

LEWISVILLE CITY COUNCIL

REGULAR SESSION

MARCH 16, 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:

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

Absent

Claude King, City Manager

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, March 16, 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.

Retreat Direction

(Agenda Item A)

35E Long Range Plan

- Finalize contract with Parsons
 - Schedule workshop on make up of stakeholders' steering committee and "advocacy" group
-

ED Policy Revisions

- Finalize policy development along presentation recommendations
 - Schedule workshop to review against current policy
-

City Hall Basement Remodel

- Ok with preliminary plan
 - Fund design/construction when needed
-

PD Remodel

- Proceed with "full" remodeling plan
 - Design contract with existing funds ASAP
 - Supplement construction funding at time of bid award (additional \$800,000, based on total estimated cost of \$1.3M).
-

Health Plan/Comp Plan

- Proceed with Staff recommendations on Health Plan
 - Comp Plan funding subject to budget review
-

Animal Shelter

- RR Park Location
 - Review size/scope, provide reduction options
 - Compare assumptions/size with Carrollton facility.
-

Homestead Exemption

- Staff recommendation: delay consideration until mid-year due to financial uncertainty of other revenue losses.
-

UDG Utilities/Median Signage

- Add UDGU to Old Town Plaza design scope
 - Plan for additional budget cost (\$1.5 - \$2M, possible GO Bond use)
 - Develop a 'palette' of median signage types for Council consideration
 - East Main Street Signage?
-

G O Bond/CIP

- Have verified that South OT G O Bonds can be used for Plaza street/alley improvements and utility relocations
- Windhaven: Proceed with matches and RTR funding for:
 - FM 544 - KCS RR -complete Section 8 - \$3.2M match (50% County)
 - Waters Ridge - 1) DNGO RR -Section 2 - \$.360M match (50% County)
 - Hold on other sections for possible future reallocation request to NCTCOG
- Bond Election for Animal Shelter and I35 Utility UDG relocations?
- Reserves for PD remodel (\$.8M) and future City Hall basement (\$1.2M)
- 2009 Sale approximately \$5.160M
 - Drainage \$.950M
 - RR Street \$1.500M
 - Streets TBD (e.g. Plaza?) \$2.450M

Electronic Signage

- Prepare ordinance with amendments as discussed

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

(Agenda Item B)

Mayor Carey reviewed Agenda Item A, Invocation. There was no discussion on this item.

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

Mayor Carey reviewed Agenda Item C, Presentations: 1) Recognition of Chief Russ Kerbow with a Patriotic Employer Award; and 2) Recognition of LISD Severe Weather Awareness Week Poster Contest Winners. 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 March 2, 2009, Workshop Session and Regular Session. There was no discussion on this item.

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

(Agenda Item B)

Mayor Carey reviewed Agenda Item E-2, Approval of a Transportation Consultation Services Agreement With Innovative Transportation Solutions, Inc., in the Amount of \$90,000; 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 E-3, Approval of Final Acceptance of the 2008 CDBG Asphalt Rehab Project; and Authorization to Make Final Payment in the Amount of \$36,340.14 to Reynolds Asphalt and Construction Company. There was no discussion on this item.

Mayor Carey reviewed Agenda Item E-4, Approval of Supplemental Arbitrage Rebate Reports From First Southwest Company Showing a Total Arbitrage Liability of \$405,066; Approval of Appropriations in the Utility Capital Projects Fund From Bond Account Unappropriated Cash Balances in the Amount of \$53,554, and in the General Capital Projects Fund From Bond Account Unappropriated Cash Balances in the Amount of \$358,994; and Authorization of Payment for Service Fees to First Southwest Company in the Amount of \$51,120 for Twenty-Six Reports. There was no discussion on this item.

Mayor Carey reviewed Agenda Item E-5, Acceptance of the Fiscal Year 2008 Comprehensive Annual Financial Report (CAFR). There was no discussion on this item.

Mayor Carey reviewed Agenda Item E-6, Approval of a Resolution Recognizing the Necessity of Watershed Protection; Expressing Intentions to Participate; and Directing Staff to Review Strategies and Key Elements for Consideration in Operating Procedures and Local Policies. There was no discussion on this item.

