

LEWISVILLE CITY COUNCIL

REGULAR SESSION

DECEMBER 1, 2008

Present:

Gene Carey, Mayor

Council Members:

David Thornhill, Mayor Pro Tem
Lathan Watts, Deputy Mayor Pro Tem
Greg Tierney
Dean Ueckert
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, December 1, 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.

Lewisville Center for Creative Arts

(Agenda Item A)

Assistant City Manager Donna Barron advised this was the final design options for the Arts Center. Ms. Barron advised that the architect Milton Powell was present. She reviewed the original and current designs of the proposed Arts Center. She presented the following PowerPoint Presentation:

WORKSHOP SESSION – 6:00 P.M.

Lewisville Center for Creative Arts (cont'd)

(Agenda Item A)

Center Programming

- ▶ Visited various Art Centers to discuss space utilization and programming
- ▶ Found that Black Box Theatres offer most in flexibility, generate most in revenues, and have high probability of bringing outside arts groups to Old Town
- ▶ Current design includes 5100 sq ft of classroom space/asked to convert some of this space to black box theatre
- ▶ Addition of Black Box highly supported by Greater Lewisville Community Theatre

Background

- ▶ \$8,118,000--Original Budget
- ▶ \$9,208,184--May 2008 Cost Estimate
- ▶ \$9,318,184--Oct 2008 Cost Estimate
- ▶ \$9,652,704—Nov 2008 Cost Estimate
 - Black Box \$362,295
 - Deleted \$55,000 classroom space

Black Box Theatre

- ▶ Home to plays/performances with basic technical arrangements, limited sets, and simple lighting effects
- ▶ Seating composed of loose chairs on platforms or small risers
- ▶ Interior painted black; this absence of color gives audience sense of “anyplace” which allows for flexibility from scene to scene

Black Box Theatre Uses

- ▶ Used by many theatrical companies in DFW area
- ▶ Can be used as a rehearsal area for proscenium stage productions
- ▶ Can be used as a “warm-up” room for symphony and other musical performances
- ▶ Good venue for dinners and banquets
- ▶ Can be used for dance classes and other large classes not appropriate for “fine arts” classrooms
- ▶ Can be used for lectures that don’t need proscenium stage and business meetings

WORKSHOP SESSION – 6:00 P.M.

Lewisville Center for Creative Arts (cont'd)

(Agenda Item A)

Black Box Theatre Uses (cont'd)

- ▶ Because of lighting capabilities can be used for dance performances
- ▶ Because of sound and acoustical equipment, can be used for solo acts and small recitals
- ▶ Can be used for pre-show receptions and “green room”
- ▶ Can be used for cable channel program taping as well as other special recordings
- ▶ Allows for proscenium and black box performances to take place at the same time

Revised Design

- ▶ Maintains five classrooms at 560 square feet each
 - Classes will focus on fine arts including oil and water painting, ceramics, sculpture , etc (classes not being taught at our current rec centers)
- ▶ Dance classes will be taught in the multi-purpose hall (2200 square feet); add option for wooden floor
- ▶ Art Gallery (2400 square feet)

Funding Options

- ▶ \$ 430,400 --CO interest earnings
- ▶ \$1,214,459 --Park Dev Fund/Zone Z
- ▶ \$ 196,013 --Tree Mitigation
- ▶ \$1,840,872 TOTAL AVAILABLE

- ▶ \$9,700,000 ESTIMATED PROJECT COSTS
- ▶ \$8,118,000 CURRENT FUNDING
- ▶ \$1,582,000 ADDITIONAL ESTIMATED COSTS

Discussion was held regarding the increased cost for the Black Box Theatre; however, it will give additional uses over the life of the facility. Ms. Barron pointed out that it will bring other theatrical groups in from Dallas that would not utilize the facility for the general classroom design.

Discussion was held regarding the footprint changes to accommodate the addition of the Black Box. Councilman Ueckert advised he wanted to keep the classrooms and would like to see them listed as an add back.

WORKSHOP SESSION – 6:00 P.M.

Lewisville Center for Creative Arts (cont'd)

(Agenda Item A)

The general consensus of the City Council was they liked the addition of the Black Box Theatre and were in support of what had been presented.

IH-35E Expansion Review

(Agenda Item B)

City Manager King did a follow up review on the current schematic of the IH-35E expansion with the City Council.

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, Public Hearing: Consideration of an Ordinance Establishing Reinvestment Zone Number Thirty-Five (35) for Lakeview Rehabilitation Hospital Real Estate, LP, Being a 4.00 Acre Tract, Situated in the Stephen Riggs Survey, Abstract No. 1088, Denton County, Texas; Said Tract Being Part of a Called 71.897 Acre Tract Described in Deed to Alpha-Republic Investments, Ltd.; Consideration of a Resolution Providing the Terms and Conditions of an Tax Abatement Agreement Between the City of Lewisville, Texas, and Lakeview Rehabilitation Hospital Real Estate, LP; and Authorization for the City Manager to Execute the Agreement. There was no discussion on this item.

