

LEWISVILLE CITY COUNCIL

REGULAR SESSION

JULY 21, 2008

Present:

Gene Carey, Mayor

Council Members:

David Thornhill, Mayor Pro Tem
Lathan Watts, Deputy Mayor Pro Tem
Greg Tierney
Dean Ueckert (arrived at 6:01 p.m.)
Rudy Durham

City Staff:

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

WORKSHOP SESSION – 5:30 P.M.

With a quorum of the Council Members present, the workshop session of the Lewisville City Council was called to order by Mayor Carey at 5:30 p.m. on Monday, July 21, 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.

Western Day Event Marketing Plan

(Agenda Item A)

Events Coordinator Jennifer Galante and Jerry Thompson with Promoter Line Inc., conducted a PowerPoint presentation regarding the Western Day Event Marketing Plan as follows:

WORKSHOP SESSION – 5:30 P.M.

Western Day Event Marketing Plan (cont'd)

(Agenda Item A)

Proposal for Media Sponsorship from 99.5 FM The Wolf

The Big Picture

- The Wolf Proposal
 - \$250,000 In-Kind Value Media Sponsorship
 - 30 days of radio time – Late August thru September
 - September is Arbitron ratings time for radio stations when they must drive listeners to station to receive high ratings for the year.
 - Lewisville was chosen to replace the previous event held at the former Smirnoff Center in Dallas. (Now Superpages.com Center)

- Tremendous Marketing Opportunities
 - City will receive extensive amount of PR in media mentions
 - 3.2 million listeners in DFW
 - Listen on web throughout the world
 - The Wolf would eblast more than 70,000 direct listeners with promo and event copy.

Discussion was held regarding how to attract people from other areas. Mr. Thompson advised that there would have to be a nominal fee for anyone that did not have the “free” tickets. He stated the entertainment is scheduled to be Casey Donahew, the Eli Young Band, and Derek Sholl will be opening. Mr. Thompson advised that there would be numerous opportunities to get tickets for free.

Concept

- Free “Ticketed” Festival
 - Tickets will be required to enter festival
 - Tickets given away free by The Wolf, The City of Lewisville, and designated partners
 - Ticket drives create opportunity for everyone to receive free tickets/free festival entry
 - Ticket drives will create a PR and Quality of Life campaign through direct marketing opportunities

WORKSHOP SESSION – 5:30 P.M.

Western Day Event Marketing Plan (cont'd)

(Agenda Item A)

- Direct Marketing Examples
 - Revenue-producing ideas
 - Join Recreation Center/Pay for Recreation Classes & receive 2 free tickets to Western Day festival
 - Adopt a pet & receive 4 free tickets
 - Register your pet & receive 1 free ticket
 - Purchase any home-improvement permit (e.g. new fence, etc) & receive 2 free tickets

- Direct Marketing Examples
 - PR/Quality of Life ideas
 - Provide tickets to various city departments to hand out when out in the public (e.g. community development, code enforcement, fire dept., managers at various community meetings, police at block parties, recreation center at Doggie Dive-in, etc.)

Changes

- Entire festival area fenced
- Tickets required for admission, free in advance or paid at the gate
- Lewisville residents will receive free tickets to enter if they do not have them

Opportunities

- Increased attendance potential
- More accurate attendance totals
- Fenced area around entire festival will eliminate fencing in middle of festival for just the beer garden
- Increased revenue from beverage sales percentages
- Perceived value of festival admission increases
- Festival exposure grows thus increasing sponsorship appeal
- A media campaign unlike any other that has been offered to the City of Lewisville

WORKSHOP SESSION – 5:30 P.M.

Western Day Event Marketing Plan (cont'd)

(Agenda Item A)

Discussion was held that the fencing would need to meet TABC requirements. Mr. Thompson reviewed current TABC requirements and the concern that people in attendance do not go to their vehicles to drink and then return to the festival due to open container laws. Ms. Galante reviewed the tentative road closures with the City Council and advised that staff would be working with TxDOT regarding some of the closures. Mr. Thompson advised that homes and trees can also be used as fencing. Ms. Galante advised that they intended to make the tickets as readily available as possible to Lewisville businesses to help them network.

Mr. Thompson recommended that the tickets carry a value of at least \$20. He stated that as it was hard to find a concert anywhere for less than \$20 and that would give the festival a value and make a statement. Ms. Galante advised that she had thought a value of \$3 or \$5 to start out and then phase the cost higher at a later date. She stated that she felt that way it would not discourage a family of five from attending. Ms. Galante advised that City staff could work with local vendors and businesses so if someone does have to pay to get in they get coupons for inside businesses for discounts or free items.

Councilman Tierney questioned if the tickets could be sold by businesses that had been given them. Mr. Thompson advised it would be discouraged; however, it probably would occur. Mr. Thompson advised that the Wolf was going to create 100,000 tickets to be given out or charged at the gate if the attendee did not have a ticket or was a non-resident.

City staff was questioned on how much the fencing would cost. Assistant City Manager Donna Barron advised that it was hard to determine the exact cost until direction from the City Council was received; however, it could be absorbed by the budget. Mr. Thompson advised that it would probably be between \$10,000 and \$15,000; however, he stressed that the potential of media coverage would generate much more.

