

LEWISVILLE CITY COUNCIL

REGULAR SESSION

MAY 5, 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:

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 – 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 6:00 p.m. on Monday, May 5, 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.

Corridor Aesthetic Program

(Agenda Item A)

Director of Parks and Leisure Services Robert and Mike Kendall conducted a PowerPoint regarding the Corridor Aesthetic Program.

The consensus of the City Council was that they liked the Topography Plan that had been presented.

**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.

WORKSHOP SESSION – 6.-:00 P.M.

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

(Agenda Item B)

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

Mayor Carey reviewed Agenda Item C, Proclamations, 1). Declaring the week of May 4-10, 2008, as “National Drinking Water Week” and May 18-24, 2008, as “National Public Works Week.”; 2). Declaring the week of May 11-17, 2008, as “National Police Week” and May 15, 2008, as “Police Memorial Day.”; and, 3). Declaring the Week of May 10-18, 2008, as “Texas Tourism Week.”. 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 Agricultural Open Space (AO) to Light Industrial (LI) on a 1.59 Acre Tract Located at 817 Clary Road, Further Identified as Tract 36 of the P. Higgins Survey, Abstract 525; as Requested by Jose Lopez the Current Property Owner (Case No. PZ20080409). There was no further 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 April 21, 2008, Workshop Session and Regular Session. There was no discussion on this item.

Mayor Carey reviewed Agenda Item F-2, Approval of a Bid Award for the 2007 CDBG Sanitary Sewer Rehab Project to Trenchless Methods, Inc., West Monroe, Louisiana, in the Amount of \$240,587; Approval of a Total Budget of \$247,805; 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 a Professional Services Agreement With TRC Engineers, Inc., in the Amount of \$232,050 for Design Services Related to the Purnell Street Sanitary Sewer Project; Approval of a Total Project Design Budget of \$239,012, Which Includes \$6,962 for Contingencies; and Authorization for the City Manager to Execute the Agreement. There was no discussion on this item.

WORKSHOP SESSION – 6.-:00 P.M.

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

(Agenda Item B)

Mayor Carey reviewed Agenda Item F-4, Approval of Acceptance of a \$3,001 Grant From the Texas Department of Transportation for the Seat Belt Enforcement Program; Approval of a Supplemental Budget Appropriation in the Amount of \$3,001 to the Fiscal Year 2007/2008 Grant Fund; and Authorization for the City Manager to Execute the Grant Agreement. There was no discussion on this item.

Mayor Carey reviewed Agenda Item G-5, Tabled Item: Consideration of a Request for a Variance to the Lewisville City Code, Chapter 11, Signs, Regarding a Roof Sign at the Sonic Drive-In Located at 1413 West FM 407, as Requested by Bobby Esh of CPE Sign Services, Representing the Owner. City Manager King pointed out that Sonic had indicated they were not interested in removing the pole sign. There was no further discussion on this item. 3

Mayor Carey reviewed Agenda Item G-6, Consideration of a Request for a Variance to the 1996 Castle Hills Agreement to Allow Two (2) Three Party Escrow Agreements to Allow Simultaneous Construction of Public and Private Infrastructure Improvements, as Requested by Weber/Inland American Lewisville TC L.P.; and Authorization for the City Manager to Execute Escrow Agreement A for City of Lewisville Improvements. There was no discussion on this item.

Mayor Carey reviewed Agenda Item G-7, Consideration of a Variance to the Lewisville City Code, Article VIII, Section 2-201, Fee Schedule, Regarding the Waiver of Facility Rental Fees at the Vista Ridge Amphitheater per a Request by Running With Scissors Players. Councilman Tierney questioned they had met the insurance requirements. Parks and Leisure Services Director Robert Monaghan advised that staff does not have their insurance information; however, they were aware that there are requirements. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item G-8, Consideration of Waiving the Third Floor Rental and Deposit Fees for the Southern Denton County Neighbor to Neighbor Victory Party on May 20, 2008 (as Requested by Mayor Pro Tem Ueckert). There was no discussion on this item.

