

LEWISVILLE CITY COUNCIL

REGULAR SESSION

APRIL 6, 2009

Present:

Gene Carey, Mayor

Council Members:

David Thornhill, Mayor Pro Tem
Lathan Watts, Deputy Mayor Pro Tem
Dean Ueckert
Rudy Durham

Absent:

Greg Tierney

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, April 6, 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 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.

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

(Agenda Item B)

Mayor Carey reviewed Agenda Item C, Proclamations, 1) Declaring the week of April 12-18, 2009, as "National Library Week"; and 2) Declaring the Week of April 13-17, 2009, as "National Public Safety Telecommunicators Week". There was no discussion on these items.

Mayor Carey reviewed Agenda Item D, Presentation: Presentation of the Texas Recreation and Parks Society "Leisure and Aging Branch Outstanding Professional Award" to Ruth Tidwell. There was no discussion on this item.

Mayor Carey reviewed Agenda Item E-1, Public Hearing: Consideration of an Ordinance for a Zone Change Request From Multi-Family One (MF-1) to Public Use (PU) on a 9.265 Acre Tract Located at the Southside of Lakeside Circle South of Hebron Parkway; Further Identified as Lakepointe Phase III, Lot 1A, Block F; as Requested by the Denton County Transportation Authority (Case No. PZ20090304). There was no discussion on this item.

Mayor Carey reviewed Agenda Item E-2, Public Hearing: Consideration of an Ordinance Establishing Reinvestment Zone Number Thirty-Six (36) for Orthofix, Inc., Being a 8.796 Acre Tract of Land in the T.A. West Survey, Abstract No. 1344, Denton County, Texas, and Also Being a Portion of Lot 1R, Block A of the Austin Ranch West Addition and in Accordance With the Plat Filed in Cabinet U, Page 690 of the Plat Records of Denton County; Consideration of a Resolution Providing the Terms and Conditions of a Tax Abatement Agreement By and Between the City of Lewisville, Texas, and Orthofix, Inc.; and Authorization for the City Manager to Execute the Agreement. City Manager King advised the following numbers need to be corrected: property tax revenue should be \$548,000 and the minimum initial investment should be \$24.9 million. City Manager King advised that this item could be discussed in Closed Session prior to any action being taken, if the City Council desired. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item E-3, Public Hearing: Consideration of Condemnation of the Structures Located at 339 East College Street, A1167A E. Sutton, Tract 19, Lewisville, Texas. There was no 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-4, Approval of Minutes: a) City Council Minutes of the February 5-7, 2009, Called-Special Retreat Workshop Session; and, b) City Council Minutes of the March 16, 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 G-5, Approval of a Supplemental Appropriation from General Capital Projects Cash to the Southwest Lewisville Capital Project in the Amount \$5,851,240; and Approval of a Supplemental Appropriation From Developer Escrows to the Southwest Lewisville Capital Project in the Amount of \$1,970,038. There was no discussion on this item.

Mayor Carey reviewed Agenda Item G-6, Approval of a Bid Award for the Southwest Lewisville Infrastructure Improvements to JRJ Paving, LP., Dallas, Texas, in the Amount of \$7,658,708.82; and Authorization for the City Manager to Execute the Contract. City Manager King advised that there were no City funds spent on this project, it was all Denton County funds. Mayor Carey advised he would like this item pulled off the consent to be acknowledged in open session. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item G-7, Approval of Bid Awards for Annual Requirements Contracts for Water and Wastewater Treatment Chemicals for Public Services to General Chemical in the Amount of \$168,360, Chemical Lime Company in the Amount of \$26,938, Harcos Chemicals in the Amount of \$16,875, Airgas in the Amount of \$20,720, and FSTI in the Amount of \$18,800 for a Total Annual Estimated Amount of \$251,693. City Manager King advised that the Airgas amount should be \$26,888 and that the total amount would now be \$257,853. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item G-8, Approval of Revisions to Administrative Policies 2.12.1 – Vacation; 2.12.2 –Holiday; and 2.7.2 – Base Pay. Discussion was held that employees could take vacation in small increments with the approval of their supervisor as the system allows this to be done. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item G-9, Approval of the Capital Improvements Advisory Committee Semi-Annual Report for the Period of April 1, 2008 Through September 30, 2008. There was no discussion on this item.

Mayor Carey reviewed Agenda Item G-10, Approval of a Program Grant Agreement by and Between the City of Lewisville and Roberts Sisters Partnership; and Authorization for the City Manager to Execute the Agreement. There was no discussion on this item.