Mayor Carey reviewed Agenda Item E-7, Approval of an Amendment to the Interlocal Cooperation Agreement With Denton County, Related to the Southwest Lewisville Infrastructure Improvements; and Authorization for the Mayor to Execute the Agreement. There was no discussion on this item.

Mayor Carey reviewed Agenda Item E-8, Approval of a Supplemental Appropriation From General Capital Projects Cash to the 2009 Building Repairs Capital Project in the Amount \$200,000. There was no discussion on this item.

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

(Agenda Item B)

Mayor Carey reviewed Agenda Item F-9, Tabled Item: Consideration of an Ordinance Amending the Lewisville City Code, Chapter 4 Relating to Temporary Structures and Uses; Regulating Personal on Demand Storage Units; and Dumpsters on Residential Properties. Councilman Durham thanked City staff for making the changes he had requested and reviewing the items he questioned. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item F-10, Tabled Item: Consideration of an Ordinance Amending the Lewisville City Code, Article XVIII, Section 7-601 Through 7-619 Regulating the Drilling and Production of Oil and Gas Wells Within the City of Lewisville by Providing Additional Landscaping and Fencing Requirements, Changing Noise Regulations, and Other Related Matters. Assistant City Manager Donna Barron advised that staff had received some comments and was in the process of reviewing those. She requested that this item be tabled to the next City Council meeting. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item F-11, Consideration of Procedures for Soliciting Input Regarding Future Revisions to the Oil and Gas Ordinance. Assistant City Manager Donna Barron advised that staff was recommending the public comments utilizing the website. She advised that if City Council should direct staff to move forward with the public forum for comments, staff will advertising and that the portal was ready to go live and the comments could be submitted on line or in person or mailed. Deputy Mayor Pro Tem Watts advised that he preferred that there be a public comment period set and not leave this open as a public forum. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item F-12, Consideration of an Ordinance Amending the Lewisville City Code, Chapter 2, Article VIII, Section 2-201, Fee Schedule, by Adding Rental Fees for Other Law Enforcement Agencies' use of the Police Outdoor and Indoor Firing Range. There was no discussion on this item.

Mayor Carey reviewed Agenda Item F-13, Acceptance of Resignation of Marcia DeAvila From Place No. 3 on the Library Board; Declare a Vacancy Exists; and Consideration of an Appointment to Place No. 3 on the Library Board. 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 6:09 p.m. on Monday, March 16, 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, March 16, 2009, 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 Durham gave the invocation.

Pledge to the Flag

(Agenda Item B)

At the request of Mayor Carey, Councilman Tierney gave the pledge to the flag.

**PRESENTATION: Recognition of Chief
Russ Kerbow with a Patriotic Employer
Award**

(Agenda Item C-1)

Police Chief Russ Kerbow was presented with a Patriotic Employer Award.

**PRESENTATION: Recognition of LISD
Severe Weather Awareness Week Poster
Contest Winners**

(Agenda Item C-2)

Mayor Carey and Emergency Management Coordinator Summer Wilhelm presented recognized LISD Severe Weather Awareness Week Poster Contest winners with certificates.

Visitors/Citizens Forum

(Agenda Item D)

Dean Ueckert, 2038 Dove Creek Court, Lewisville, Texas spoke before the City Council to bring their attention to the Circle of Friends Annual Prom being held on March 28, 2009.

No one else appeared to speak at this time.

CONSENT AGENDA

(Agenda Item E)

Mayor Carey advised that the following item would be removed from the Consent Agenda for individual consideration and explanation:

