

**LEWISVILLE CITY COUNCIL**

**REGULAR SESSION**

**JANUARY 5, 2009**

**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 – 6:30 P.M.**

With a quorum of the Council Members present, the workshop session of the Lewisville City Council was called to order by Mayor Carey at 6:30 p.m. on Monday, January 5, 2009, in the City Council Conference Room of the Lewisville City Hall, 151 West Church Street, Lewisville, Texas. All City Department Heads were in attendance.

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

**(Agenda Item A)**

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, Visitors/Citizens Forum. 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 A)**

Mayor Carey reviewed Agenda Item D-1, Approval of Minutes: City Council Minutes of the December 15, 2008, Workshop Session and Regular Session. There was no discussion on this item.

Mayor Carey reviewed Agenda Item D-2, Approval of Change Order No. 1 to the Waterline Replacements 2006 Phase 2 Project to Construct Water Line Improvements in the Amount of \$160,255; and Authorization for the City Manager to Execute the Change Order. There was no discussion on this item.

Mayor Carey reviewed Agenda Item D-3, Approval of a Professional Services Agreement With Halff Associates, Inc., in the Amount of \$90,600 for Services Relating to the Purnell Street Paving and Drainage Improvements Project (Old Town Phase III Drainage Improvements); Approval of a Total Project Design Amount of \$93,400, Which Includes \$2,800 for Contingencies; and Authorization for the City Manager to Execute the Agreement. There was no discussion on this item.

Mayor Carey reviewed Agenda Item D-4, Approval of the Fiscal Year 2008-2009 Ambulance Service Interlocal Cooperation Agreement Between Denton County and the City of Lewisville; and Authorization for the City Manager or his Designee to Execute the Agreement. There was no discussion on this item.

Mayor Carey reviewed Agenda Item D-5, Approval of the Fiscal Year 2008-2009 Fire Protection Services Interlocal Cooperation Agreement Between Denton County and the City of Lewisville; and Authorization for the City Manager or his Designee to Execute the Agreement. There was no discussion on this item.

Mayor Carey reviewed Agenda Item D-6, Approval of Final Acceptance of the Timber Creek Hike & Bike Trail; and Authorization to Make Final Payment to Northstar Construction Inc., in the Amount of \$68,151.96. 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 A)**

Mayor Carey reviewed Agenda Item E-7, Consideration of a Request for Two Variances to the Lewisville City Code-Chapter 6, Land Development Relating to a Proposed Engineering Site Plan for the UNICLA Addition Lot 1, Block B, Located at the Southeast Corner of Moccasin Trail and Archer Way, North of FM 407 as Requested by Mark Southerland Representing the Owners of Proposed Lots 2 and 3, Block B. Councilman Ueckert questioned the variance regarding tree removal. City Manager King advised that the two trees were actually Mesquite trees and not on the protected list. Discussion was held that the trees are currently located in future right of way. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item E-8, Consideration of Naming the Children's Area of the Library to "Cynthia Bennett Children's Wing." There was no discussion on this item.

Mayor Carey reviewed Agenda Item E-9, Third and Final Reading: Consideration of an Ordinance Amending the Lewisville City Code, Section 15-104(a) 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 E-10, Second Reading: Consideration of an Ordinance Amending the Lewisville City Code, Chapter 3, Animals, Regarding Definitions, Prohibited Sales, Animal as Prizes, Promotions and Novelties, Transportation of an Animal in an Open Bed of a Vehicle, and Unlawful Restraint of Dogs. There was no discussion on this item.

Mayor Carey reviewed Agenda Item E-11, Discussion and Consideration of Appointment to the Tax Increment Reinvestment Zone, Number One, Board of Directors. There was no discussion on this item.

Mayor Carey reviewed Agenda Item E-12, Consideration of a Resolution Supporting the Regional Transportation Council's Legislative Program for the 81st Texas Legislature. Councilman Durham reviewed this item with the City Council. City Manager King reminded the City Council of when DCTA President Charles Emory had spoken to this regarding this topic. City Manager King explained that one way to look at this item, is that is a tool box of options that the RTC would like the legislature to make available for citizens to vote on. Councilman Durham stated that it still needs to be approved by both the legislative body and the voters. 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 A)**

Mayor Carey reviewed Agenda Item E-13, Consideration of Approval of a Resolution of the City Council of the City of Lewisville, Texas, Suspending the Effective Date of CoServ Gas Ltd.'s Requested Rate Changes to Permit the City Time to Study the Request and to Establish Reasonable Rates; Approving Cooperation With Other Cities Within the CoServ System to Hire Legal and Consulting Services and to Negotiate With the Company and Direct any Necessary Litigation; Requiring Reimbursement of Cities' Rate Case Expenses; Authorizing Intervention in the Proceeding at the Railroad Commission; and Requiring Notice of this Resolution to the Company. There was no discussion on this item.

