

LEWISVILLE CITY COUNCIL

REGULAR SESSION

FEBRUARY 4, 2008

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 – 6:30 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 6:30 p.m. on Monday, February 4, 2008, in the City Council Conference Room of the Lewisville City Hall, 151 West Church Street, Lewisville, Texas. All City Department Heads were in attendance.

**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, Proclamation, Declaring February 9, 2008, as “Scouting for Food Day”. 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, Presentation, a.)“Certificate of Achievement for Excellence in Financial Reporting” Award; and b.) DCTA Report Presented by Charles Emery. There was no discussion on these issues.

Mayor Carey reviewed Agenda Item E-1, Continued Public Hearing: Consideration of an Ordinance for a Zone Change Request From Light Industrial (LI) to Townhouse Two Residential (TH-2) on Two Tracts Totaling 26.33 Acres; the First Tract is Located on the Northeast Corner of Oakbend Drive and Vista Ridge Mall Drive, Further Identified as Lot 5, Block B, Campbell Ranch Addition; the Second Tract is Located on the South Side of Vista Ridge Mall Drive Between Oakbend Drive and Club Ridge Road, Further Identified as a Portion of Tract 5, of the G.C. Woolsey Survey, Abstract 1402; as Requested by Portrait Homes, With Authorization From the Current Property Owner (Case No. PZ20071126). There was no discussion on this item.

Mayor Carey reviewed Agenda Item E-2, Public Hearing: Consideration of an Ordinance for a Zone Change Request From Local Commercial (LC) and Duplex (DU) to Medical District (MD) on 2.75 Acres Located at 169 Lake Park Road: Further Identified as Lot 1, Block A of the Cartwheel Addition, and 175 Lake Park Road: Further Identified as Lot 18R, Block 1 of the Oak Ridge Park Estates Addition Section 2; as Requested by Vilbig & Associates, With Authorization From the Current Property Owner Grand Villa PHX, Inc., DBA Lake Village Nursing and Rehabilitation (Case No. PZ20080104). There was no discussion on this item.

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

Mayor Carey reviewed Agenda Item G-3, Approval of Award of Contract to Centennial Contractor’s Enterprises, Inc., in the Amount of \$389,966 for Remodel of the Public Services Utility Building; Approval of a Total Project Budget of \$481,758 Including Contingency; and Approval of a Supplemental Appropriation in the Amount of \$287,118 From the Utility Capital Projects Fund. There was no discussion on this item.

Mayor Carey reviewed Agenda Item G-4, Approval of a Resolution Authorizing the City to Submit a Grant Application to the Texas Criminal Justice Division to Obtain Funding for One Victim Assistance Officer; and Authorization for the City Manager or his Designee to Execute the Grant Application Documents. 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 G-5, Approval of a Resolution Endorsing the Denton County Transportation Authority Application to the Regional Transportation Council for a Regional Toll Revenue Funding Initiative (RTRFI) Grant to Facilitate Implementation of Regional Rail Service from Denton, Texas to Carrollton, Texas with a Connection to the Dallas Central Business District. There was no discussion on this item.

Mayor Carey reviewed Agenda Item H-6, Consideration of a Variance to the 1996 Castle Hills Agreement Relating to the Castle Hills Development Code, Article V, Section 2(J), Turning Lanes, Associated With Lot 1, Block A, Castle Hills Phase 4 Section A, as Requested by Wier and Associates, Inc., Representing the Developer. Deputy Mayor Pro Tem Ueckert requested clarification regarding the amount of right of way. City Manager King reviewed this agenda item for clarification. There was no further discussion.

Mayor Carey reviewed Agenda Item H-7, Consideration of a Variance to the Lewisville City Code Relating to Article V, Public Improvements, Section 6-57, Building Permit Issuance, for the Early Release of Building Permits for Eight (8) Lots for the Villas at Wellington Townhome Development Located at Bellaire and Valley Parkway As Requested by Portrait Homes, the Property Owner. There was no discussion on this item.