Mayor Carey reviewed Agenda Item G-9, Consideration of an Ordinance Amending the Lewisville City Code, Chapter 11, Signs, Regarding Flashing Signs. City Attorney Ron Neiman reviewed this item with the City Council. There was no further discussion on this item.

WORKSHOP SESSION – 6.-:00 P.M.

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

(Agenda Item B)

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 6:44 p.m. on Monday, May 5, 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, May 5, 2008, 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 Watts gave the invocation.

Pledge to the Flag

(Agenda Item B)

Mayor Carey gave the pledge to the flag.

Proclamation: Declaring the Week of May 4-10, 2008, as “National Drinking Water Week” and May 18-24, 2008, as “National Public Works Week”

(Agenda Item C-1)

Mayor Carey read and presented a proclamation declaring the week of May 4-10, 2008, as “National Drinking Water Week” and May 18-24, 2008, as “National Public Works Week” to Ivy Washington and Moises Goatnez from the Public Services Department.

Proclamation: Declaring the Week of May 11-17, 2008, as “National Police Week” and May 15, 2008, as “Police Memorial Day”

(Agenda Item C-2)

Mayor Carey read and presented a proclamation declaring the week of May 11-17, 2008, as “National Police Week” and May 15, 2008, as “Police Memorial Day” to Police Sergeant Courtney Letalien.

Proclamation: Declaring the Week of May 10-18, 2008, as “Texas Tourism Week”

(Agenda Item C-3)

Mayor Carey read and presented a proclamation declaring the week of May 10-18, 2008, as “Texas Tourism Week” to Director of Communications and Tourism James Kunke.

Public Hearing: Consideration of Ordinance No. 3562-05-2008(Z) for a Zone Change Request From Agricultural Open Space (AO) to Light Industrial (LI) on a 1.59 Acre Tract Located at 817 Clary Road, Further Identified as Tract 36 of the P. Higgins Survey, Abstract 525; as Requested by Jose Lopez the Current Property Owner (Case No. PZ20080409)

(Agenda Item D)

A mobile home with a carport is currently on this site. The property backs up to the Highland Acres Mobile Home Communities formerly known as Bunker Hill Mobile Home Park and is adjacent to other AO property with residential uses on them. A couple of properties north of this one are zoned LI. Almost all of the property along Business SH 121 and south of this area is zoned either LI or AO. The proposed zoning would be consistent with what has been happening in the area. The trend is conversion to Light Industrial and it seems that this trend will continue especially when Corporate Drive is extended through this area in the future. The Planning and Zoning Commission unanimously recommended approval of the zone change request at their April 1, 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 Agriculture Open Space (AO) to Light Industrial (LI).

Mayor Carey opened the public hearing.

Gene Lewis, Planning and Community Services Manager and Jose Lopez, Owner, were both present to respond to any questions posed by the City Council.

MOTION: Upon a motion made by Councilman Durham and seconded by Mayor Pro Tem Ueckert, the Council voted five (5) “ayes” and no (0) “nays” to 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 1.59 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 Tierney and seconded by Deputy Mayor Pro Tem Thornhill, the Council voted five (5) “ayes” and no (0) “nays” to approve and adopt **Ordinance No. 3562-05-2008(Z)**, as previously captioned. The motion carried.

Visitors/Citizens Forum

(Agenda Item E)

Operation Peace of Mind, spoke before the City Council the organization.

No one else appeared to speak at this time.

CONSENT AGENDA

(Agenda Item F)

MOTION: Upon a motion made by Councilman Watts 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:

1. **APPROVAL OF MINUTES:** City Council Minutes of the April 21, 2008, Workshop Session and Regular Session.

2. Approval of a Bid Award for the 2007 CDBG Sanitary Sewer Rehab Project to Trenchless Methods, Inc., West Monroe, Louisiana, in the Amount of \$240,587; Approval of a Total Budget of \$247,805; and Authorization for the City Manager to Execute the Contract.
3. Approval of a Professional Services Agreement With TRC Engineers, Inc., in the Amount of \$232,050 for Design Services Related to the Purnell Street Sanitary Sewer Project; Approval of a Total Project Design Budget of \$239,012, Which Includes \$6,962 for Contingencies; and Authorization for the City Manager to Execute the Agreement.
4. Approval of Acceptance of a \$3,001 Grant From the Texas Department of Transportation for the Seat Belt Enforcement Program; Approval of a Supplemental Budget Appropriation in the Amount of \$3,001 to the Fiscal Year 2007/2008 Grant Fund; and Authorization for the City Manager to Execute the Grant Agreement.