Mayor Carey reviewed Agenda Item G-11, Approval of Resolutions Approving the Acquisition of Certain Property in the City by the Denton County Transportation Authority Through the Right of Eminent Domain. 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 G-12, Approval of an Electric Utility Easement to Texas New Mexico Power Company (TNMP) on City Property for the Installation of a Street Light on Sylvan Creek Bend and Associated Underground Conduit and Appurtenances Along the North West Property Line of Iris Lane Park; and Authorization for the City Manager to Execute the Easement Document. There was no discussion on this item.

Mayor Carey reviewed Agenda Item G-13, Approval of the Reappointment of Steven L. Bacchus as the City of Lewisville Representative on the Upper Trinity Regional Water District (UTRWD) Board of Directors. There was no discussion on this item.

Mayor Carey reviewed Agenda Item H-14, 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. Deputy Mayor Pro Tem Watts questioned why, if the comment period was through April 22nd, the ordinance was back before the City Council. City Manager King advised that it had been tabled at the last meeting to this meeting; however, they could pass the ordinance now based on the comments they had received, or table it until after the comment period. He further advised that if passed, it could always be brought back if the City Council desired. Deputy Mayor Pro Tem Thornhill questioned if a permit was requested between now and when the ordinance was passed if they would be under the current ordinance. City Manager King advised that was correct. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item H-15, 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 New Delay Middle School (Formerly Milliken), Located on the West Side of Savage Drive, North of Lake Park Road as Requested by G&A Consultants Representing Lewisville Independent School District. City Manager King advised that this was a new submittal. He pointed out that in regarding to parking the requirement of 277 spaces the School District had had increased the numbers of parking spaces from their original request to now have 205 parking spaces. He further advised that they still have the same basic drainage run off issue that they had before. There was no further discussion on this item.

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

(Agenda Item B)

Mayor Carey reviewed Agenda Item H-16, Consideration of an Agreement to Participate in Tax Increment Reinvestment Zone Number Two, Between the City of Lewisville and Denton County, and Authorization for the City Manager to Execute the Agreement. There was no discussion on this item.

Mayor Carey reviewed Agenda Item H-17, Tabled Item: Consideration of an Appointment to Place No. 3 on the Library Board. There was no discussion on this item.

Mayor Carey reviewed Agenda Item H-18, Consideration of a Request For a Variance to the Lewisville City Code, Article VIII, Off Street Parking, for Temporary Event Parking Located at the Southeast Corner of FM 3040 and Duncan Lane, as Requested by the Town of Flower Mound. There was no discussion on this item.

Mayor Carey reviewed Agenda Item H-19, Consideration of a Three Party Escrow Agreement to Allow Simultaneous Construction of Public and Private Infrastructure Improvements Requested by Peregrine Development; and Authorization for the City Manager, or His Designee, to Execute the Escrow Agreement. City Manager King handed out additional backup material produced by Economic Development Director Nika Reinecke. He advised that Ms. Reinecke was recommending some additional items that the developers had agreed to; however, they had not been signed off on. Deputy Mayor Pro Tem Watts advised that he did not want to approve the item until the agreement had been signed. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item I, Report, 1). 2009 First Quarter Boards/Commissions/Committees Attendance Reports. There was no discussion on this item.

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

With no further discussion, the workshop session of the Lewisville City Council was adjourned at 6:49 p.m. on Monday, April 6, 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, April 6, 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, Mayor Pro Tem Thornhill gave the invocation.

Pledge to the Flag

(Agenda Item B)

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

**Proclamation: Declaring the Week of April
12-19, 2009, as “National Library Week”.**

(Agenda Item C-1)

Mayor Carey read and presented a proclamation declaring the week of April 12-19, 2009, as “National Library Week” to Library Manager Ann Wiegand.

**Proclamation: Declaring the Week of April
13-17, 2009, as “National Public Safety
Telecommunicators Week”.**

Mayor Carey read and presented a proclamation declaring the week of April 13-17, 2009, as “National Public Safety Telecommunicators Week” to City of Lewisville Dispatchers Patrick Burks, Rachel McMahon, and Tim Conner.

**Presentation: Presentation of the Texas
Recreation and Parks Society “Leisure and
Aging Branch Outstanding Professional
Award” to Ruth Tidwell.**

(Agenda Item D)

Mayor Carey read and presented the Texas Recreation and Parks Society “Leisure and Aging Branch Outstanding Professional Award” to Ruth Tidwell.