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

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

With no further discussion, the workshop session of the Lewisville City Council was adjourned at 6:39 p.m. on Monday, January 5, 2009.

**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, January 5, 2009, 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 Durham gave the pledge to the flag.

**Visitors/Citizens Forum**

**(Agenda Item C)**

David Snell, 1671 Riverview Drive, Lewisville, Texas spoke before the City Council requesting their assistance to get a traffic signal at Huffiness Boulevard and State Highway 121. Mr. Snell gave the City Council copies of correspondence he has had with TxDOT regarding this area and advised that he felt that the size of the vehicles should be consider in warrant studies as that was the primary problem. City Manager King advised that he would look into the matter and advised Mr. Snell that TxDOT did not consider the size of vehicles in their warrant studies. City Manager King pointed that an area where staff had felt a traffic signal was warranted; however, the warrant study did not concur and TxDOT would not authorize the signal.

No one else appeared to speak at this time.

**CONSENT AGENDA**

**(Agenda Item D)**

**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 January 5, 2009, Workshop Session and Regular Session.
2. Approval of Change Order No. 1 to the Waterline Replacements 2006 Phase 2 Project to Construct Water Line Improvements in the Amount of \$160,255; and Authorization for the City Manager to Execute the Change Order.
3. Approval of a Professional Services Agreement With Halff Associates, Inc., in the Amount of \$90,600 for Services Relating to the Purnell Street Paving and Drainage Improvements Project (Old Town Phase III Drainage Improvements); Approval of a Total Project Design Amount of \$93,400, Which Includes \$2,800 for Contingencies; and Authorization for the City Manager to Execute the Agreement.
4. Approval of the Fiscal Year 2008-2009 Ambulance Service Interlocal Cooperation Agreement Between Denton County and the City of Lewisville; and Authorization for the City Manager or his Designee to Execute the Agreement.

**CONSENT AGENDA (cont'd)**

**(Agenda Item D)**

5. Approval of the Fiscal Year 2008-2009 Fire Protection Services Interlocal Cooperation Agreement Between Denton County and the City of Lewisville; and Authorization for the City Manager or his Designee to Execute the Agreement.
6. Approval of Final Acceptance of the Timber Creek Hike & Bike Trail; and Authorization to Make Final Payment to Northstar Construction Inc., in the Amount of \$68,151.96.

The motion carried.

**END OF CONSENT AGENDA**

**Consideration of a Request for Two Variances to the Lewisville City Code-Chapter 6, Land Development Relating to a Proposed Engineering Site Plan for the UNICLA Addition Lot 1, Block B, Located at the Southeast Corner of Moccasin Trail and Archer Way, North of FM 407 as Requested by Mark Southerland Representing the Owners of Proposed Lots 2 and 3, Block B**

**(Agenda Item E-7)**

Daimler Realty, LLC, the developer has submitted an engineering site plan for a proposed import auto repair business on Lot 1, Block B of the UNICLA Addition including construction plans for a private detention pond on the adjacent property, proposed lots 2 and 3, block B of the UNICLA Addition. The zoning for the property is Light Industrial (LI). The owners of proposed Lots 2 and 3, Block B (sellers of Lot 1, Block B) have applied for two variances; a) to allow construction of the private detention pond required for Lot 1, Block B to be constructed offsite on proposed Lots 2 and 3, Block B without final platting and site planning the lots and b) Grading to include tree removal on proposed Lots 2 and 3, Block B prior to platting and site planning the property.

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

David Salmon, P.E., Assistant City Engineer, was present to respond to any questions posed by the City Council.