The motion carried.

END OF CONSENT AGENDA

Tabled Item: Consideration of a Request for a Variance to the Lewisville City Code, Chapter 11, Signs, Regarding a Roof Sign at the Sonic Drive-In Located at 1413 West FM 407, as Requested by Bobby Esh of CPE Sign Services, Representing the Owner

(Agenda Item G-5)

The Sonic Drive-In located at 1413 West FM 407 is currently going through renovation. A variance request is proposed to install a sign, above the roof line, to enable view from both east and west elevations. The sign ordinance does not allow roof signs to project above the highest point of the building. The City Council tabled this item at the April 21, 2008 City Council meeting in order to explore additional options with Sonic. Staff suggested that Sonic remove the existing pole sign, thus allowing the proposed roof-mounted sign. Representatives from Sonic Drive-In indicated that they were not in favor of removing the existing pole sign.

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

Cleve Joiner, Building Official was available to speak before the City Council regarding this request.

MOTION: Upon a motion made by Councilman Tierney and seconded by Mayor Pro Tem Ueckert, the Council voted three (3) “ayes” and two (2) “nays,” with Councilman Durham and Councilman Watts casting the negative voters to deny the requested variance. The motion carried.

Consideration of a Request for a Variance to the 1996 Castle Hills Agreement to Allow Two (2) Three Party Escrow Agreements to Allow Simultaneous Construction of Public and Private Infrastructure Improvements, as Requested by Weber/Inland American Lewisville TC L.P.; and Authorization for the City Manager to Execute Escrow Agreement A for City of Lewisville Improvements

(Agenda Item G-6)

Weber/Inland American Lewisville TC L.P., is in the process of developing the Lewisville Towne Crossing Project, a 54.61 acre multi-lot retail center within the Castle Hills Development. The 1996 General Development Ordinance allows a developer to enter into a 3-party escrow agreement between the City, Developer and a financial institution performing the services of an escrow agent subject to approval by the City Council. In this case, two separate agreements are required, one for the City improvements and one for the Fresh Water District Improvements. Agreement A covers the City of Lewisville portion of the improvements. Agreement B, which covers the Fresh Water District improvements will be executed by the Fresh Water District.

The City staff’s recommendation was that the City Council approve the variance request and the Three-Party Escrow Agreement for the City of Lewisville improvements (Agreement A); authorize the City Manager to execute Agreement A; and stipulate that all City of Lewisville improvements be completed and accepted by the City prior to issuance of any certificate of occupancy by the Denton County Fresh Water District.

Mayor Carey advised that Michael Clark, L.A. Cates & Associates, 14800 Quorum Drive, #200, Dallas, Texas, 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 approve a request for a variance to the 1996 Castle Hills Agreement to allow two (2) three party Escrow Agreements to allow Simultaneous Construction of Public and Private Infrastructure Improvements, as requested by Weber/Inland American Lewisville TC L.P.; and authorized the City Manager to execute Escrow Agreement A for City of Lewisville Improvements. The motion carried.

Consideration of a Variance to the Lewisville City Code, Article VIII, Section 2-201, Fee Schedule, Regarding the Waiver of Facility Rental Fees at the Vista Ridge Amphitheater per a Request by Running With Scissors Players

(Agenda Item G-7)

Running With Scissors players are planning to perform the musical “You’re a Good Man Charlie Brown” at the Amphitheater June 27, 28, 29, and July 4, 5, and 6, 2008. The beneficiaries of the performances will be the Down Syndrome Guild of Dallas and a local family struggling financially to support their Down Syndrome child. The theatre group is requesting waiver of the amphitheater rental fees for all six dates. Rental fees normally cover cost of City services such as custodial services, facilities maintenance and staff presence. They are prepared to submit the required facility deposit.

The City staff’s recommendation was that the City Council consider approval of the variance regarding the waiver of facility rental fees at the Vista Ridge Amphitheater, as requested by the Running with Scissors players.