Councilman Tierney questioned if the higher value to the tickets would make it easier to sell sponsorships. Ms. Galante advised that she felt it would. Assistant City Manager Donna Barron stated that it would increase participation because there would be more people in attendance. Mr. Thompson advised it will also help educate the public that the Western Days Event has been moved to a different date. Councilman Tierney questioned what other events were going on in the metroplex on this weekend. Mr. Thompson advised that the State Fair would be in the second week.

WORKSHOP SESSION – 5:30 P.M.

Western Day Event Marketing Plan (cont'd)

(Agenda Item A)

Ms. Galante pointed out that this was a wonderful opportunity for the City of Lewisville that will require everyone to think out of the box. She stated this is the largest sponsorship that the City has ever received.

(Councilman Ueckert arrived at 6:01 p.m.)

The general consensus of the City Council was that they liked this idea and wanted to pursue what had been presented.

WORKSHOP SESSION – 5:30 P.M.

Parade Management

(Agenda Item B)

Risk Manager Nancy Davis conducted a PowerPoint Presentation regarding the Special Events Ordinance Section 7-151 Parades Proposed Changes as follows:

Issue: Parades are an important component of Lewisville events. Staff desires to make parades as safe as possible for participants and spectators.

Considerations

1. Liability Issues
2. City Survey
3. Parade Hazards/Issues
4. Options
5. Recommendation

Special Events: Parades

REVIEW PROCESS INCLUDED:

- ▶ TML – City Insurance Provider
- ▶ Robert Waggoner, Risk Management Consultant
- ▶ Special Events Committee
 - Representatives from City Departments
- ▶ Community Relations and Tourism Department

WORKSHOP SESSION – 5:30 P.M.

Parade Management (cont'd)

(Agenda Item B)

Parade Injuries

- ▶ Plano – City paid \$245,000 on a claim resulting from candy being thrown from fire engine
- ▶ Boise Idaho – 7 year old girl fell off of float as she tried to lean over railing
- ▶ Manteo VA – 9 year old girl’s foot was run over after she jumped off of float to hand out pencils to crowd
- ▶ Florida – 7 year old boy was run over when his dangling feet were caught in tires
- ▶ Colorado - 15 year old high school student killed while trying to climb back onto float

Texas Tort Act creates liability under certain defined circumstances

- ▶ A governmental unit in the state is liable for:
 - Property damage, personal injury, and death proximately caused by the wrongful act or omission or the negligence of an employee acting within his scope of employment if:
 - Property damage, personal injury or death arises from the operation or use of a motor-driven vehicle or motor-driven equipment and;
 - The employee would be personally liable to the claimant according to Texas law; and
 - Personal injury and death so caused by condition or use of tangible personal or real property if the governmental unit would, were it a private person, be liable to the claimant according to Texas law

City Liability

- ▶ This liability only covers the actions of employees performing governmental functions
- ▶ If the City were found negligent for a claim that involved the acts of a third party the City would still have tort limits

WORKSHOP SESSION – 5:30 P.M.

Parade Management (cont'd)

(Agenda Item B)

TML Coverage

- ▶ Bodily injury coverage is provided through TML under our general liability coverage
- ▶ \$25,000 deductible
- ▶ Under the Texas Tort Claims Act, the liability of state government and municipalities, is limited to \$250,000 for each person and \$500,000 for each single occurrence of bodily injury or death and \$100,000 for each single occurrence of injury to or destruction of property

City Liability – Parades

- ▶ The City could be held responsible because of:
 - Attractive nuisance
 - A dangerous object or condition so captivating to young children that it entices them onto another's property.
 - Candy in the street could be seen as an attractive nuisance
 - Motor driven equipment
 - Vehicle in parade causes injuries to parade participants or spectators

Research

- ▶ Staff surveyed area cities and received responses from the following cities:
 - Flower Mound, Garland, Richardson, Bedford, Plano, Grand Prairie, Fort Worth, Mesquite, Frisco, Irving, and Dallas
 - Flower Mound, Garland, Bedford, Dallas and Plano have standard policies/rules prohibiting items from being thrown from vehicles
 - Frisco, Mesquite, Fort Worth, and Richardson advise parade participants not to throw items from vehicles
 - Irving allows items to be thrown

WORKSHOP SESSION – 5:30 P.M.

Parade Management (cont'd)

(Agenda Item B)

Items Dealt With by Ordinance or Guide

1. Items Thrown From Vehicles or Floats
 - Parade entrants may not throw any item or items from a moving vehicle, float, animal, or apparatus
 - Out-walkers may hand parade-relevant trinkets, candy, literature, etc. directly to audience members at the street curb
 - Operators of motorized or non-motorized vehicles are specifically prohibited from handing out materials to audience members

2. Stepping or Jumping Off
 - Participants are prohibited from stepping or jumping onto or off of any parade apparatus, moving or stopped, during the course of the parade
 - Participants must keep all body parts within the confines of the vehicle or float. Dangling feet over the edge of the vehicle is prohibited

3. Parade Procedures and Road Closure Notification
 - ▶ Parade organizer must apply for special events permit
 - ▶ Parade routes and road closures must be approved by special events committee as part of permit process
 - ▶ Parade Organizer must notify residents and businesses, of road closures 14 days in advance
 - ▶ City will provide form and addresses

4. Fire Extinguishers
 - ▶ Each parade apparatus, excluding vehicles with no trailer in tow, is required to have at least one portable fire extinguisher rated Type A/B/C that is readily accessible to the operator or parade staff
 - ▶ Fire Inspectors will check for compliance during parade staging

WORKSHOP SESSION – 5:30 P.M.