**MOTION:** Upon a motion made by Councilman Ueckert and seconded by Councilman Tierney, the Council voted five (5) “ayes” and no (0) “nays” to approve the following two variances to the Lewisville City Code-Chapter 6, Land Development Relating to a Proposed Engineering Site Plan for the UNICLA Addition Lot 1, Block B, located at the southeast corner of Moccasin Trail and Archer Way, north of FM 407: a) to allow construction of the private detention pond required for Lot 1, Block B to be constructed offsite on proposed Lots 2 and 3, Block B without final platting and site planning the lots and b) Grading to include tree removal on proposed Lots 2 and 3, Block B prior to platting and site planning the property. as requested by Mark Southerland representing the owners of proposed Lots 2 and 3, Block B. The motion carried.

**Consideration of Naming the Children’s  
Area of the Library to “Cynthia Bennett  
Children’s Wing”**

**(Agenda Item E-8)**

The Library Board is recommending that the City Council consider naming the children’s area of the Library in honor of Cindy Bennett, former Library Director and Library Manager. PALS staff concurs with the recommendation.

The City staff’s recommendation was that the City Council name the Children’s area of the Library the “Cynthia Bennett Children’s Wing.”

**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 name the Children’s area of the Library the “Cynthia Bennett Children’s Wing. The motion carried.

**Third and Final Reading: Consideration of  
Ordinance No. 3639-01-2009 Amending the  
Lewisville City Code, Section 15-104(a)  
Restricting Operation of Trucks With More  
Than Two Axles From Certain Portions of  
Purnell Street**

**(Agenda Item E-9 )**

At the December 1, 2008, City Council meeting, the Council approved the subject ordinance. However, due to the lack of a 4/5’s vote by the Council to adopt the ordinance on an emergency basis, the ordinance has to be read on three separate days to meet the City Charter requirements. This will be the third and final reading. This ordinance will become effective January 19, 2009.

The City staff's recommendation was that the City Attorney provide the third and final reading of the ordinance.

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

“An Ordinance of the City Council of the City of Lewisville, Texas, Amending Chapter 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; and Providing for an Effective Date.”

This was the final reading of the ordinance. No motion was necessary.

**Second Reading: Consideration of an Ordinance Amending the Lewisville City Code, Chapter 3, Animals, Regarding Definitions, Prohibited Sales, Animal as Prizes, Promotions and Novelties, Transportation of an Animal in an Open Bed of a Vehicle, and Unlawful Restraint of Dogs**

**(Agenda Item E-10)**

At the December 15, 2008, City Council meeting, the Council approved the subject ordinance. However, due to the lack of a 4/5's vote by the Council to adopt the ordinance on an emergency basis, the ordinance has to be read on three separate days to meet the City Charter requirements. This will be the second reading.

The City staff's recommendation was that the City Attorney provide the second reading of the ordinance.

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

“An Ordinance of the City Council of the City of Lewisville, Texas, Amending Chapter 3, Animals, of the Lewisville City Code, by Clarifying the Definition of At Large or Running At Large; by Prohibiting the Unlawful Restraint of Dogs; by Prohibiting the Sale of Animals From Public Property and any Property to Which the Public has Access That Does not Have a Valid Certificate of Occupancy Allowing the Sale of Animals on the Property; by Prohibiting the Use of Animals as Prizes, Promotions and Novelties; by Prohibiting the Transportation of Animals in the Open bed of a Vehicle; Providing for a Repealer; Providing for Severability; Providing a Penalty; and Providing an Effective Date.”

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

**Discussion and Consideration of  
Appointment to the Tax Increment  
Reinvestment Zone, Number One, Board of  
Directors**

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**(Agenda Item E-11)**

The term for Place No. 4 on the Tax Increment Reinvestment Zone, Number One, Board of Directors has expired. Staff has contacted Kellie Stokes who currently occupies this position. Ms. Stokes has indicated an interest in continuing to serve on this board. A roster of the board members has been prepared for City Council review.

The City staff's recommendation was that the City Council consider the appointment to the Tax Increment Reinvestment Zone, Number One, Board of Directors.

**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 appoint Kelly Stokes to the Tax Increment Reinvestment Zone, Number One, Board of Directors. The motion carried.