**Public Hearing: Consideration of Ordinance
No. 3666-04-2009(Z) for a Zone Change
Request From Multi-Family One (MF-1) to
Public Use (PU) on a 9.265 Acre Tract
Located at the Southside of Lakeside Circle
South of Hebron Parkway; Further
Identified as Lakepointe Phase III, Lot 1A,
Block F; as Requested by the Denton County
Transportation Authority (Case No.
PZ20090304)**

(Agenda Item E-1)

This property was acquired by the Denton County Transportation Authority (DCTA) to provide one of three rail stops in Lewisville. Although public governmental agency uses are permitted in all zoning districts, the Public Use zoning district better reflects the actual proposed use for this site. The site is next to three existing apartment complexes on Lakeside Circle and it is directly adjacent to the newly zoned mixed use development proposed by Huffines Communities. The proposed DCTA site will include a park and ride facility and rail platform. Only the park and ride facility will be located on this lot. The actual platform will be located on railroad right-of-way adjacent to this lot. The Planning and Zoning Commission recommended approval of the zoning request on a vote of 7-0 at their February 3, 2009 meeting.

The City staff's recommendation was that the City Council approve the proposed ordinance amending the Lewisville City Code, Chapter 17, the Comprehensive Zoning Ordinance approving the requested zone change from Multi-Family One (MF-1) to Public Use (PU).

Mayor Carey opened the public hearing.

Gene Lewis, Planning and Community Services Manager and Karl Crawley, Masterplan Consultants, 90 Jackson Street, Suite 600, Dallas, Texas, were both present to respond to any questions posed by the City Council.

MOTION: Upon a motion made by Councilman Durham and seconded by Councilman Ueckert, the Council voted four (4) "ayes" and no (0) "nays" to close the public hearing. The motion carried.

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

"An Ordinance of the City Council of the City of Lewisville, Texas, That Amends the Zoning Ordinance of the City of Lewisville, Texas, Granting Zoning Changes on the 9.265 Acre Tract of Land Fully and Completely Described in the Attached Exhibit "A", Ordering a Change in the Use of Said Property From Multi-Family One (MF-1) District Zoning to Public Use (PU) Zoning; Correcting the Official Zoning Map; Preserving All Other Portions of the Zoning Ordinance; Providing a Clause Relating to Severability Determining That the Public Interests and General Welfare Demand a Zoning Change and Amendment Therein Made; Providing a Penalty; and Declaring an Emergency."

MOTION: Upon a motion made by Mayor Pro Tem Thornhill and seconded by Deputy Mayor Pro Tem Watts, the Council voted four (4) "ayes" and no (0) "nays" to approve and adopt **Ordinance No. 3666-04-2009(Z)**, as previously captioned. The motion carried.

Public Hearing: Consideration of Ordinance No. 3667-04-2009 Establishing Reinvestment Zone Number Thirty-Six (36) for Orthofix, Inc., Being a 8.796 Acre Tract of Land in the T.A. West Survey, Abstract No. 1344, Denton County, Texas, and Also Being a Portion of Lot 1R, Block A of the Austin Ranch West Addition and in Accordance With the Plat Filed in Cabinet U, Page 690 of the Plat Records of Denton County; Consideration of Resolution No. 3668-04-2009(R) Providing the Terms and Conditions of a Tax Abatement Agreement By and Between the City of Lewisville, Texas, and Orthofix, Inc.; and Authorization for the City Manager to Execute the Agreement

(Agenda Item E-2)

In January of this year, staff began incentive negotiations with site selection consultant, JacksonCooksey, regarding potential relocation of medical device manufacturing company, Orthofix, Inc., currently located in McKinney. The prospect would benefit the City of Lewisville by adding an estimated \$168,000 in development fee revenue, and an estimated additional \$548,000 in property tax revenues over the next 10 years. Performance measures in the agreement include a minimum initial investment of \$24.9 million in real and personal property value, a minimum annual payroll of \$14 million, a minimum construction and occupancy requirement of 140,000 square feet, a minimum community support donation of \$10,000, and a minimum employment of 300 full time equivalents.

The City staff's recommendation was that the City Council approve the ordinance establishing Reinvestment Zone Number Thirty-Six (36); approve the resolution providing the terms and conditions of a Tax Abatement Agreement by and between the City of Lewisville, Texas, and Orthofix Inc.; and authorize the City Manager to execute the agreement.

Mayor Carey opened the public hearing.