Parade Management (cont'd)

(Agenda Item B)

5. Miscellaneous

- Open-Flame devices are prohibited on parade floats
- Parade organizer will be responsible for removal of animal waste along parade route
- Parade applicants are responsible for providing the City with a hold harmless agreement from each parade participant
- Street cleaning fee has been added. This service will be contracted out

Options

1. Change Special Events Ordinance to reflect safety recommendations

- Pros
 - Has threat of “enforcement” element
- Cons
 - Difficult to enforce
 - Police Officer would have to witness violation to write ticket

2. Publish a Parade Safety Guide

- Pros
 - States City’s position that throwing items from vehicles is a hazard; attempts to educate participants
- Cons
 - Only consequence of not following guide would be to prevent violators from participating in future parades

Ms. Davis offered to answer any questions the City Council posed. She stated that the City Council could consider producing a guide with educational information or making revisions to Special Events Ordinance.

Discussion was held regarding fire extinguishers being located on each of the floats. Building Official Cleve Joiner advised that in City Parades that was already a requirement the Fire Marshall check; however, he indicated that was not done in parades held by the Lewisville Independent School District or any other entity. He further stated that City staff has been known to supply fire extinguishers on occasions during parades.

WORKSHOP SESSION – 5:30 P.M.

Parade Management (cont'd)

(Agenda Item B)

Discussion was held with citizens in attendance that they appreciated and respected the City's concerns for drivers and spotters; however, children associate parades and candy together and if the candy is removed from parades they felt it would be a determinant. Assistant City Manager Donna Barron reiterated that candy was not being taken out of the parade; it just would not be allowed to be thrown from a vehicle. Further discussion was held regarding the speed of parades at times makes it difficult for the spotters to keep up with the vehicles.

Mayor Pro Tem Ueckert questioned if there had been a study that showed the number of parades where someone was injured. City Manager King advised he felt it was far less than 1%. Mayor Pro Tem Ueckert advised that he had no problem with requiring fire extinguishers being required for all parades, including the school district. Councilman Ueckert requested that City staff work with helping provided the fire extinguishers for a minimal cost if they did not have one on a float.

Councilman Tierney advised he was in support of the additional safety measures City staff had recommended with the exclusion of throwing candy from the float. He further advised that he also wanted to make sure that the drivers were not talking on cell phones or throwing candy. Councilman Tierney stated that he was in agreement with the requirement for fire extinguishers and now allowing the participants to get on and off the float. He recommended that they sign some type of document to that effect. Mayor Pro Tem Thornhill concurred with Councilman Tierney's comments. Discussion was held that the City requires spotters on floats but not on vehicles.

Councilman Durham advised that he did not like the yellow tape that is placed from Charles Street to Mill Street during parades in Old Town. Discussion was held that this area is much narrower and more congested which is why it is placed there. Councilman Durham felt that the tape does not prohibit children from still going after candy in this area.

Discussion was held regarding whether the changes should be included as part of the parade permitting requirements or included in an ordinance. Mayor Pro Tem Ueckert advised he wanted to be sure that each float or vehicle towing a trailer would be required to an assigned spotter on each side. Councilman Durham recommended that be limited to just require everything that is towed have a spotter. Further discussion was held that it is typically harder for the driver of the float to see what is going on than a person to see driving a car as they will have better vision. City Manager King advised that spotters are more for crowd control to keep the kids from running out in front of the float.

WORKSHOP SESSION – 5:30 P.M.

Parade Management (cont'd)

(Agenda Item B)

Discussion regarding Parade Management concluded at 6:44 p.m.

WORKSHOP SESSION – 6:30 P.M.

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

(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, Declaring the Month of July, 2008 as the 25th Anniversary of the Lewisville Independent School District Special Olympics. There was no discussion on this item.

Mayor Carey reviewed Agenda Item D, Presentations, (1) Presentation of Plaques to Outgoing Members of the City's Boards/Commissions/Committees; and (2) Certificate of Achievement to 9-1-1 Dispatcher Diana Fairchild for her Nomination as a "Silent Hero" by the Commission on State Emergency Communications. There was no discussion on these items.

Mayor Carey reviewed Agenda Item E, Public Hearing-Continued: Consideration of an Ordinance for a Zone Change Request From Light Industrial (LI) to Medical District (MD) on a 4.0 Acre Tract Located at the Northwest Corner of Highpoint Oaks Drive and Vista Ridge Mall Drive, And Further Identified as Part of Lot 1, Block A of the Highpoint Oaks Addition; As Requested by Churchill Residential, Inc., With Authorization of the Current Property Owner Highpoint Oaks, Ltd. (Case No. PZ20080408). This Hearing is Continued From the July 7 Meeting. City Attorney Neiman reviewed this agenda item with the City Council. There was no further 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-1, Approval of Minutes: City Council Minutes of the July 7, 2008, Workshop Session and Regular Session. 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-2, Approval of a Bid Award for the Waterline Replacements 2006, Phase 2 Project to RKM Utility Services, Inc., Carrollton, Texas, in the Amount of \$762,112.45; and Authorization for the City Manager to Execute the Contract. There was no discussion on this item.