Bailey Frankenberg and Eric Nelson, Running With Scissors Players spoke before the City Council regarding this request. Mr. Nelson advised that they had an insurance agent working on the insurance requirements.

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, Article VIII, Section 2-201, Fee Schedule, Regarding the Waiver of Facility Rental Fees at the Vista Ridge Amphitheater per a request by Running With Scissors Players. The motion carried.

**Consideration of Waiving the Third Floor
Rental and Deposit Fees for the Southern
Denton County Neighbor to Neighbor
Victory Party on May 20, 2008 (as Requested
by Mayor Pro Tem Ueckert)**

(Agenda Item G-8)

The Southern Denton County (SDC) Neighbor to Neighbor is a newly established fund raising federation representing Lewisville area social service agencies. The City Council approved this organization as the exclusive fund raising federation for the City of Lewisville. Rental of the third floor is \$150 an hour with a two hour minimum along with a \$500 deposit. They would like to hold their Victory Party for surpassing the 2007-2008 fund raising goal of \$75,000 on May 20, 2008 on the third floor of City Hall and are requesting that the fees for this event be waived.

The City staff's recommendation was that the City Council consider waving the third floor rental and deposit fees for the Southern Denton County Neighbor to Neighbor Victory Party on May 20, 2008.

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 waive the third floor rental fees and require that the deposit fees be paid, for the Southern Denton County Neighbor to Neighbor Victory Party on May 20, 2008. The motion carried.

**Consideration of an Ordinance Amending
the Lewisville City Code, Chapter 11, Signs,
Regarding Flashing Signs**

(Agenda Item G-9)

On February 28, 2008, the Texas Department of Transportation Commissioners adopted new rules to allow multi-colored electronic changeable message billboards along State highways unless specific municipal ordinances prohibit said signs. Although the City has prohibited signs that flash, scroll, electronically change or have intermittent or varying intensity of illumination for several years, staff identified the need to clarify the City's position to continue to prohibit these types of signs regardless of the new rules promulgated by the Commission. The new State law becomes effective June 1, 2008, therefore staff recommends that the City Council approve this ordinance.

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 Chapter 11, Signs, of the Lewisville City Code by Amending Section 11-14, Subsection B Regarding Flashing Signs; Providing for Severability; Providing a Penalty Clause; Providing a Repealer; Providing an Effective Date; and Declaring an Emergency.”

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 and adopt **Ordinance No. 3563-05-2008**, as captioned previously. The motion carried.

Reports

(Agenda Item I)

- ◆ First Quarter 2008 Investment Report
- ◆ Chief Lasky gave a brief update on the status of the Pipes and Drum Event recently held in the City of Lewisville.
- ◆ Human Resource Director Melinda invited the City Council to the Leadership Training Graduation on May 16, 2008 at the Hilton Garden Inn at 11:30 a.m.
- ◆ Public Services Director Carole Bassinger gave an update on the status of the lake
- ◆ Mayor Pro Tem Ueckert thanked City staff for putting on an excellent city team member golf tournament.
- ◆ Councilman Watts reminded everyone that tomorrow was the last day to early vote and that Election Day was May 10, 2008.
- ◆ Councilman Tierney advised how outstanding he felt the Pipes and Drum Event was and that everyone in attendance had been very enthusiastic about how great the event had been.

There were no additional reports at this time.

Mayor Carey adjourned the regular session of the Lewisville City Council into Closed Session at 7:37 p.m. Monday, May 5, 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 7:45 p.m. on Monday, May 5, 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. CAPP Long Term Contract

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 9:25 p.m. on Monday, May 5, 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 9:26 p.m. on Monday, May 5, 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)

MOTION: Upon a motion made by Councilman Watts and seconded by Councilman Tierney, the Council voted five (5) “ayes” and no (0) “nays” to adjourn the Regular Session of the Lewisville City Council at 9:25 p.m. on Monday, May 5, 2008. The motion carried.

These minutes approved by the Lewisville City Council on the 19th day of May, 2008.

APPROVED

Gene Carey
MAYOR

ATTEST:

Julie Heinze, CITY SECRETARY