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

Mayor Carey reviewed Agenda Item E-1, Approval of Minutes: City Council Minutes of the November 17, 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 E-2, Approval of Two Program Grant Agreements by and Among the City of Lewisville, Highpoint Oaks, Ltd., and Various Robert B. Payne-Related Entities and by and Among the City of Lewisville and Various Robert B. Payne-Related Entities; and Authorization for the City Manager to Execute the Agreements. There was no discussion on this item.

Mayor Carey reviewed Agenda Item E-3, Approval of a Resolution for the Acceptance of a Grant From the Texas Department of Transportation for the Traffic Safety Program; Approval of a Supplemental Budget Appropriation to the Grant Fund in the Amount of \$10,002; and Authorization for the City Manager or His Designee to Execute the Grant Agreement. There was no discussion on this item.

Mayor Carey reviewed Agenda Item E-4, Approval of a Supplemental Appropriation to the Grant Fund in the Amount of \$310,999 for Completion of Fiscal Year 2008 Community Development Block Grant Projects. There was no discussion on this item.

Mayor Carey reviewed Agenda Item E-5, Approval of a Resolution Supporting the Texas Recreation and Parks Account and the State Park System. There was no discussion on this item.

Mayor Carey reviewed Agenda Item E-6, Acknowledgement of the Waste Management 2009 Cost of Service Rates for Residential Solid Waste/Recycling and Commercial Solid Waste Collection and Disposal Services. Councilman Durham requested that at some point it be looked at for the host fees to include the same CIP adjustments. City Manager King advised that when renegotiation of the contract came up it could be discussed. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item F-7, Consideration of the Final Plat for Castle Hills, Phase VI, a Sections B & C, a 35.35 Acre Tract Designated Townhouse Two (TH-2), With 233 Residential Lots and Four Common Area Lots, Located on the South Side of SH 121 Between Essex Boulevard and Standridge Drive, and Both North and South of Windhaven Parkway; and Consideration of Eleven Variances to the Castle Hills Development Agreement as Requested by TRC Solutions, Inc., Representing the Property Owner. Deputy Mayor Pro Tem Watts questioned why City staff had recommended only the last variance be considered when the others were to approve. Assistant City Engineer David Solomons advised that previously this type of variance had only been granted one time, and that was located in a private gated subdivision, while this case is similar situation, it would be a public, not a private street. 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 F-8, Consideration of a Variance to the Lewisville City Code, Section 6-95(b) Regarding Water and Sanitary Sewer Easement Setbacks; and Consideration of a Conceptual Variance to the Lewisville City Code, Section 6-98(d)(2)(b) Regarding Paving Over a Waterline Easement for a Project Located on Both Sides of Vista Drive, North of Round Grove Road, as Requested by Steve Homeyer, P.E., Representing the Owner. Mayor Carey advised that the proponent had requested this item be tabled to the December 15, 2008, City Council agenda. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item F-9, Consideration of a Resolution Opposing the Continued Preemption of Municipal Regulation of Certain Intra-State Gas Utilities; Urging Legislative Action to Permit Greater Local Regulatory Oversight; and Providing an Effective Date. Mayor Carey pointed out that a lot of letters had been received indicating residents' support of this resolution. Councilman Tierney questioned how many cities have passed the proposed ordinance. City Manager King advised that it looked like 21 cities have passed the resolution. There was no further discussion regarding this item.

Mayor Carey reviewed Agenda Item F-10, Consideration of an Ordinance Approving Participation in the CAPP Long-Term Power Purchase Agreement; and Authorization for the City Manager to Execute the Acknowledgements and Contracts. Mayor Carey advised that this item would be moved to the end of the meeting to allow the City Council to discuss in Closed Session. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item F-11, Consideration of an Ordinance Amending the Lewisville City Code, Chapter 2, Article VIII, Section 2-201, Fee Schedule Related to Solid Waste Rates. There was no discussion on this item.

Mayor Carey reviewed Agenda Item F-12, Consideration of an Ordinance Amending Chapter 15, Section 15-104(a), of the Lewisville City Code; Restricting Operation of Trucks With More Than Two Axles From Certain Portions of Purnell Street. There was no discussion on this item.

Mayor Carey reviewed Agenda Item F-13, Consideration of Direction to Staff Regarding Regulation of Electronic Reader Board Signs (as Requested by Councilman Ueckert). There was no discussion on this item.