Mayor Carey reviewed Agenda Item G-3, Approval of Final Acceptance of the Westlake Park II Improvements Project; and Authorization to Make Final Payment to JRJ Paving, L.P., in the Amount of \$230,995.51. There was no discussion on this item.

Mayor Carey reviewed Agenda Item G-4 Authorization to Solicit a Donation to the 2008 Lewisville Public Library Summer Reading Program. There was no discussion on this item.

Mayor Carey reviewed Agenda Item G-5, Approval for the Lewisville Fire Department to Apply for the Fiscal Year 2008 Emergency Operations Center (EOC) Grant Program in the Amount of \$244,030; and Authorization for the City Manager to Sign the Application and Any Further Documents Pertaining to the Grant. There was no discussion on this item.

Mayor Carey reviewed Agenda Item G-6, Approval of a Supplemental Budget Appropriation to the FY 2007/2008 Municipal Court Technology Fund in the Amount of \$71,800 From Municipal Court Technology Fund Balance for the Purchase of Technological Enhancements for the Court. There was no discussion on this item.

Mayor Carey reviewed Agenda Item G-7, Approval of a Resolution Consenting to the Appointment of Kelly Hart and Hallman, LLP, as New Bond Counsel for Castle Hills Public Improvement District and Waiving any Conflict of Interest so Long as it is Not Detrimental to the City of Lewisville. City Manager King advised that this item could be discussed in Closed Session if the City Council so desired. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item G-8, Approval of a Program Grant Agreement By and Between the City of Lewisville and E. Dean Ragsdale and Deborah K Ragsdale, Trustees of the Ragsdale Family Living Trust; and Authorization for the City Manager 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 G-9, Acknowledgement of Receipt of Petitions to Establish Lewisville Castle Hills Public Improvement Districts Nos. 5 and 6; Approval of a Resolution Calling for a Public Hearing to Consider the Advisability of Proposed Improvements in Districts No. 5; Approval of a Resolution Calling for a Public Hearing to Consider the Advisability of Proposed Improvements in District No. 6; Acknowledgement of Receipt of a Petition and Approval of a Resolution for the Addition of Lands to Denton County Fresh Water District No. 1-H; and Approval of an Addendum to the 1996 Operating Agreement With Bright Partnership Adding Property to District 1-H. There was no discussion on this item.

Mayor Carey reviewed Agenda Item H-10, Tabled Item: Consideration of a Variance to the Lewisville City Code, Section 11-14(B), Prohibited Signs, Regarding an Electronic Message Center Sign to be Located at the CVS Pharmacy Located at 100 West Corporate Drive, as Requested by Kaliki Mendoza With Southwest Signs, Representing the Owner. City Manager King advised that the proponent had responded that they would agree to the stipulation that the City Council had required regarding the sign could not flash or scroll and could only be changed every 24 hours. City Manager King further advised that the Walgreens is now following the original stipulation. Building Official Cleve Joiner requested that the City Council limit the times the CVS could change their signage from 8 a.m. to 8 a.m. to make it easier on staff to police. Mayor Pro Tem Ueckert requested that Lewisville Boat Storage and the pest control business along Interstate 35 be notified that they could come in for a variance and be allowed the same opportunity as the CVS and Walgreens.

Mayor Carey reviewed Agenda Item H-11, Consideration of Temporarily Suspending Enforcement Efforts Associated With the Timbercreek Erosion Target Area as Defined by the May 8, 2008 Halff Associates Study. There was no discussion on this item.

Mayor Carey reviewed Agenda Item H-12, Acknowledgement of Receipt of the FY 2008-09 Proposed Budget; and Consideration of Public Hearings for the Budget and the Proposed Tax Rate. There was no discussion on this item.

Mayor Carey reviewed Agenda Item H-13, Tabled Item: Consideration of a Variance to the Lewisville City Code, Sec. 6-101(b) Underground Utilities; as Requested by CoServ Electric for Proposed Overhead Service Located East of Holford's Prairie Road on a Segment of Future Corporate Drive Right-of-Way. Mayor Carey advised that this item needed to be tabled again. There was no further 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 H-14, Tabled Item: Consideration of an Appointment to Place No. 7 on the Lewisville Parks and Library Development Corporation. 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 6:51 p.m. on Monday, July 21, 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, July 21, 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, Councilman Ueckert gave the pledge to the flag.

Proclamation: Declaring the Month of July, 2008 as the 25th Anniversary of the Lewisville Independent School District Special Olympics

(Agenda Item C)

Mayor Carey read and presented a proclamation declaring the month of July 2008, as the 25th Anniversary of the Lewisville Independent School District Special Olympics to the following representatives of the Special Olympics: Jim Domer; Betty and Bryant Cole; Andrea and Joey Cummings; Donna and Matthew Massey; Frank Lanham; Cindy, Natalie and Shelby Carr; Renae and Jason Carswell; Margo, Chuck and Kevin Dunaj.