MOTION: Upon a motion made by Councilman Ueckert and seconded by Councilman Durham, the Council voted four (4) "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. 36 for a Tax Abatement for Orthofix Inc.; 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 Deputy Mayor Pro Tem Watts and seconded by Mayor Pro Tem Thornhill, the Council voted four (4) “ayes” and no (0) “nays” to approve and adopt **Ordinance No. 3667-04-2009(Z)**, as previously captioned and **Resolution No. 3668-04-2009(R)** Approving the Terms and Conditions of an Agreement by and Between the City of Lewisville, Texas, and Orthofix Inc.; Establishing Reinvestment Zone No. 36 in the City of Lewisville, Texas, and Providing for a Commercial/Industrial Tax Abatement with Orthofix Inc.; Authorizing Execution of the Agreements by the City Manager or in his Absence the Assistant City Manager; and Providing an Effective Date. The motion carried.

**Public Hearing: Consideration of
Condemnation of the Structures Located at
339 East College Street, A1167A E. Sutton,
Tract 19, Lewisville, Texas**

(Agenda Item E-3)

The Building Official has deemed the structures located at the property known by the legal description of 339 East College Street, A1167A E. Sutton, Tract 19 as substandard. The owners of record are Jose and Maria Sanchez. The main structure is an older residential structure and recently had a two story addition constructed over it. The owners did not apply for permits and there are no architectural drawings or engineering of the addition. Proper notification and procedures by the City has been accomplished without an acceptable response; however, additional publication in the paper of record is required. The Lewisville City Code requires that a public hearing be held in order for the City Council to determine if the structures are substandard.

The City staff’s recommendation was that the City Council table this item to the April 20, 2009, City Council meeting to allow for additional publication in the City’s paper of record.

Mayor Carey opened the public hearing.

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

MOTION: Upon a motion made by Councilman Durham and seconded by Councilman Ueckert, the Council voted four (4) “ayes” and no (0) “nays” to table the Public Hearing to the April 20, 2009, City Council meeting. The motion carried.

Visitors/Citizens Forum

(Agenda Item F)

No one appeared to speak at this time.

CONSENT AGENDA

(Agenda Item G)

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

1. Consent Agenda Item No. 6 – Approval of a Bid Award for the Southwest Lewisville Infrastructure Improvements to JRJ Paving, LP., Dallas, Texas, in the Amount of \$7,658,708.82; and Authorization for the City Manager to Execute the Contract

MOTION: Upon a motion made by Councilman Ueckert and seconded by Deputy Mayor Pro Tem Watts, the Council voted four (4) “ayes” and no (0) “nays” to approve and adopt all remaining items on the Consent Agenda, as recommended and as follows:

4. Approval of Minutes:
 - a. City Council Minutes of the February 5-7, 2009, Called-Special Retreat Workshop Session; and
 - b. City Council Minutes of the March 16, 2009, Workshop Session and Regular Session.
5. Approval of a Supplemental Appropriation from General Capital Projects Cash to the Southwest Lewisville Capital Project in the Amount \$5,851,240; and Approval of a Supplemental Appropriation From Developer Escrows to the Southwest Lewisville Capital Project in the Amount of \$1,970,038.

7. Approval of Bid Awards for Annual Requirements Contracts for Water and Wastewater Treatment Chemicals for Public Services to General Chemical in the Amount of \$168,360, Chemical Lime Company in the Amount of \$26,938, Harcros Chemicals in the Amount of \$16,875, Airgas in the Amount of \$20,720, and FSTI in the Amount of \$18,800 for a Total Annual Estimated Amount of \$251,693.
8. Approval of Revisions to Administrative Policies 2.12.1 – Vacation; 2.12.2 –Holiday; and 2.7.2 – Base Pay.
9. Approval of the Capital Improvements Advisory Committee Semi-Annual Report for the Period of April 1, 2008 Through September 30, 2008. 10.
10. Approval of a Program Grant Agreement by and Between the City of Lewisville and Roberts Sisters Partnership; and Authorization for the City Manager to Execute the Agreement.
11. Approval of **Resolution No.3669-04-2009(R)** and **Resolution No. 3670-04-2009(R)** Approving the Acquisition of Certain Property in the City by the Denton County Transportation Authority Through the Right of Eminent Domain.
12. Approval of an Electric Utility Easement to Texas New Mexico Power Company (TNMP) on City Property for the Installation of a Street Light on Sylvan Creek Bend and Associated Underground Conduit and Appurtenances Along the North West Property Line of Iris Lane Park; and Authorization for the City Manager to Execute the Easement Document.
13. Approval of the Reappointment of Steven L. Bacchus as the City of Lewisville Representative on the Upper Trinity Regional Water District (UTRWD) Board of Directors.

The motion carried.