WORKSHOP SESSION – 6:30 P.M.

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

(Agenda Item C)

Mayor Carey reviewed Agenda Item F-14, Second Reading: Consideration of Three Ordinances Amending the Lewisville City Code, Section 15-104(a) for Additional Truck Prohibitions on Certain Streets. There was no discussion on this item.

Mayor Carey reviewed Agenda Item F-15, Consideration of Names for the Denton County Transportation Authority (DCTA) “A-Train” Stations Within Lewisville. Mayor Carey advised that he had spoken with Mayor Costa from the City of Highland Village regarding this item. He stated that Highland Village was fine with the station being named Lake Lewisville/Highland Village. Discussion was held by the City Council regarding how they wanted this station named. The general consensus of the City Council was that they preferred the station to be called Lewisville Lake Station due to it being located next to the lake; however, they did not have an issue with the lower signage including Highland Village and Lewisville. Further discussion was held that they also had no preference which City was listed first. Councilman Ueckert requested that City staff contact TxDOT and see if signage on I35 can include both City’s name for this station. There was no further discussion regarding this item.

Mayor Carey reviewed Agenda Item F-16, Consideration of Waiving the Third Floor Rental Fee for the Lewisville Area Chamber of Commerce Women’s Division Breakfast Event on December 4, 2008. Councilman Tierney advised he would be abstaining from this item as he was catering this event. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item F-17, Consideration of an Alternate Representative to the Regional Transportation Council. Mayor Carey advised he had spoken to Mayor Smith from the Town of Flower Mound and she was interested in being appointed as the alternate to the Regional Transportation Council. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item G: Report: Holiday at the Hall. There was no discussion on this item.

Mayor Carey reviewed Agenda Item H-Closed Session. There was no discussion on this item.

With no further discussion, the workshop session of the Lewisville City Council was adjourned at 6:56 p.m. on Monday, December 1, 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, December 1, 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 Greg Tierney gave the invocation.

Pledge to the Flag

(Agenda Item B)

At the request of Mayor Carey, Deputy Mayor Pro Tem Watts gave the pledge to the flag.

Public Hearing: Consideration of Ordinance No. 3628-12-2008 Establishing Reinvestment Zone Number Thirty-Five (35) for Lakeview Rehabilitation Hospital Real Estate, LP, Being a 4.00 Acre Tract, Situated in the Stephen Riggs Survey, Abstract No. 1088, Denton County, Texas; Said Tract Being Part of a Called 71.897 Acre Tract Described in Deed to Alpha-Republic Investments, Ltd.; Consideration of Resolution No. 3629-12-2008(R) Providing the Terms and Conditions of an Tax Abatement Agreement Between the City of Lewisville, Texas, and Lakeview Rehabilitation Hospital Real Estate, LP; and Authorization for the City Manager to Execute the Agreement

(Agenda Item C)

Renovo Healthcare is a developer of rehabilitation hospital facilities that is partnering with Imperium Holdings to develop a 40-bed rehabilitation hospital and ancillary facilities. They have identified the property southwest of Interstate 35E and FM 407, known as the Ken Wood Property, as the center of market demand for this type of development. The economic performance measures for the project include a minimum average of eighty (80) employees over the six (6) year term, a minimum payroll average of \$3,600,000 over the six (6) year term, and a minimum initial investment of \$10,200,000. Other performance measures for the agreement include an annual community support donation of \$5,000.

The City staff's recommendation was that the City Council approve the ordinance establishing Reinvestment Zone Number Thirty-Five (35); approve the resolution providing the terms and conditions of a Tax Abatement Agreement between the City of Lewisville, Texas, and Lakeview Rehabilitation Hospital Real Estate, LP; and authorize the City Manager to execute the agreement.

Mayor Carey opened the public hearing.

Elizabeth Trosper, Economic Development Specialist and Stephen Schattner, Renovo Healthcare were both present to respond to any questions posed by the City Council.

MOTION: Upon a motion made by Mayor Pro Tem Thornhill and seconded by Councilman Durham, 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, Designating a Certain Area Within the City of Lewisville as Reinvestment Zone No. 35 for a Tax Abatement for Lakeview Rehabilitation Hospital Real Estate, LP; Establishing the Boundaries of Such Zone; Providing for Other Matters Relating Thereto; Providing for Severability; Providing a Repealer; and Declaring an Emergency."

MOTION: Upon a motion made by Councilman Durham and seconded by Councilman Ueckert, the Council voted five (5) "ayes" and no (0) "nays" to approve and adopt **Ordinance No. 3628-12-2008**, as previously captioned; and **Resolution No. 3629-12-2008(R)** providing the terms and conditions of a Tax Abatement Agreement between the City of Lewisville, Texas, and Lakeview Rehabilitation Hospital Real Estate, L.P. The motion carried.