**Consideration of Resolution No. 3640-01-  
2009(R) Supporting the Regional  
Transportation Council's Legislative  
Program for the 81st Texas Legislature**

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**(Agenda Item E-12)**

The 81st Texas Legislature begins on January 13, 2009. This session is expected to focus heavily on transportation issues. The Regional Transportation Council (RTC) has requested that the City of Lewisville pass a resolution in support of their legislative agenda. Following several months of discussion and consultation with their partner entities, the RTC passed a legislative program containing three high-priority positions: to approve Rail North Texas; to expedite backlogged roadway projects; and to capitalize the Rail Relocation Improvement Fund.

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

Councilman Durham briefly reviewed this item with the City Council. Councilman Durham advised that on the NCTCOG website there was a spreadsheet showing what additional funds the changes would bring.

**MOTION:** Upon a motion made by Councilman Tierney and seconded by Mayor Pro Tem Thornhill, the Council voted five (5) “ayes” and no (0) “nays” to approve **Resolution No. 3640-01-2009(R)**, supporting the Regional Transportation Council’s Legislative Program for the 81<sup>st</sup> Texas Legislature. The motion carried.

**Consideration of Approval of Resolution No. 3641-01-2009(R) of the City Council of the City of Lewisville, Texas, Suspending the Effective Date of CoServ Gas Ltd.’s Requested Rate Changes to Permit the City Time to Study the Request and to Establish Reasonable Rates; Approving Cooperation With Other Cities Within the CoServ System to Hire Legal and Consulting Services and to Negotiate With the Company and Direct any Necessary Litigation; Requiring Reimbursement of Cities’ Rate Case Expenses; Authorizing Intervention in the Proceeding at the Railroad Commission; and Requiring Notice of this Resolution to the Company**

(Agenda Item E-13 )

On December 18, 2008, CoServ Gas Ltd. ("CoServ" or "Company") filed with the City a Statement of Intent to Increase Rates. CoServ asks the City to approve rate changes expected to increase Company revenues by \$2.9 million, an overall total revenue increase of approximately five percent (5%). The law provides that a rate request made by a natural gas utility cannot become effective until 35 days following the filing of the application to change rates. The law permits the City to suspend the effective date for 90 days. The resolution suspends the January 23, 2009 effective date of the Company's rate increase for the maximum period permitted by law to allow the City time to evaluate the filing, determine whether the filing complies with the law, and if lawful, to determine what further strategy, including settlement or litigation, to pursue. Currently, there are 379 customers within the city.

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

**MOTION:** Upon a motion made by Councilman Tierney and seconded by Councilman Durham, the Council voted five (5) “ayes” and no (0) “nays” to approve **Resolution No. 3641-01-2009(R)**, suspending the effective date of CoServ Gas Ltd.’s requested rate changes to permit the City time to study the request and to establish reasonable rates. The motion carried.

**Reports**

**(Agenda Item F)**

- ◆ Fourth Quarter 2008 Attendance Report for Boards/Commissions/  
Committees

There were no additional reports at this time.

Mayor Carey adjourned the regular session of the Lewisville City Council into Closed Session at 7:22 p.m. Monday, January 5, 2009, in accordance with the requirements of the Open Meetings Law.

**Closed Session**

**(Agenda Item G)**

In accordance with Texas Government Code, Subchapter D, Section 551.072 (Real Estate), the Lewisville City Council convened into Closed Session at 7:25 p.m. on Monday, January 5, 2009, City Council Conference Room of the Lewisville City Hall, 151 West Church Street, Lewisville, Texas, in order to discuss matters pertaining to the following:

1. Property Acquisition

Section 551.087 (Economic Development):

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

The Closed Session was adjourned at 7:31 p.m. on Monday, January 5, 2009.

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

**(Agenda Item H)**

Mayor Carey reconvened the Regular Session of the Lewisville City Council at 7:31 p.m. on Monday, January 5, 2009, in the Council Chambers of the Lewisville City Hall.

Mayor Carey opened the floor for action to be taken on the items discussed in the Closed Session. There was no action taken on the items discussed during the Closed Session.

**Adjournment**

**(Agenda Item I)**

**MOTION:** Upon a motion made by Councilman Tierney and seconded by Councilman Durham, the Council voted five (5) “ayes” and no (0) “nays” to adjourn the Regular Session of the Lewisville City Council at 7:31 p.m. on Monday, January 5, 2009. The motion carried.

These minutes approved by the Lewisville City Council on the 26<sup>th</sup> day of January, 2009.

APPROVED

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Gene Carey  
MAYOR

ATTEST:

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Julie Heinze  
CITY SECRETARY