Public Hearing - Continued: Consideration of an Ordinance for a Zone Change Request From Light Industrial (LI) to Medical District (MD) on a 4.0 Acre Tract Located at the Northwest Corner of Highpoint Oaks Drive and Vista Ridge Mall Drive, And Further Identified as Part of Lot 1, Block A of the Highpoint Oaks Addition; As Requested by Churchill Residential, Inc., With Authorization of the Current Property Owner Highpoint Oaks, Ltd. (Case No. PZ20080408)

(Agenda Item E)

This hearing is continued from the July 7, 2008, meeting. The site is currently zoned Light Industrial and is part of a larger lot in the Highpoints Oaks Addition, an industrial park located at the southwest corner of SH 121 Business and Denton Tap Road. In Lewisville, in order for senior apartments to qualify under Medical District zoning the apartments have to have an age restriction allowing only senior citizens as well as provide a level of senior programs not typically found in standard garden apartments. Churchill Residential has a good reputation for building a quality retirement community including their facility on Garden Ridge Boulevard just south of Main Street, one of at least seven independent living, assisted living or nursing home facilities in Lewisville. Three of the existing senior housing projects are adjacent to Light Industrial zoning, but in each of these situations the senior apartments are at least on the outskirts of a residential neighborhood. Unlike the other senior projects, however, all of the land adjacent to or across the street from this proposed project is in an industrial park, giving this request the appearance of spot zoning. The Planning and Zoning Commission recommended approval of the request on a vote of 4-3 at their June 3, 2008, meeting.

The City staff's recommendation was that the City Council deny the proposed ordinance amending the Lewisville City Code, Chapter 17, the Comprehensive Zoning Ordinance approving the requested zone change from Light Industrial (LI) to Medical District (MD).

Mayor Carey opened the public hearing.

Gene Lewis, Planning and Community Services Manager, spoke before the City Council regarding this item.

Sandy Jacobs, By Consensus, Inc conducted a PowerPoint Presentation supporting this request.

The following individuals spoke before the City Council in favor of this item:

Tony Sisk, Churchill Residential, Inc.

Laurie Stokes-Bell, 3411 Lipizzan Drive, Denton, Texas 76201

Lee Stevens, 3400 Waterview Parkway, Suite 220, Richardson, Texas 75080

Joni Henson, PO Box 862, Lake Dallas, Texas 75067

Gay Colburn, 415 s. Garden Ridge, #2210, Lewisville, Texas 75067

Mayor Carey advised that the following individuals had filled out cards indicating their support of this item:

Teresa Perry, 415 S. Garden Ridge Boulevard, Lewisville Texas 75067

Linda Hendricks, 415 S. Garden Ridge Boulevard, Lewisville Texas 75067

Betty Rasbery, 415 S. Garden Ridge Boulevard, Lewisville Texas 75067

Neil Hansen, 415 S. Garden Ridge Boulevard, Lewisville Texas 75067

Samuel Pratt, 415 S. Garden Ridge Boulevard, Lewisville Texas 75067

Nell Jones, 415 S. Garden Ridge Boulevard, #3135, Lewisville Texas 75067

Jack Jones, 415 S. Garden Ridge Boulevard, #3135, Lewisville Texas 75067

Sharon Haiax, 415 S. Garden Ridge Boulevard, #2106, Lewisville Texas 75067

Rosemary Clark, 415 S. Garden Ridge Boulevard, #2232, Lewisville Texas 75067

Johnnie Oakley, 415 S. Garden Ridge Boulevard, #2231, Lewisville Texas 75067

Deborah Smith, 415 S. Garden Ridge Boulevard, #2230, Lewisville Texas 75067

Jean LaRocca, 415 S. Garden Ridge Boulevard, 32303, Lewisville Texas 75067

Caroline Bonora, 415 S. Garden Ridge Boulevard, #2304, Lewisville Texas 75067

Martha Metarelis, 415 S. Garden Ridge Boulevard, #2108, Lewisville Texas 75067

Deria Cummings, 415 S. Garden Ridge Boulevard, Lewisville Texas 75067

Stella Urusky, 415 S. Garden Ridge Boulevard, Lewisville Texas 75067

Lynda Bruce, 415 S. Garden Ridge Boulevard, #3317, Lewisville Texas 75067

Terrie Aune, 204 Glendale, Coppell, Texas 75019

Andy Carey, Granite Construction

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

Councilman Ueckert indicated that he understood the need for this type of facility in the City of Lewisville and every city. He stated that people need to have affordable housing close to their children for the benefit of everyone. Councilman Ueckert said that he agreed with Ms. Jacobs when she stated that there were better places in the City of Lewisville to put this facility. He stated he felt it was incumbent of Churchill to go out and find that better location for their residents. Councilman Ueckert stated that he was concerned about the health, welfare, noise, and traffic if the facility was located in this area. Councilman Ueckert stated that there were areas that were already zoned to accommodate this type of facility that were located primarily in residential areas while still being close to Wal-Mart and other shopping facilities that would be safer locations.