Visitors/Citizens Forum

(Agenda Item F)

Wayne Plets, 1628 Rocky Point Drive, Lewisville, Texas 75077, spoke before the City Council regarding water line maintenance. Mr. Plets also reviewed difficulties he had had with getting his carport approved. City Manager Claude King advised that he would look into the situation.

Stuart Norton, PO Box 294094, Lewisville, Texas 75029, spoke before the City Council regarding requiring the companies drilling within the City limits to have a performance bond.

Councilman Ueckert questioned if there had been any applications for a drilling permit submitted. Assistant City Manager Steve Bacchus advised that one had come in on November 25, 2008 for an area near the river.

No one else 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 items on the Consent Agenda, as recommended and as follows:

1. Approval of Minutes: City Council Minutes of the November 17, 2008, Workshop Session and Regular Session.
2. Approval of Two Program Grant Agreements by and Among the City of Lewisville, Highpoint Oaks, Ltd., and Various Robert B. Payne-Related Entities and by and Among the City of Lewisville and Various Robert B. Payne-Related Entities; and Authorization for the City Manager to Execute the Agreements.
3. Approval of **Resolution No. 3630-12-2008(R)**: A Resolution of the City Council of the City of Lewisville, Texas, to Approve the Texas Department of Transportation Grant Agreements for the Fiscal Year 2009 Selective Traffic Enforcement Impaired Driving Mobilization Program and Authorizing the City Manager to Execute the Agreement.
4. Approval of a Supplemental Appropriation to the Grant Fund in the Amount of \$310,999 for Completion of Fiscal Year 2008 Community Development Block Grant Projects.
5. Approval of **Resolution No. 3631-12-2008(R)**: A Resolution of the City Council of the City of Lewisville, Texas, Requesting the Members of the 81st Legislative Session of the State of Texas Support Legislation That Increases Funding for the Texas Recreation & Parks Account Local Park Grant Program and the Texas State Park System.
6. Acknowledgement of the Waste Management 2009 Cost of Service Rates for Residential Solid Waste/Recycling and Commercial Solid Waste Collection and Disposal Services.

The motion carried.

END OF CONSENT AGENDA

Consideration of the Final Plat for Castle Hills, Phase VI, a Sections B & C, a 35.35 Acre Tract Designated Townhouse Two (TH-2), With 233 Residential Lots and Four Common Area Lots, Located on the South Side of SH 121 Between Essex Boulevard and Standridge Drive, and Both North and South of Windhaven Parkway; and Consideration of Eleven Variances to the Castle Hills Development Agreement as Requested by TRC Solutions, Inc., Representing the Property Owner

(Agenda Item F-7)

Castle Hills is located in Lewisville's Extraterritorial Jurisdiction (ETJ) and, by the agreement put in place in 1996, is subject to be developed according to Lewisville's General Development Ordinance and Zoning Ordinance. City Council approved the first six variances with the preliminary plat and the original final plat. Since that time the home builder for Sections B & C is no longer involved with the project and Castle Hills has been unable to find a builder to develop the lots as currently configured. Castle Hills, however, has found two home builders who wish to develop the site with the proposed new lot configuration. The original lot layout was for attached townhomes while the new lot layout is for a detached product. In light of these changes to the site the previously approved variances are no longer valid. The developer is requesting the same six variances plus five additional variances. The Planning and Zoning Commission, at their November 18, 2008 meeting, voted 7-0 to recommend in favor of the final plat and the requested variances.

The City staff's recommendation was that the City Council approve the final plat and requested variances 1-6 and 8-11 and consider variance 7.

Gene Lewis, Planning and Community Services Manager and Eric Stanley, Castle Hills Development Company were both present to respond to any questions posed by City Council.

MOTION: Upon a motion made by Deputy Mayor Pro Tem Watts and seconded by Councilman Durham, the Council voted five (5) “ayes” and no (0) “nays” to approve the Final Plat for Castle Hills, Phase VI, a Sections B & C, a 35.35 acre tract designated Townhouse Two (TH-2), with 233 residential lots and four common area lots, located on the south side of SH 121 between Essex Boulevard and Standridge Drive, and both north and south of Windhaven Parkway; and approve the eleven variances to the Castle Hills Development Agreement as requested by TRC Solutions, Inc., representing the property. The motion carried.