1. Consent Agenda Item No. 5 – Acceptance of the Fiscal Year 2008 Comprehensive Annual Financial Report (CAFR)

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

1. APPROVAL OF MINUTES: City Council Minutes of the March 2, 2009, Workshop Session and Regular Session.
2. Approval of a Transportation Consultation Services Agreement With Innovative Transportation Solutions, Inc., in the Amount of \$90,000; and Authorization for the City Manager, or his Designee, to Execute the Agreement.
3. Approval of Final Acceptance of the 2008 CDBG Asphalt Rehab Project; and Authorization to Make Final Payment in the Amount of \$36,340.14 to Reynolds Asphalt and Construction Company.
4. Approval of Supplemental Arbitrage Rebate Reports From First Southwest Company Showing a Total Arbitrage Liability of \$405,066; Approval of Appropriations in the Utility Capital Projects Fund From Bond Account Unappropriated Cash Balances in the Amount of \$53,554, and in the General Capital Projects Fund From Bond Account Unappropriated Cash Balances in the Amount of \$358,994; and Authorization of Payment for Service Fees to First Southwest Company in the Amount of \$51,120 for Twenty-Six Reports.
6. Approval of a Resolution No. 3663-03-2009(R): Recognizing the Necessity of Watershed Protection; Expressing Intentions to Participate; and Directing Staff to Review Strategies and Key Elements for Consideration in Operating Procedures and Local Policies.

7. Approval of an Amendment to the Interlocal Cooperation Agreement With Denton County, Related to the Southwest Lewisville Infrastructure Improvements; and Authorization for the Mayor to Execute the Agreement.
8. Approval of a Supplemental Appropriation From General Capital Projects Cash to the 2009 Building Repairs Capital Project in the Amount \$200,000.

The motion carried.

END OF CONSENT AGENDA

**Acceptance of the Fiscal Year 2008
Comprehensive Annual Financial Report
(CAFR)**

(Consent Agenda Item E-5)

The independent annual audit of the City's financial statements is complete. The 2008 Comprehensive Annual Financial Report is provided in compliance with Administrative Policy and Procedure 3.1.2, Accounting, Auditing and Financial Reporting. The report includes the auditor's opinion statement regarding the financial statement presentation. Also included are reports for the Single Audit Report on Federal Financial Assistance, Auditor's Report to Management on Internal Control and the Auditor's Report of Required Communication to City Council and Management.

City staff's recommendation was that the City Council accept the Fiscal Year 2008 Comprehensive Annual Financial Report (CAFR).

At the request of Mayor Carey, Assistant City Manager Donna Barron reviewed the CAFR importance with the City Council.

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 accept the Fiscal Year 2008 Comprehensive Annual Financial Report (CAFR). The motion carried.

**Tabled Item: Consideration of Ordinance
No. 3664-03-2009 Amending the Lewisville
City Code, Chapter 4 Relating to Temporary
Structures and Uses; Regulating Personal on
Demand Storage Units; and Dumpsters on
Residential Properties**

(Agenda Item F-9)

This item was tabled at the March 2, 2009 City Council meeting. Staff was directed to revise the proposed ordinance, avoiding acronyms associated with company names directly involved in portable container usage and review the language relating to enforcement. Staff has revised the ordinance, which now refers to these containers as Temporary Portable Storage Units.

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

Cleve Joiner, Building Official, was present to respond to any questions posed by the City Council.

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

“An Ordinance of the City Council of the City of Lewisville, Texas, Amending Chapter 4, Buildings and Building Regulations, Section 4-27 of the Lewisville City Code, by Adding Regulations Regarding Temporary Portable Storage Units and Dumpsters; Providing for a Repealer; Providing for Severability; Providing a Penalty; Providing an Effective Date; and Declaring an Emergency.”

MOTION: Upon a motion made by Councilman Durham and seconded by Councilman Tierney, the Council voted five (5) “ayes” and no (0) “nays” to approve and adopt **Ordinance No. 3664-03-2009**, as captioned previously. The motion carried.

Tabled Item: Consideration of an Ordinance Amending the Lewisville City Code, Article XVIII, Section 7-601 Through 7-619 Regulating the Drilling and Production of Oil and Gas Wells Within the City of Lewisville by Providing Additional Landscaping and Fencing Requirements, Changing Noise Regulations, and Other Related Matters

(Agenda Item F-10)

This item was tabled at the March 2, 2009 City Council meeting for input from affected parties. Staff has supplied the proposed ordinance to various parties and has received comments from some of the parties. Staff is in the process of analyzing and reviewing those comments.

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

Eric Ferris, Community Development Director, was present to respond to any questions posed by the City Council.

Steve Southwell, 995 Downey Drive, Lewisville Texas spoke before the City Council and advised that he had a chance to read through the proposed ordinance changes and everything seemed straight forward and mostly on the side of safety and the well being of the community. Mr. Southwell advised that since this is a work in progress he felt it was a good to go ahead and pass the ordinance to get it on the books before the next set of permits come in.