Mayor Carey reviewed Agenda Item H-8, Consideration of Variances to the Lewisville City Code, Relating to Chapter 6, Land Use, Exterior Finish Requirements, Screening Devices and Off Street Parking Requirements Associated With the Proposed Bella Madera Apartment Site Located at the South of Lake Ridge Road, Between East Hill Park Road and Leora Lane as Requested by the Developer Westwood Residential. Director of Community Development Eric Ferris reviewed the history of allowed exterior finish requirements for the City Council. Discussion was held regarding why stucco was not an approved exterior finish in the City of Lewisville and what other cities allowed or did not allow. City Manager King advised that he was not sure what area cities were doing in regard to stucco. Mayor Carey questioned why the parking had been reduced. Mr. Ferris advised that the City had went to requiring two parking spots for apartments due to parking needs. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item H-9, Consideration of a Resolution Authorizing a Council Resolution Required for Churchill Residential, Inc., to Apply to the Texas Department of Housing and Community Affairs for Funding for a Senior Living Community to be Built in Lewisville. 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 H-11, Consideration of an Ordinance Ordering the Submission of Two Questions Regarding Whether to Allow Smoking in Certain Establishments Within the City for a Nonbinding Vote by the Citizens During the May 10, 2008, City Council Election. Discussion was held regarding what the City of Fort Worth had recently passed to distinguish between a restaurant and a bar. Mayor Pro Tem Ueckert questioned if the City of Lewisville should change to follow the same guidelines. Further discussion was held regarding how the City would be able to regulate those different percentages. There was no further discussion.

Mayor Carey reviewed Agenda Item H-12, Tabled Item: Consideration of an Appointment to Place No. 6 on the Park Board. There was no discussion on this item.

Mayor Carey reviewed Agenda Item H-13, Second Reading: Consideration of an Ordinance Amending the Lewisville City Code, Article VI, Chapter 4 by Establishing a New Residential Rental Inspection Program. There was no discussion on this item.

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

Mayor Carey reviewed Agenda Item J, 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 6:57 p.m. on Monday, February 4, 2008.

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, February 4, 2008, in the Council Chambers of the Lewisville City Hall, 151 West Church Street, Lewisville, Texas.

Invocation

(Agenda Item A)

Mayor Carey gave the invocation.

Pledge to the Flag

(Agenda Item B)

At the request of Mayor Carey, Cub Scout Pack 729 gave the pledge to the flag.

**Proclamation: Declaring February 9, 2008,
as "Scouting for Food Day"**

(Agenda Item C)

Mayor Carey read and presented a proclamation declaring February 9, 2008, as "Scouting for Food Day" to Pack Leader Mary Beth Pinkerton with Cub Scout Pack 729. The following members from the Pack were present: Zack Pinkerton, Jacob Cole, Charlie Estrada, Spencer Levesque, Seth Southwell, Angelo Gennar, Wayne Paulson, Collin Busby, Matthew Rubenstein, Justin Pilgreen, Robert Clarke, and Paul Grimaldo.

**PRESENTATION: Certificate of
Achievement for Excellence in Financial
Reporting" Award**

(Agenda Item D-a)

Mayor Carey read and presented "Certificate of Achievement for Excellence in Financial Reporting" Award to Brenda West, Accounting and Audit Manager for the City of Lewisville.

**PRESENTATION: DCTA Report Presented
by Charles Emery**

(Agenda Item D-b)

John Hedrick and Charles Emery presented a PowerPoint Presentation regarding the current and future growth of the Denton County Transportation Authority (DCTA).

Barbara Coop, 1641 Glencairn Lane, Lewisville, Texas, spoke before the City Council and requested that the DCTA consider some type of rider assistance to aid individuals who have a handicap.

Continued Public Hearing: Consideration of an Ordinance for a Zone Change Request From Light Industrial (LI) to Townhouse Two Residential (TH-2) on Two Tracts Totaling 26.33 Acres; the First Tract is Located on the Northeast Corner of Oakbend Drive and Vista Ridge Mall Drive, Further Identified as Lot 5, Block B, Campbell Ranch Addition; the Second Tract is Located on the South Side of Vista Ridge Mall Drive Between Oakbend Drive and Club Ridge Road, Further Identified as a Portion of Tract 5, of the G.C. Woolsey Survey, Abstract 1402; as Requested by Portrait Homes, With Authoriztion From the Current Property Owner (Case No. PZ20071126)

(Agenda Item E-1)

At the January 7, 2008 City Council meeting, the public hearing was opened and then continued to this meeting as requested by the property owner. Staff has now received a letter from the property owner asking that the item be withdrawn from the agenda.