Consideration of a Variance to the Lewisville City Code, Section 6-95(b) Regarding Water and Sanitary Sewer Easement Setbacks; and Consideration of a Conceptual Variance to the Lewisville City Code, Section 6-98(d)(2)(b) Regarding Paving Over a Waterline Easement for a Project Located on Both Sides of Vista Drive, North of Round Grove Road, as Requested by Steve Homeyer, P.E., Representing the Owner

(Agenda Item F-8)

The subject site is zoned Local Commercial (LC) and is located on both sides of Vista Drive north of Round Grove Road. An office park is proposed for the site. Staff is currently reviewing a final plat for the entire property on both sides of Vista Drive and an engineering site plan for the portion east of Vista Drive. A site plan has not been submitted for review on the west side of Vista Drive. The applicant has requested a variance for the property east of Vista Drive to reduce the required building set back adjacent to a waterline easement from 10 feet to 5 feet and has requested a conceptual variance for the property on the side west of Vista Drive to allow parking lot pavement to encroach into the 15-foot waterline easement.

The City staff’s recommendation was that the City Council deny the requested variances.

Mayor Carey advised the proponent had requested this item be tabled to December 15, 2008.

T. S. Kumar, P.E., City Engineer and Steve Homeyer P.E., Homeyer Engineering, Inc., were both present to respond to any questions posed by the City Council.

MOTION: Upon a motion made by Councilman Ueckert and seconded by Councilman Tierney, the Council voted five (5) “ayes” and no (0) “nays” to table this item to the December 15 2008, City Council meeting The motion carried.

Consideration of Resolution No. 3632-12-2008(R) Opposing the Continued Preemption of Municipal Regulation of Certain Intra-State Gas Utilities; Urging Legislative Action to Permit Greater Local Regulatory Oversight; and Providing an Effective Date

(Agenda Item F-9)

On July 14, 2008, the Town of Dish passed a resolution requesting the Texas State Legislature give a municipality greater authority over natural gas midstream pipeline companies. They notified approximately 100 other Barnett Shale cities requested that they also pass a similar resolution. At this time, over twenty cities, including the City of Fort Worth, as well as the Texas Municipal League have joined Dish in passing the resolution. Under the present Texas law, gas companies are able to create public utility companies, with the power to condemn property for installation of their lines. This can result in duplicative and redundant pipeline networks causing unnecessary fragmentation of land and creation of unusable slivers of land. This resolution requests that the Texas State Legislature give cities more regulatory authority in these matters.

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

Neal Skinner, 1219 Indian Paint, Lewisville, Texas 75067, spoke before the City Council in favor of the proposed resolution.

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

Joanne Donnenberg, 1204 Shady Elm Lane, Lewisville, Texas 75067-2014
Henry Butler, 1000 Stanford Lane, Lewisville, Texas 75067
Thomas J. (TJ) Gilmore, 724 Juniper Lane, Lewisville, Texas 75077

Deputy Mayor Pro Tem Watts advised that he was not sure that he was 100% on board with the language included in the proposed resolution. He requested that if the City Council wanted to approve the resolution, that this item be tabled and the Council work with City staff to draft language. Councilman Watts stated that he felt the chances of the State doing this are slim to none. Councilman Watts further reviewed his concerns regarding this issue and advised that he felt this was just another layer of bureaucracy and having just one layer of bureaucracy was a more efficient way of getting the pipe laid

Councilman Ueckert advised he did not have a problem with the resolution and was behind City staff's recommendation.

Councilman Durham advised that he was opposed for same reason as Councilman Watts had reviewed.

Mayor Pro Tem Thornhill stated that he was happy to have seen the outpouring received from the citizens regarding this issue. He advised that he would be in support of City staff's recommendation.

Councilman Tierney advised that he was also in support of the proposed resolution.

MOTION: Upon a motion made by Councilman Tierney and seconded by Mayor Pro Tem Thornhill, the Council voted three (3) "ayes" and two (2) "nays," with Councilman Durham and Councilman Watts casting the negative votes to approve **Resolution No. 3632-12-2008(R)**, opposing the continued preemption of municipal regulation of certain intra-state gas utilities; urging legislative action to permit greater local regulatory oversight; and providing an effective date. The motion carried.

Mayor Carey advised that Agenda Item F-10 would be discussed following Closed Session. Mayor Carey then moved on to Agenda Item F-11.

Consideration of Ordinance No. 3633-12-2008 Amending the Lewisville City Code, Chapter 2, Article VIII, Section 2-201, Fee Schedule Related to Solid Waste Rates

(Agenda Item F-11)

On January 26, 2004, Waste Management entered into an agreement to provide residential and commercial solid waste collection. The agreement allows for cost of service increase based upon the Dallas Fort Worth Urban Consumer Price Index. The CPI adjustment for 2009 is 5%. The rate increase is effective January 1, 2009. Although the rate increase to Waste Management is by contract, the City must set the customer rates for residential and commercial customers. Staff recommends increasing customer rates to correspond to the CPI cost of service increase of 5%. Residential rates will increase from \$ 11.12 to \$11.44.