Assistant City Manager Donna Barron advised that City staff had received comments from several different entities and were not prepared to report to the City Council at this time with those comments.

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 table this item to the April 6, 2009, City Council meeting. The motion carried.

**Consideration of Procedures for Soliciting
Input Regarding Future Revisions to the Oil
and Gas Ordinance**

(Agenda Item F-11)

On March 2, 2009, Council directed staff to develop procedures that would allow input from citizens and oil and gas well operators regarding any future revisions to the ordinance prior to Council consideration.

The City staff's recommendation was that the City Council adopt staff's recommendations and provide direction as to whether the process should include both a public comment and public hearing process or public comment period only.

Deputy Mayor Pro Tem Watts thanked City staff for providing options and advised he felt the best option was the public comment period where residents can submit comments for a certain period of time and the City Council could determine if a public hearing was needed at the end of that time period.

MOTION: Upon a motion made by Councilman Tierney and seconded by Councilman Ueckert, the Council voted five (5) "ayes" and no (0) "nays" to approve the public comment period and directed City staff to get going as soon as possible for a 30 day period. The motion carried.

**Consideration of Ordinance No. 3665-03-
2009 Amending the Lewisville City Code,
Chapter 2, Article VIII, Section 2-201, Fee
Schedule, by Adding Rental Fees for Other
Law Enforcement Agencies' use of the Police
Outdoor and Indoor Firing Range**

(Agenda Item F-12)

The Lewisville Police Department wants to allow other law enforcement agencies use of its outdoor and indoor firing range. The department will be responsible for managing the time slots and the range use policy.

The City staff's recommendation was that the City Council approve the ordinance amending the Lewisville City Code, Chapter 2, Article VIII, Section 2-201, Fee Schedule by adding rental fees for other law enforcements agencies use of the police outdoor and indoor firing range.

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, by Adding Rental Fees for Other Law Enforcement Agencies Use of the Police Outdoor and Indoor Firing Range; Providing a Repealer; Providing for Severability; Providing an Effective Date; and Declaring an Emergency.”

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 **Ordinance No. 3665-03-2009**, as captioned previously. The motion carried.

**Acceptance of Resignation of Marcia DeAvila
From Place No. 3 on the Library Board;
Declare a Vacancy Exists; and Consideration
of an Appointment to Place No. 3 on the
Library Board**

(Agenda Item F-13)

Marcia DeAvila has submitted an e-mail turning in her resignation from the Library Board as she is moving to Lake Dallas at the end of March. The resignation of Marcia DeAvila has created a vacancy in Place No. 3 of the Library Board. The City Council will need to consider a new appointment to fill the vacancy in Place No. 3.

The City staff’s recommendation was that the City Council accept the resignation of Marcia DeAvila from Place 3 on the Library Board; declare a vacancy exists; and consider an appointment to fill the vacancy created by her resignation.

Councilman Tierney thanked Ms. DeAvila her for her time on the board and wished her the best.

With the support of the City Council, Mayor Carey advised he could come back with recommendation for the appointment to Place No. 3 at the April 6, 2009, City Council meeting.

MOTION: Upon a motion made by Councilman Ueckert and seconded by Mayor Pro Tem Thornhill, the Council voted five (5) “ayes” and no (0) “nays” to accept the resignation of Marcia DeAvila from Place 3 on the Library Board; declare a vacancy exists; and table the appointment to the April 6, 2009, City Council meeting. The motion carried.

Mayor Carey adjourned the regular session of the Lewisville City Council into Closed Session at 7:26 p.m. Monday, March 16, 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 7:30 p.m. on Monday, March 16, 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 7:35 p.m. on Monday, March 16, 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 7:35 p.m. on Monday, March 16, 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 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 7:35 p.m. on Monday, March 16, 2009. The motion carried.

**LEWISVILLE CITY COUNCIL
REGULAR SESSION
MARCH 16, 2009**

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These minutes approved by the Lewisville City Council on the 6th day of April, 2009.

APPROVED

Gene Carey
MAYOR

ATTEST:

Julie Heinze
CITY SECRETARY