Councilman Durham advised he did not have a problem with the zoning change. Deputy Mayor Pro Tem Watts advised he echoed Councilman Ueckert comments. Mayor Carey stated that this was a zoning issue and that it was what would be the highest and best use for this location.

Mayor Pro Tem Thornhill advised that he had given a lot of thought and asked questions and he was not sure why the proponent wanted to put a product like this in Industrial Zoning. Mayor Pro Tem Thornhill further advised he had a situation with a Grandmother in a home that lived to be 100, that was located on Central Expressway and LBJ and he stated that it was convenient to get to. Mayor Pro Tem Thornhill referenced that the Planning and Zoning Commission had voted in favor of this zoning change and that there were a number of people here to support this change. Mayor Pro Tem Thornhill advised he was okay with this product and the zoning change as requested.

Councilman Tierney questioned staff on information contained the background material that this property was exempt from 50% of the ad valorem taxes due to the financing that they are receiving. Ms. Jacobs advised that there was a pilot agreement that had been reviewed that Churchill will provide 100% of the taxes. Councilman Tierney question if that payment was in lieu of taxes. Ms. Jacobs advised that was correct. Discussion was held regarding the issue of taxes.

Councilman Tierney stated that the City Council’s calling was to look at this piece of property and study the use and potential uses before changing the proposed zoning if it is determined that is the highest use. Councilman Tierney advised that he had spent the weekend in Houston and they have some serious zoning issues due to spot zoning over the years where different types of uses and zoning are all blended in different areas. He further advised that as

far as functionality, it is not working well and he is concerned about placing this type of zoning in an area already zoned light industrial as the surrounding sites and development that the City has seen along the State Highway 121 corridor has been very strong business. Councilman Tierney stated that he sees this type of development continuing in this area and in his opinion the best use of this property is to remain light industrial.

City Manager Claude King requested clarification on the chart in Ms. Jacobs' presentation regarding tax revenue that the chart shows the value of the property and not the tax revenue. Mr. Sisk verified that was correct.

Councilman Ueckert stated that as much as he would like to have another facility like Evergreen, he would like for Churchill to work with the City to find a better spot for this facility in the City of Lewisville.

MOTION: Upon a motion made by Councilman Tierney and seconded by Councilman Ueckert, the Council voted three (3) "ayes" and two (2) "nays," with Councilman Durham and Mayor Pro Tem Thornhill casting the negative votes to deny the zoning change request. 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 Councilman Durham and seconded by Deputy Mayor Pro Tem Watts, the Council voted five (5) "ayes" and no (0) "nays" to approve and adopt all remaining items on the Consent Agenda, as recommended and as follows:

1. APPROVAL OF MINUTES: City Council Minutes of the July 7, 2008, Workshop Session and Regular Session.
2. Approval of a Bid Award for the Waterline Replacements 2006, Phase 2 Project to RKM Utility Services, Inc., Carrollton, Texas, in the Amount of \$762,112.45; and Authorization for the City Manager to Execute the Contract.
3. Approval of Final Acceptance of the Westlake Park II Improvements Project; and Authorization to Make Final Payment to JRJ Paving, L.P., in the Amount of \$230,995.51.

4. Authorization to Solicit a Donation to the 2008 Lewisville Public Library Summer Reading Program.
5. Approval for the Lewisville Fire Department to Apply for the Fiscal Year 2008 Emergency Operations Center (EOC) Grant Program in the Amount of \$244,030; and Authorization for the City Manager to Sign the Application and Any Further Documents Pertaining to the Grant.
6. Approval of a Supplemental Budget Appropriation to the FY 2007/2008 Municipal Court Technology Fund in the Amount of \$71,800 From Municipal Court Technology Fund Balance for the Purchase of Technological Enhancements for the Court.
7. Approval of **Resolution No. 3586-07-2008(R)**: Approving Counsel for Castle Hills Public Improvement Districts and Consenting to Waivers Relating Thereto and Relationships Thereof With the City Attorney and Bond Counsel.
8. Approval of a Program Grant Agreement By and Between the City of Lewisville and E. Dean Ragsdale and Deborah K Ragsdale, Trustees of the Ragsdale Family Living Trust; and Authorization for the City Manager to Execute the Agreement.
9. Acknowledgement of Receipt of Petitions to Establish Lewisville Castle Hills Public Improvement Districts Nos. 5 and 6; Approval of **Resolution No. 3587-07-2008(R)**: A Resolution of the City Council of the City of Lewisville, Texas, Denton/Dallas Counties Texas, Calling a Public Hearing as to the Advisability of Proposed Improvements in the Proposed Lewisville Castle Hills Public Improvement District No. 6.; Approval of **Resolution No. 3588-07-2008(R)**: A Resolution of the City Council of the City of Lewisville, Texas, Denton/Dallas Counties Texas, Calling a Public Hearing as to the Advisability of Proposed Improvements in the Proposed Lewisville Castle Hills Public Improvement District No. 5; Acknowledgement of Receipt of a Petition and Approval of **Resolution No. 3589-07-2008(R)**: A Resolution of the City Council of the City of Lewisville, Texas, Denton/Dallas Counties Texas, Consenting to the Addition of Lands to Denton County Fresh Water Supply District No. 1-H; and Approval of an Addendum to the 1996 Operating Agreement With Bright Partnership Adding Property to District 1-H.