The City staff's recommendation was that the City Council adopt 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 the Lewisville City Code, Chapter 2, Article VIII, Section 2-201 Fee Schedule for Solid Waste Collection; Providing a Repealer; Providing for Severability; Providing an Effective Date; and Declaring an Emergency.”

MOTION: Upon a motion made by Mayor Pro Tem Thornhill and seconded by Councilman Tierney, the Council voted five (5) “ayes” and no (0) “nays” to approve and adopt **Ordinance No. 3633-12-2008**, as captioned previously. The motion carried.

Consideration of an Ordinance Amending Chapter 15, Section 15-104(a), of the Lewisville City Code; Restricting Operation of Trucks With More Than Two Axles From Certain Portions of Purnell Street

(Agenda Item F-12)

The section of Purnell Street from Mill Street to Interstate Highway 35E was included as a candidate roadway in the report "Lewisville Truck Prohibition Study," performed by Kimley-Horn and Associates and presented to the City Council by Wayne Kurfees at the Council workshop on September 15, 2008. Council took action to prohibit trucks on several of the candidate roadways during the November 17th Council meeting and asked Staff to prepare an ordinance for consideration, to further include this section of Purnell Street.

The City staff's recommendation was that the City Council approve the ordinance restricting the operation of trucks with more than two axles on Purnell Street from Mill Street to Interstate Highway 35E.

Mayor Carey advised that Benita and Ralph Fitzgerald, 341 West Purnell Street, Lewisville, Texas 75057, had submitted positions cards indicating their support of this item.

City Attorney Ron Neiman read the ordinance caption into the record as follows:

“An Ordinance of the City Council of the City of Lewisville, Texas, Amending Chapter 15, Section 15-104(a), of the Lewisville City Code; Restricting Operation of Trucks With More Than Two Axles From Certain Portions of Purnell Street; Providing a Penalty Clause; Providing for Severability; Providing a Repealer; Providing for an Effective Date; and Declaring an Emergency.”

MOTION: Upon a motion made by Councilman Tierney and seconded by Mayor Pro Tem Thornhill, the Council voted three (3) “ayes” and two (2) “nays,” with Councilman Watts and Councilman Durham casting the negative votes to approve and adopt an ordinance restricting operation of trucks with more than two axles from certain portions of Purnell Street. The motion carried.

City Attorney Ron Neiman advised that 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 brought back for two additional reads to meet the City Charter requirements.

**Consideration of Direction to Staff
Regarding Regulation of Electronic Reader
Board Signs (as Requested by Councilman
Ueckert)**

(Agenda Item F-13)

The Lewisville City Code was amended on March 5, 2007 with the current sign ordinance. The sign ordinance specifically prohibits a flashing, scrolling or animated sign, or sign with intermittent or varying intensity of illumination or color, whether deliberate or as a consequence of a defect in the sign or the illumination source, except for a sign indicating the time, date, and temperature. Recently, the City Council has had several requests to provide variances allowing these types of prohibited signs. Council may wish to provide direction to staff regarding possible amendments to the Sign Ordinance for this type of sign.

The City staff's recommendation was that the City Council provide direction to staff.

Councilman Ueckert advised after visiting with City staff, he preferred Option 1 (No changes and continue to consider on a case-by-case basis through the variance process. Under this option, staff could recommend that if a variance is approved, any changes on the sign would take place at intervals no less than four (4) seconds) or Option 3 (Electronic reader board signs allowed on monument style signs under the current regulations, however, no free-standing sign would be allowed for the same platted lot or tract of land (Under this option, Old Town would not be affected in that free-standing signs are prohibited). This would create a choice or option for owners and possibly an incentive for reducing pole sign clutter)

Councilman Durham advised that he was opposed to the sign ordinance.

Deputy Mayor Pro Tem Watts advised that he wanted to look at Option 6 (The I-35 corridor may need to have different regulations than other areas for electronic signs) which would consider different regulations than other areas for the I35 corridor. He further advised that he was open to all the Options, with the exception of Option 1, as he did not want to continue requiring applicants to come before the City Council. Councilman Ueckert advised that he also

agreed with Option 6. Mayor Pro Tem Thornhill stated that he also agreed with Option 6 and was in support of Option 1.

Councilman Tierney advised that he was not in support of Option 1 as he felt that it would continue to allow for too much inconsistency. He stated that he is fine with Option 6 and would be in favor of Option 3. Councilman Tierney requested clarification that Old Town would not be affected as no pole sign are allowed and questioned if they would be allowed to utilize this feature in monument signs. City Manager Claude King advised that Old Town was purposely left out as there is separate sign ordinance covering this area; however, it could be reviewed if the City Council so desired.