The City staff's recommendation was that the City Council permit withdrawal of the zone change as requested by the property owner.

Mayor Carey opened the public hearing.

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.

MOTION: Upon a motion made by Councilman Durham and seconded by Councilman Tierney, the Council voted five (5) "ayes" and no (0) "nays" to permit withdrawal of the zone change as requested by the property owner. The motion carried.

Public Hearing: Consideration of Ordinance No. 3534-02-2008(Z) for a Zone Change Request From Local Commercial (LC) and Duplex (DU) to Medical District (MD) on 2.75 Acres Located at 169 Lake Park Road: Further Identified as Lot 1, Block A of the Cartwheel Addition, and 175 Lake Park Road: Further Identified as Lot 18R, Block 1 of the Oak Ridge Park Estates Addition Section 2; as Requested by Vilbig & Associates, With Authorization From the Current Property Owner Grand Villa PHX, Inc., DBA Lake Village Nursing and Rehabilitation (Case No. PZ20080104)

(Agenda Item E-2)

The Lake Village Nursing and Rehabilitation Center was built in the mid 1970's when nursing homes were allowed in commercial zoning. The Duplex (DU) zoned lot adjacent to this piece has an existing home on it which the nursing home owners have bought and plan on tearing down in order to expand the nursing and rehabilitation areas of the center. In order to expand the facility or do any changes to the footprint of the facility, a zone change to MD (which allows nursing/convalescent homes) is required. The owners of the nursing home plan on adding more private rooms and converting some of the existing space into rehabilitation and office space. In preliminary meetings with the architects, they have indicated that they do not plan to make the building appear more residential. A site plan and plat will be required. The use is in keeping with what is already there and the residential uses of the surrounding area. The Planning and Zoning Commission recommended unanimous approval (6-0) of the zone change request at their January 8, 2008 meeting.

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 Local Commercial (LC) and Duplex (DU) to Medical District (MD).

Gene Lewis, Planning and Community Services Manager and Chris Walton, Vilbig & Associates were both present to respond to any questions posed by the City Council.

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 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 Combined 2.75 Acre Tract of Land Fully and Completely Described in Attached Exhibits "A & B", Ordering a Change in the Use of Said Property From Local Commercial (LC) and Duplex (DU) District Zoning to Medical District (MD) 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 Mayor Pro Tem Ueckert and seconded by Councilman Tierney, the Council voted five (5) “ayes” and no (0) “nays” to approve **Ordinance No. 3534-02-2008(Z)**, as captioned previously. The motion carried.

Visitors/Citizens Forum

(Agenda Item F)

No one appeared to speak at this time.

CONSENT AGENDA

(Agenda Item G)

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

3. Approval of Award of Contract to Centennial Contractor’s Enterprises, Inc., in the Amount of \$389,966 for Remodel of the Public Services Utility Building; Approval of a Total Project Budget of \$481,758 Including Contingency; and Approval of a Supplemental Appropriation in the Amount of \$287,118 From the Utility Capital Projects Fund.
4. Approval of **Resolution No. 3535-02-2008(R)**: A Resolution of the City Council of the City of Lewisville, Texas, Authorizing the City to Apply for a Grant From the Office of the Governor, Texas Criminal Justice Division for the Victim Services Program (Grant Number 1579008).

5. Approval of **Resolution No. 3536-02-2008(R)**: A Resolution of the City Council of the City of Lewisville, Texas, Endorsing the Denton County Transportation Authority Application to the Regional Transportation Council (RTC) for a Regional Toll Revenue Funding Initiative (RTRFI) Grant to Facilitate Implementation of Regional Rail Service From Denton, Texas to Carrollton, Texas With a Connection to the Dallas Central Business District.

The motion carried.