The motion carried.

END OF CONSENT AGENDA

Tabled Item: Consideration of a Variance to the Lewisville City Code, Section 11-14(B), Prohibited Signs, Regarding an Electronic Message Center Sign to be Located at the CVS Pharmacy Located at 100 West Corporate Drive, as Requested by Kaliki Mendoza With Southwest Signs, Representing the Owner

(Agenda Item H-10)

CVS Pharmacy is requesting a variance to upgrade the existing free-standing sign by re-facing the upper sign of 62.4 sf., which is allowable according the ordinance, and replacing the lower informational sign with an electronic message board at a reduced size of 40 sf. The Lewisville City Code prohibits electronic message boards that display any message beyond the time, date and temperature. This item was tabled at the July 7, 2008 meeting. The City Council requested that Southwest Signs contact CVS Pharmacy to determine if one advertisement change every twenty-four (24) hours, similar to the agreement with Walgreens, is acceptable. In order to remain consistent with the ordinance, staff is recommending denial of this request.

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

Cleve Joiner, Building Official, was available to address any questions posed by the City Council.

John Von, Southwest Signs, spoke before the city council and advised that CVS was agreeable to not changing the sign anymore than 24 hours. Cleve advised that staff would request that the twenty-four period be set from 8 a.m. to 8 a.m. to make sure they were in compliance. Councilman Durham expressed concern about limiting the changes to these specific times.

MOTION: Upon a motion made by Councilman Ueckert and seconded by Deputy Mayor Pro Tem Watts, the Council voted five (5) "ayes" and no (0) "nays" to approve a variance to the Lewisville City Code, Section 11-14(B), Prohibited Signs, Regarding an Electronic Message Center Sign to be located at the CVS Pharmacy located at 100 West Corporate Drive, as requested by Kaliki Mendoza with Southwest Signs, representing the owner to allow replacement of the lower informational sign with an electronic message board at a reduced size of 40 sf with the stipulation that the sign be limited to one advertisement change every twenty-four (24) hours with no flashing or scrolling permitted. The motion carried.

Mayor Carey advised that Agenda Item H-11 would be discussed following Closed Session. Mayor Carey moved on to Agenda Item H-12.

Acknowledgement of Receipt of the FY 2008-09 Proposed Budget; and Consideration of Public Hearings for the Budget and the Proposed Tax Rate

(Agenda Item H-12)

The Proposed Budget for FY 2008/09 has been prepared and submitted in accordance with Section 9.02 of the City Charter. Workshop sessions are scheduled for August 16th at 8:30 a.m. and August 18, 19, and 20th at 6:00 p.m. if needed. All sessions will take place in the Community Room of the Municipal Annex. The City Council is required to set a time and place for the Public Hearing on the budget when submitted. The date must be at least 15 days after the budget is filed with the City Secretary and prior to the tax levy being set. Staff recommends setting the date for September 8th at a regularly scheduled Council meeting. If the proposed budget exceeds the lower of either the rollback or effective tax rate, a second public hearing is required. Staff recommends setting the date for this public hearing for September 15th at a regularly scheduled Council meeting.

The City staff's recommendation was that the City Council acknowledge receipt of the FY 2008-09 Proposed Budget; and consider public hearings for the budget and proposed tax rate.

Councilman Ueckert advised that he may not be available for the City Council meeting on September 8, 2008.

MOTION: Upon a motion made by Deputy Mayor Pro Tem Watts and seconded by Mayor Pro Tem Thornhill, the Council voted five (5) "ayes" and no (0) "nays" to acknowledge receipt of the FY 2008-2009 Proposed Budget; and set the date for the Public Hearing on the Budget for the regularly scheduled City Council meeting on September 8th, and if the proposed budget exceeds the lower of either the rollback or effective tax rate, to set the second public hearing for the regularly scheduled City Council meeting on September 15th. The motion carried.

Tabled Item: Consideration of a Variance to the Lewisville City Code, Sec. 6-101(b) Underground Utilities; as Requested by CoServ Electric for Proposed Overhead Service Located East of Holford's Prairie Road on a Segment of Future Corporate Drive Right-of-Way

(Agenda Item H-13)

At the last Council meeting, this agenda item was tabled to allow time for the preparation of a survey to determine with certainty if the lines will be in the Lewisville city limits. The survey is not complete. Therefore, it is recommended that this item be tabled until the August 4, 2008 meeting.

The City staff's recommendation was that the City Council table this issue until the August 4, 2008 meeting.

MOTION: Upon a motion made by Mayor Pro Tem Thornhill and seconded by Deputy Mayor Pro Tem Watts, the Council voted five (5) "ayes" and no (0) "nays" to table this item to the August 4, 2008, City Council meeting. The motion carried.

Tabled Item: Consideration of an Appointment to Place No. 7 on the Lewisville Parks and Library Development Corporation

(Agenda Item H-14)

This item was tabled at the July 7, 2008, City Council meeting. Due to the passing of Wayne Ferguson there is a vacancy in Place No. 7 of the Lewisville Parks and Library Development Corporation. The City Council will need to consider a new appointment to fill the vacancy in Place No. 7.