Mayor Carey advised that he was in favor of Option 3 and Option 6. City Manager Claude King recommend that Option 6 be included in the study that is currently being solicited for a consultant to review the I35 corridor.

Councilman Ueckert questioned if under Option 3, could language be added to limit the changes to a four second interval be included. City Manager Claude King advised that City staff would have to look into that as there was some concern that could inadvertently regulate content.

MOTION: Upon a motion made by Councilman Ueckert and seconded by Councilman Tierney, the Council voted three (3) “ayes” and two (2) “nays,” with Councilman Durham and Mayor Pro Tem Thornhill casting the negative votes to direct City staff to look at changes to the sign ordinance utilizing Option 3 and including some type of pause so not to allow a continual click. The motion carried.

Second Reading: Consideration of Three Ordinances Amending the Lewisville City Code, Section 15-104(a) for Additional Truck Prohibitions on Certain Streets

(Agenda Item F-14)

At the November 17, 2008, City Council meeting, the Council approved the subject ordinances. However, due to the lack of a 4/5's vote by the Council to adopt the ordinances on an emergency basis, the ordinances 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 ordinances.

“An Ordinance of the City Council of the City of Lewisville, Texas, Amending Chapter 15, Section 15-104(a)., of the Lewisville City Code; Restricting Operation of Trucks with More Than Two Axles From Certain Portions of College Parkway; Providing a Penalty Clause; Providing for Severability; Providing a Repealer; Providing for an Effective Date.”

and

“An Ordinance of the City Council of the City of Lewisville, Texas, Amending Chapter 15, Section 15-104(a)., of the Lewisville City Code; Restricting Operation of Trucks with More Than Two Axles From Certain Portions of Corporate Drive; Providing a Penalty Clause; Providing for Severability; Providing a Repealer; Providing for an Effective Date.”

and,

“An Ordinance of the City Council of the City of Lewisville, Texas, Amending Chapter 15, Section 15-104(a)., of the Lewisville City Code; Restricting Operation of Trucks with More Than Two Axles From Certain Portions of High School Drive; Providing a Penalty Clause; Providing for Severability; Providing a Repealer; Providing for an Effective Date.”

This was the second reading of these ordinances. There was no action required on this item.

**Consideration of Names for the Denton
County Transportation Authority (DCTA)
“A-Train” Stations Within Lewisville**

(Agenda Item F-15)

Denton County Transportation Authority (DCTA) is moving forward with plans for a regional rail line. One of the rail stations is to be located at the intersection of Garden Ridge Boulevard and IH35E, inside the city limits of Lewisville. The proposed name for this station has been “Lewisville Lake” station. On November 11, 2008, the City of Highland Village passed a resolution proposing the name of this station be changed to “Highland Village/Lewisville Lake” station. Council input is requested regarding the possible renaming of the station. In addition to considering “Highland Village/Lewisville Lake” station other alternative names for this station as well as other stations in Lewisville may be considered.

The City staff's recommendation was that the City Council consider the names for the DCTA stations in Lewisville and provide direction to staff.

Mayor Carey advised that he had visited with Mayor Costa from Highland Village and based on that conversation he recommended putting Lake Station at the top and then the lower part be Lewisville and Highland Village.

Discussion was held by the City Council. The general consensus was that since the lake is called "Lewisville Lake" the station should be called Lewisville Lake Station. Further discussion by the City Council was that the secondary signage could include both Lewisville and Highland Village in whatever order DCTA can work out. The City Council directed City staff to work with the Texas Department of Transportation regarding signage along I35 and see if it was possible to include Highland Village on that signage, similar to the FM 1171 exit that lists both the City of Lewisville and the Town of Flower Mound.

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 recommend the rail station located at the intersection of Garden Ridge Boulevard and IH35E be named Lewisville Lake Station and the secondary signage to include Highland Village and Lewisville in particular order. The motion carried.

**Consideration of Waiving the Third Floor
Rental Fee for the Lewisville Area Chamber
of Commerce Women's Division Breakfast
Event on December 4, 2008**

(Agenda Item F-16)

Councilman Tierney advised that he would be abstaining from discussion and consideration of this item for personal reasons. Councilman Tierney stepped away from the dais.

The Lewisville Area Chamber of Commerce Women's Division conducts an alternating breakfast and lunch meeting every month. Their December breakfast is scheduled for December 4, 2008 and will include a presentation given by City staff on the annual Holiday at the Hall Event. 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 breakfast on the third floor to highlight Holiday at the Hall in Old Town and are requesting that the rental fee for this event be waived; however, they will be submitting payment for the deposit.

