recommend in favor of the final plat and the requested variances.

The City staff's recommendation was that the City Council approve the final plat and the requested variances "e" and "f".

David Salmon, P.E., Assistant City Engineer 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 four (4) "ayes" and no (0) "nays," to approve the Final Plat for 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 two variances to the Castle Hills Development Agreement to allow street designs to vary from the minimum allowable vertical curve design speed and to allow street designs to vary from the minimum allowable horizontal curve design speed, as requested by TRC Solutions, Inc., representing the property owner. The motion carried.

Consideration of Ordinance No. 3514-12-2007 Amending Chapter 15 of the Lewisville City Code Concerning Automated Traffic Signal Enforcement by Changing the Time Period to Request an Administrative Adjudication Hearing and to Provide Identifying Information of the Individual Who Rented or Leased the Motor Vehicle at Issue at the Time of the Alleged Offense

(Agenda Item G-10)

On August 20, 2007, City Council adopted an ordinance governing the automatic traffic signal enforcement program (“the Program”). Thereafter, City staff met with representatives of the administrator of the Program to establish the business rules of the Program. The proposed amendment to the ordinance conform the deadlines for requesting an administrative adjudication hearing and for providing identifying information of the individual who rented or leased the motor vehicle at issue at the time of the alleged offense with the deadlines for such agreed to by the parties at their meeting.

The City staff’s recommendation was that the City Council adopt 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 Chapter 15, Sections 15-189 and 15-190 of the Lewisville City Code; by Changing the Time Period to Request an Administrative Adjudication Hearing and to Provide Nomination Information; 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 Councilman Durham, the Council voted four (4) “ayes” and no (0) “nays” to approve and adopt **Ordinance No. 3514-12-2007**, as captioned previously. The motion carried.

Consideration of Resolution No. 3515-12-2007(R) Casting Lewisville's Votes for Director to the Denton Central Appraisal District Board

(Agenda Item G-11)

Councilman Durham advised that he would be abstaining from discussion and consideration of this item and the following item due to a conflict of interest. The appropriate Conflict of Interest Affidavit has been filled out and filed with the City Secretary. Councilman Durham moved away from the dais.

Mayor Carey advised that the Denton Central Appraisal District furnished a list of nominated candidates for election to their Board of Directors, as well as their list outlining the 2007 Distribution of Votes. Votes may be cast for one or more candidates but cannot exceed the number allocated to the entity in total. The City of Lewisville has been allocated 132 votes. It takes 834 votes to guarantee election to the board. The five nominees receiving the most votes become the board. The City of Lewisville and the Lewisville Independent School District nominated Lee Baker and Doug Killough. Lewisville Independent School District cast 755 votes for Lee Baker and 834 for Doug Killough, thus guaranteeing Doug Killough's election. Information sheets on nine of the eleven candidates were provided for Council's consideration.

Mayor Carey stated the City staff's recommendation was that the City Council consider casting Lewisville's votes for Director to the Denton Central Appraisal District Board.

MOTION: Upon a motion made by Councilman Tierney and seconded by Councilman Watts, the Council voted three (3) "ayes" and no (0) "nays" approving **Resolution No. 3515-12-2007(R)** to cast Lewisville votes for Pearl Ford. The motion carried.

Consideration of Resolution No. 3516-12-2007(R) Casting Lewisville's Vote for Director to the Dallas Central Appraisal District Board

(Agenda Item G-12)

Mayor Carey advised that by state law, the nomination process for persons to serve on the Dallas Central Appraisal District Board of Directors has been completed. The City of Lewisville is entitled to one vote. The six nominees and their nominating entities are included for Council's consideration. The City also received a letter from the City of DeSoto requesting the City of Lewisville's support for their nominated candidate, Mr. Michael Hurtt.

Consideration of Resolution No. 3516-12-2007(R) Casting Lewisville's Vote for Director to the Dallas Central Appraisal District Board

(Agenda Item G-12)

Mayor Carey stated the City staff's recommendation was that the City Council consider casting a vote to the Dallas Central Appraisal District Review Board.

MOTION: Upon a motion made by Councilman Watts and seconded by Councilman Tierney, the Council voted three (3) "ayes" and no (0) "nays" to approve **Resolution No. 3516-12-2007(R)** casting Michael Hurtt. The motion carried.

Councilman Durham returned to his place on the dais.

Reports

(Agenda Item H)

- ◆ Quarterly Investment Report – July 1, 2007-September 30, 2007
- ◆ Parks and Leisure Services Director Robert Monaghan and Fire Chief Rick Lasky advised that it had been due to a great team effort by all Departments that Holiday at the Hall had been so successful.
- ◆ Mayor Pro Tem Ueckert thanked City staff for another wonderful event in the community.
- ◆ Councilman Watts echoed Mayor Pro Tem Ueckert's comments. Councilman Watts referenced the discussion during the meeting regarding residents not knowing when laws change and that while City staff does the best job they can to make sure the public is advised of those changes the City cannot call all 90,000 residents and it's impractical to expect that. Councilman Watts stated that personal responsibility has to come into play and if that had been done, the discussion this evening could have been avoided.
- ◆ Mayor Carey thanked City staff for all their hard work at Holiday at the Hall.
- ◆ Councilman Tierney stated it was an outstanding event and he loved to see 1,000s of people come down to Old Town.

There were no additional reports at this time.

Mayor Carey adjourned the regular session of the Lewisville City Council into Closed Session at 8:03 p.m. Monday, December 3, 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 8:05 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 551.087 (ECONOMIC DEVELOPMENT):

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

The Closed Session was adjourned at 9:30 p.m. on Monday, December 3, 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 9:31 p.m. on Monday, December 3, 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.

Adjournment

(Agenda Item K)

(Councilman Tierney was not present at the dais.)

MOTION: Upon a motion made by Mayor Pro Tem Ueckert and seconded by Councilman Watts, the Council voted three (3) "ayes" and no (0) "nays" to adjourn the Regular Session of the Lewisville City Council at 9:32 p.m. on Monday, December 3, 2007. The motion carried.

These minutes approved by the Lewisville City Council on the 17th day of December, 2007.

APPROVED

Gene Carey, MAYOR

**LEWISVILLE CITY COUNCIL
REGULAR SESSION
DECEMBER 3, 2007**

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ATTEST:

Julie Heinze
CITY SECRETARY