END OF CONSENT AGENDA

**Consideration of a Variance to the 1996
Castle Hills Agreement Relating to the Castle
Hills Development Code, Article V, Section
2(J), Turning Lanes, Associated With Lot 1,
Block A, Castle Hills Phase 4 Section A, as
Requested by Wier and Associates, Inc.,
Representing the Developer**

(Agenda Item H-6)

The subject lot, which is located on the northeast corner of Windhaven Parkway and Old Denton Road (FM 2281) and within Castle Hills, is proposed for a children's daycare. Constructed with the development will be a driveway with a deceleration lane on Old Denton Road. The Texas Department of Transportation approved the driveway location on Old Denton Road with the condition that the deceleration lane is constructed and that the associated right-of-way is dedicated to the City of Lewisville. Although twelve (12) feet of additional right-of-way is required by City ordinance, the developer is proposing to dedicate five (5) feet of additional right-of-way and an additional five (5) feet of street easement.

The City staff's recommendation was that the City Council approve the requested variance.

David Salmon, Assistant City Engineer and Ulys Lane, P.E., RPLS, Wier & Associates, Inc., were both present to respond to any questions posed by the City Council.

MOTION: Upon a motion made by Councilman Watts and seconded by Councilman Tierney, the Council voted five (5) "ayes" and no (0) "nays" to allow the developer to dedicate five (5) feet of additional right-of-way and an additional five (5) feet of street easement. The motion carried.

Consideration of a Variance to the Lewisville City Code Relating to Article V, Public Improvements, Section 6-57, Building Permit Issuance, for the Early Release of Building Permits for Eight (8) Lots for the Villas at Wellington Townhome Development Located at Bellaire and Valley Parkway As Requested by Portrait Homes, the Property Owner.

(Agenda Item H-7)

Portrait Homes is currently developing a 225-unit townhome project on a 28.04 acre property zoned TH2, located at the northeast corner of Bellaire and Valley Parkway. The City Council approved a variance on January 28, 2008 for a temporary sales and marketing office trailer on the site for the purpose of pre-sales before the project is completed. Portrait Homes is requesting a variance for the early release of building permits for the eight lots approved for the temporary sales office and model homes provided that all roadways and fire hydrants are completed and sanitary sewer is provided for Phase I. The General Development Ordinance requires that all public improvements be accepted prior to the issuance of building permits. City Council approved a similar request for Portrait Homes townhome development located on the north side of Corporate Drive and west of Business Highway 121 in July of 2003.

The City staff's recommendation was that the City Council approve the requested variance for the early release of building permits, provided that all roadways and fire hydrants are completed and sanitary sewer is provided for Phase I.

Scott Whitwer, 4949 Hedgcoxe Road, Plano, Texas, representing Portrait Homes was present to respond to any questions posed by the City Council.

MOTION: Upon a motion made by Deputy Mayor Pro Tem Thornhill and seconded by Councilman Watts, the Council voted five (5) "ayes" and no (0) "nays" to approve the requested variance for the early release of building permits for the eight lots approved for the temporary sales office and model homes provided that all roadways and fire hydrants are completed and sanitary sewer is provided for Phase I. The motion carried.

Consideration of Variances to the Lewisville City Code, Relating to Chapter 6, Land Use, Exterior Finish Requirements, Screening Devices and Off Street Parking Requirements Associated With the Proposed Bella Madera Apartment Site Located at the South of Lake Ridge Road, Between East Hill Park Road and Leora Lane as Requested by the Developer Westwood Residential

(Agenda Item H-8)

Westwood Residential is proposing a 612-unit apartment complex with a “Tuscan architectural design”. An engineering site plan has been submitted for staff review, which includes three requested variances: (a) to allow a living irrigated screen in lieu of the required 6-foot masonry screening wall; (b) to allow 40% brick and 60% stucco in lieu of the 80% brick veneer required; and, (c) to allow a reduction in parking from two (2) spaces per unit to 1.65 spaces per unit resulting in a net difference of 211 parking spaces.

The City staff’s recommendation was that the City Council approve the screening wall variance request and deny the variance requests relating to exterior finish requirements and reduction in parking.

Cleve Joiner, Fire Marshal and Interim Building Official and Jeff Lindsey, Sr. Vice President, Westwood Residential, both spoke before the City Council regarding this request.

Discussion was held regarding the parking request and a 78% of these units would be one bedroom units. Councilman Durham questioned if staff had done a study on apartment complexes that were only one bedroom if they had the parking issues. City Manager King advised that a survey had not been done; however, if the City Council requested staff could conduct a survey. City Manager King advised that would take some time to compile. Further discussion was held regarding tabling this portion of the request to allow City staff time to conduct a survey.