The City staff's recommendation was that the City Council consider waiving the third floor rental fee for the Lewisville Area Chamber of Commerce Women's Division Breakfast Event on December 4, 2008.

MOTION: Upon a motion made by Mayor Pro Tem Thornhill and seconded by Councilman Ueckert, the Council voted four (4) “ayes” and no (0) “nays” to approve waiving the Third Floor Rental Fee for the Lewisville Area Chamber of Commerce Women’s Division Breakfast Event on December 4, 2008. The motion carried.

Councilman Tierney returned to the dais.

**Consideration of an Alternate Representative
to the Regional Transportation Council**

(Agenda Item F-17)

The North Central Texas Council of Government (NCTCOG) recently notified staff of changes to the Regional Transportation Council (RTC) bylaws. These changes include revisions to the membership structure based on population changes. Under this new structure, Lewisville shares a seat with the cities of Flower Mound, The Colony, Trophy Club and Roanoke. In addition, a new provision was added to permit each seat on the RTC to have an alternate member that can attend meetings and vote in the absence of the primary member. The NCTCOG has asked that each City notify them of their primary and alternate member selection. At the November 17, 2008, City Council meeting, Council confirmed Councilman Durham for the primary seat. The City Council should consider selection of the alternate member.

The City staff’s recommendation was that the City Council consider selection of an alternate member for the Regional Transportation Council.

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 selected Mayor Jody Smith from the Town of Flower Mound as the alternate member. The motion carried.

Reports

(Agenda Item G)

- ◆ Assistant City Manager Donna Barron reviewed the itinerary for Holiday at the Hall event being held December 6, 2008 at Lewisville City Hall.

There were no additional reports at this time.

Mayor Carey adjourned the regular session of the Lewisville City Council into Closed Session at 7:53 p.m. Monday, December 1, 2008, in accordance with the requirements of the Open Meetings Law.

Closed Session

(Agenda Item H)

In accordance with Texas Government Code, Subchapter D, the Lewisville City Council convened into Closed Session at 8:00 p.m. on Monday, December 1, 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. Section 551.072 (Real Estate): Property Acquisition
2. Section 551.087 (Economic Development): Deliberation Regarding Economic Development for a Potential Company Relocation.

The Closed Session was adjourned at 8:50 p.m. on Monday, December 1, 2008.

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

(Agenda Item I)

Mayor Carey reconvened the Regular Session of the Lewisville City Council at 8:50 p.m. on Monday, December 1, 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 Ordinance No. 3633-12-2008 Approving Participation in the CAPP Long-Term Power Purchase Agreement; and Authorization for the City Manager to Execute the Acknowledgements and Contracts

(Agenda Item F-10)

The City is a member of the Cities Aggregation Power Project ("CAPP"), a non-profit political subdivision corporation aggregator. The attached ordinance commits the City to purchasing electric power for a portion of its annual energy needs (approximately 70%) through the CAPP Power Purchase Agreement (PPA) for 24 years by paying the proportionate share of CAPP's debt issuance for prepaid capacity from Luminant, et al. and to pay a capacity payment equal to its proportionate amount of the debt service obligation associated with CAPP's prepayment of PPA capacity costs. The ordinance approves the Energy Sales Contract between CAPP and the City (the "Member Contract") and authorizes the City officers and employees as

may be appropriate to take all actions necessary to carry out the terms of this ordinance and the Member Contract. Among the documents is a Disclosure Acknowledgement detailing risks and considerations of the long term agreement.

The City staff's recommendation was that the City Council consider the ordinance; and authorize the City Manager to execute the necessary acknowledgements and contracts.

Discussion was held by the City Council regarding this item. With the exception of Councilman Durham, the general consensus of the City Council was that there were too many unknowns at this time. Councilman Durham advised that he was in favor and wanted the City to start looking at and planning for future energy.

MOTION: Upon a motion made by Mayor Pro Tem Thornhill and seconded by Councilman Tierney, the Council voted four (4) "ayes" and one (1) "nays," with Councilman Durham casting the negative vote to deny approving participation in the CAPP Long-Term Power Purchase Agreement. The motion carried.

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

Adjournment

(Agenda Item J)

MOTION: Upon a motion made by Councilman Tierney and seconded by Deputy Mayor Pro Tem Watts, the Council voted five (5) "ayes" and no (0) "nays" to adjourn the Regular Session of the Lewisville City Council at 8:54 p.m. on Monday, December 1, 2008. The motion carried.

These minutes approved by the Lewisville City Council on the 15th day of December, 2008.

APPROVED

Gene Carey
MAYOR

ATTEST:

Julie Heinze
CITY SECRETARY