The City staff's recommendation was that the City Council consider an appointment to fill the vacancy in Place No. 7 of the Lewisville Parks and Library Development Corporation.

MOTION: Upon a motion made by Councilman Ueckert and seconded by Councilman Durham, the Council voted five (5) "ayes" and no (0) "nays" to appoint Doug Killough to Place No. 7 of the Lewisville Parks and Library Development Corporation. The motion carried.

Reports

(Agenda Item I)

- Annual Health Plan Report
- Economic Development Director Nika Reinecke gave an update on the Economic Development Breakfast.
- Recreation Manager Wayne Ferguson advised of the ultraviolet system that was placed in the pools to fight the disease cryptosporidium that is currently going around or any other parasites.
- Director of Human Resource Melinda Galler advised of the Family Fun Night for the City of Lewisville employees on Saturday, July 26, 2008 from 6:30 p.m. – 8:30 p.m. at the Sun Valley Pool.
- Director of Public Services Carole Bassinger gave an update on the status of the lake
- Assistant City Manager Donna Barron advised that Tuesday, July 22, 2008 would be the last night for the Summer Music Series. She stated that Big Daddy All Right would be playing. Ms. Barron also advised that Madagascar would be playing on Thursday night for Reel Lewisville.
- City Manager Claude King advised that the City Council's budgets books were in the work room and to give staff a call if they had any questions.
- Mayor Carey read a letter commending the Fire Department.
- Councilman Tierney advised that D Magazine had ranked the City of Lewisville in the top 25 and listed Lewisville as third in the big City category for Texas.

There were no additional reports at this time.

Mayor Carey adjourned the regular session of the Lewisville City Council into Closed Session at 8:27 p.m. Monday, July 21, 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 551.072 (Real Estate), the Lewisville City Council convened into Closed Session at 8:30 p.m. on Monday, July 21, 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. Property Acquisition
2. Section 551.074 (Personnel): Appointment to the Lewisville Parks and Library Development Corporation.

3. Section 551.087 (Economic Development): Deliberation Regarding Economic Development for a Potential Company Relocation.

The Closed Session was adjourned at 9:30 p.m. on Monday, July 21, 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 9:39 p.m. on Monday, July 21, 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.

**Consideration of Temporarily Suspending
Enforcement Efforts Associated With the
Timbercreek Erosion Target Area as Defined
by the May 8, 2008 Halff Associates Study**

(Agenda Item H-11)

The City of Lewisville has contracted with Halff Associates to prepare an Erosion Study along a specific target area of Timbercreek. The target area is defined as from just east of Edmonds Lane to Valley Parkway. Staff is recommending that the City Council consider temporarily suspending enforcement efforts associated with the Timbercreek Erosion Target Area until such time that final decisions are made regarding the study.

The City staff's recommendation was that the City Council consider temporarily suspending enforcement efforts associated with the Timbercreek Erosion Target Area.

Paul Simon, 985 Regency Drive, Lewisville, Texas 75067, spoke before the City Council in opposition of this item. Mr. Simon briefed the City Council regarding his concerns about his neighbors located at 987 Regency who had installed a concrete slab without a permit and the erosion occurring in this area. Mr. Simon indicated he had been working with City staff regarding this situation and he wanted action taken against his neighbors as he felt they were responsible for the current condition. City Manager King advised that City employee Jimmy Estep had advised he was unable to do anything at this time because the City Council was reviewing the situation to determine how to best proceed to fix the problems in this area. City Manager King further advised that the issue in this area is bigger than just one property, it goes across multiple properties.

Mr. Simon questioned what the timeframe was for fixing the problem immediately in his area. Mayor Carey advised that the City Council is looking very closely at this situation and trying to figure out the best course of action to fix the problem in the entire area, not just one location.

Discussion was held with Mr. Simon regarding his realtor, Brent Fedder, who had advised that the reason he could not sell his house, unless it was at a discount, was due to the eyesore at 987 Regency and nothing had been brought up regarding the creek issues. City Manager King questioned Mr. Simon if he had any type of retaining structure on his property. Mr. Simon advised that before he purchased the home there was a concrete wall put on his property. Discussion was held regarding if this wall had been permitted. City Manager King advised that regardless if the wall was there prior to Mr. Simon purchasing the property, if it was not permitted then he would be responsible for removing the wall. Discussion was held regarding this situation.

Councilman Ueckert advised that the suspension was not intended to be long term and that the City Council was trying to decide the best way to proceed to solve the big problem, not just this one location.

MOTION: Upon a motion made by Councilman Tierney and seconded by Councilman Durham, the Council voted five (5) “ayes” and no (0) “nays” to temporarily suspending enforcement efforts associated with the Timbercreek Erosion Target Area. The motion carried.

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

Adjournment

(Agenda Item L)

MOTION: Upon a motion made by Deputy Mayor Pro Tem Watts and seconded by Councilman Ueckert, the Council voted five (5) “ayes” and no (0) “nays” to adjourn the Regular Session of the Lewisville City Council at 9:58 p.m. on Monday, July 21, 2008. The motion carried.

These minutes approved by the Lewisville City Council on the 4th day of August, 2008.

APPROVED

ATTEST:

Gene Carey, MAYOR

Julie Heinze, CITY SECRETARY