MOTION: Upon a motion made by Councilman Tierney and seconded by Councilman Durham, the Council voted five (5) “ayes” and no (0) “nays” to approve the variance request to allow a living irrigated screen in lieu of the required 6-foot masonry screening wall. The motion carried.

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 Mayor Pro Tem Ueckert casting the negative votes to approve the variance request to allow 40% brick and 60% stucco in lieu of the 80% brick veneer required. The motion carried.

MOTION: Upon a motion made by Councilman Tierney and seconded by Councilman Durham, the Council voted three (3) “ayes” and two (2) “nays,” with Mayor Pro Tem Ueckert and Deputy Mayor Pro Tem Thornhill casting the negative votes to allow a reduction in parking from two (2) spaces per unit to 1.65 spaces per unit resulting in a net difference of 211 parking spaces. The motion carried.

Councilman Tierney requested that City staff review the parking requirements when apartments only have one bedroom units.

Consideration of Resolution No. 3537-02-2008(R) Authorizing a Council Resolution Required for Churchill Residential, Inc., to Apply to the Texas Department of Housing and Community Affairs for Funding for a Senior Living Community to be Built in Lewisville

(Agenda Item H-9)

Vista Ridge Senior Community, L.P. has proposed a new development of senior housing at the northwest quadrant of Vista Ridge Mall Drive and Highpoint Oaks Drive, the approximate 2600 block of Highpoint Oaks Drive. The proposed community is to be named Evergreen at Vista Ridge Senior Living Community. In order to help provide funds and secure necessary financing approvals, Vista Ridge Senior Community, L.P. will apply for available HOME funds from the Texas Department of Housing and Community Affairs (the TDHCA). The TDHCA requires that the applicant obtain permission from the City Council to submit the application.

The City staff’s recommendation was that the City Council consider the resolution.

Discussion was held regarding the City taxes for this property. Tony Sisk advised that they would be willing to issue deed restrictions that would waive their City taxes exemption.

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 **Resolution No. 3537-02-2008(R)**. The motion carried.

**Consideration of Approval of a Resolution
No. 3538-02-2008(R) Recommending
Consumer Review of Electric Provider
Choices (as Requested by Mayor Pro Tem
Ueckert)**

(Agenda Item H-10)

Councilman Ueckert has requested that a resolution to all Lewisville electrical consumers be approved reminding the consumer of the right to choose their retail electric provider. Many consumers are unaware of the ability to select their electrical provider.

The City staff's recommendation was that the City Council consider approval of the resolution.

Mayor Pro Tem Ueckert reviewed his personal experiences on behalf of himself and a number of concerned citizens with First Choice Power. Discussion was held that this resolution would also be included on the City's website, Horizon, and other media avenues open to the City.

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 approve **Resolution No. 3538-02-2008(R)**. The motion carried.

**Consideration of Ordinance No. 3539-02-
2008 Ordering the Submission of Two
Questions Regarding Whether to Allow
Smoking in Certain Establishments Within
the City for a Nonbinding Vote by the
Citizens During the May 10, 2008, City
Council Election**

(Agenda Item H-11)

At City Council request, staff has prepared an ordinance ordering the submission of two questions regarding whether to allow smoking in certain establishments within the City for a nonbinding vote by the citizens during the May 10, 2008, City Council Election.

The City staff's recommendation was that the City Council consider the proposed ordinance.

Councilman Durham stated that if someone did not like smoking then they should not go to a restaurant that allowed smoking. He also stated that the City has a representative form of government, and if this was put to a vote, then everything should be put to a vote. Councilman Durham advised he was opposed to holding a non-binding election.

Mayor Pro Tem Ueckert stated that he felt it would be good to let the citizens have a voice and get a good feel on what they preferred on this item. Mayor Pro Tem Ueckert advised that he had received a lot of feedback from residents that they wanted to be allowed to vote on a smoking ban. Mayor Pro Tem Ueckert stated that the City Council would still have to make the final decision as this would be a non-binding referendum election.

Councilman Watts advised that he agreed with Councilman Durham. He stated that the thing that makes American Government great is democracy, and he felt that this was a decision that the City Council should make, not put out to a vote. Councilman Watts advised that he had received a lot of feedback for both sides regarding a smoking ban. Councilman Watts stated that all the City Council's contact information was on the website and the citizens could contact them with their thoughts on this topic so they can express their opinion. Councilman Watts concluded by stating that he felt the City Council should make the decision to pass an ordinance banning smoking or not pass an ordinance.

Deputy Mayor Pro Tem Thornhill indicated he was in agreement with Councilman Durham. Deputy Mayor Pro Tem Thornhill stated that he would prefer taking a vote tonight and be done with the decision. Deputy Mayor Pro Tem Thornhill advised he was not in favor of holding a non-binding referendum election. Deputy Mayor Pro Tem Thornhill stated that he felt this decision was the City Council's responsibility.

Councilman Tierney stated that he felt this topic would be appropriate issue to get the voters input; however, he was not in favor of sending it as a non-binding referendum. Councilman Tierney stated that he is in favor of businesses making decisions for their businesses and government keeping their nose out; however, sometimes for public safety issues he felt it is appropriate for government to do so. Councilman Tierney advised that he had been involved with a Texas Restaurant Association meeting when this issue had been brought up at the State level. He stated that they had been in favor of a smoking ban in the entire State of Texas; however, they had stipulated that it had to be straight across the board with no exceptions. Councilman Tierney advised he was not in support of sending this non-binding referendum to the voters.

MOTION: Upon a motion made by Councilman Tierney and seconded by Councilman Durham, the Council voted four (4) "ayes" and one (1) "nays," with Mayor Pro Tem Ueckert casting the negative vote to deny approving the proposed ordinance. The motion carried.

Tabled Item: Consideration of an Appointment to Place No. 6 on the Park Board

(Agenda Item H-12)

At the January 7, 2008, City Council meeting, Council accepted the resignation of Ken Judkins from Place No. 6 on the Park Board. It is now in order for Council to select a replacement for Mr. Judkins.

The City staff's recommendation was that the City Council consider an appointment to fill the vacancy in Place No. 6 on the Park Board.

MOTION: Upon a motion made by Councilman Durham and seconded by Deputy Mayor Pro Tem Thornhill, the Council voted five (5) "ayes" and no (0) "nays" to appoint Katie Morris to Place No. 6 on the Park Board. The motion carried.

Second Reading: Consideration of an Ordinance Amending the Lewisville City Code, Article VI, Chapter 4 by Establishing a New Residential Rental Inspection Program.

(Agenda Item H-13)

At the January 28, 2008, City Council meeting, the Council approved the subject ordinance. However, 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. This will be the second reading.

The City staff's recommendation was that the City Attorney provide the second reading of the 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 4, Article VI of the Lewisville City Code by Establishing a Residential Rental Inspection Program; Providing a Repealer; Providing a Severability Clause; Providing a Penalty; and Providing an Effective Date."

Reports

(Agenda Item I)

- Fire Chief Rick Lasky advised the City Council that Terry McCrath and Retha had made it back from their service at the Super Bowl.
- Director of Public Services Carole Bassinger gave a brief update on the lake level.

There were no additional reports at this time.

Mayor Carey adjourned the regular session of the Lewisville City Council into Closed Session at 9:05 p.m. Monday, February 4, 2008, in accordance with the requirements of the Open Meetings Law.

Closed Session

(Agenda Item J)

In accordance with Texas Government Code, Subchapter D, Section 551.071 (Consultation With Attorney), the Lewisville City Council convened into Closed Session at 9:05 p.m. on Monday, February 4, 2008, 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. Legal Anticipation of City Filing Regarding Chase Bank

Section 551.072 (Real Estate):

2. Property Acquisition

Section 551.087 (Economic Development):

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

The Closed Session was adjourned at 9:30 p.m. on Monday, February 4, 2008.

**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 9:30 p.m. on Monday, February 4, 2008, 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)

Councilman Durham and Mayor Pro Tem Ueckert were not present at the dais.

MOTION: Upon a motion made by Councilman Tierney 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 9:30 p.m. on Monday, February 4, 2008. The motion carried.

These minutes approved by the Lewisville City Council on the 18th day of February, 2008.

APPROVED

Gene Carey
MAYOR

ATTEST:

Julie Heinze
CITY SECRETARY