END OF CONSENT AGENDA

**Approval of a Bid Award for the Southwest
Lewisville Infrastructure Improvements to
JRJ Paving, LP., Dallas, Texas, in the
Amount of \$7,658,708.82; and Authorization
for the City Manager to Execute the
Contract**

(Consent Agenda Item G-6)

A total of fifty-seven (57) bid invitations were downloaded from BidSync.com. Nine (9) bids were received and opened February 19, 2009. This project consists of the extension of Valley Parkway from FM 3040 to Hwy 121 and Spinks Road from Duncan Lane to the existing terminus near the Majestic property. Funding is available in the Southwest Lewisville Capital Project.

That the City Council approve a bid award for the Southwest Lewisville Infrastructure Improvements to JRJ Paving, LP., Dallas, Texas, in the amount of \$7,658,708.82; and authorize the City Manager to execute the contract.

At the request of Mayor Carey, City Manager Claude King reviewed this item with the City Council. City Manager Claude King advised that a good portion of the funding had come from Denton County and bond projects that were approved several years ago and without them the City would have had to depend more on the City of Lewisville taxpayers. He pointed out that this is a project that Denton County voters can point toward when they are looking toward what they are getting for their tax dollars.

MOTION: Upon a motion made by Councilman Ueckert and seconded by Councilman Durham, the Council voted four (4) “ayes” and no (0) “nays” to approve a Bid Award for the Southwest Lewisville Infrastructure Improvements to JRJ Paving, LP., Dallas, Texas, in the amount of \$7,658,708.82; and authorized the City Manager to execute the contract. The motion carried.

**Tabled Item: Consideration of Ordinance
No. 3671-04-2009 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 H-14)

This item was tabled at the March 2 and March 16 City Council meetings. Also at the March 16th meeting, staff was directed to implement a 30-day comment period on the proposed revisions. This period will run through April 22, but some comments have already been received and evaluated. In addition to the changes originally proposed, staff has made some new modifications based on the comments received to date. These new changes provide clarification to wording in the ordinance, tighten the time allowed for violations to be corrected, clarify distance measurement criteria for parks, and add a requirement for a pressure gauge to detect underground leaks.

The City staff's recommendation was that the City Council approve the ordinance amending the Lewisville City Code Article XVIII Sections 7-601 through 7-619 regulating the drilling and production of oil and gas wells within the City.

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

City Manager Claude King advised that the comment period is still running until April 22. He further advised that they could table this item or pass the proposed ordinance; however, if someone comes in for a permit tomorrow they would be operating under the old ordinance. He advised that the distance requirement was of concern in regard to a possible well location in proximity to a park.

Discussion was held by the City Council in regard to how many permits had been issued. Deputy Mayor Pro Tem Watts advised since the City Council had said they were going to implement a 30 day comment period and the Horizon just went out he would prefer the proposed ordinance be tabled until the comment period was over.

Mayor Pro Tem Thornhill advised that he felt it had been opened up for public comment and only 16 total comments had been received. He expressed concern that if someone came in for a new permit then they would be under the old rules.

MOTION: Upon a motion made by Deputy Mayor Pro Tem Watts and seconded by Councilman Ueckert, the Council voted three (3) “ayes” and one (1), with Mayor Pro Tem Thornhill casting the negative vote to table this item to the May 4, 2009, City Council meeting so the full 30 day comment period can be respected. The motion carried.

**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 New
Delay Middle School (Formerly Milliken),
Located on the West Side of Savage Drive,
North of Lake Park Road as Requested by
G&A Consultants Representing Lewisville
Independent School District**

(Agenda Item H-15)

The Lewisville Independent School District intends to re-open the former Milliken Middle School replacing Delay Middle School. A new engineering site plan is required to comply with the current General Development Ordinance. On March 2, 2009 the City Council granted two variances and denied two variances. Since the March 2, 2009 City Council Meeting, LISD has revised the proposed site plan to provide additional parking on the site and is applying for two similar, but different, variances: 1) to reduce the number of additional required parking spaces for the site; 2) to allow more than 2 cubic feet per second of drainage runoff per driveway to flow into Savage Lane.

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

Discussion was held regarding what the original parking requirements and submittal had contained. Further discussion was held regarding the drainage requirements and submittal.

Mayor Carey advised that the discussion was regarding the two variances, not whether the school was going to be built.

Randy Barnett, 2925 Shadwood Lane, Plano, Texas, representing the Architect firm, spoke before the City Council in favor of this request. Von Beougher, 111 Hillside Drive, Lewisville, Texas 75057, with G&A Consultants addressed the City Council’s questions regarding the drainage issues. He advised that a new storm sewer would have to be built down Savage Lane to fix the drainage issue as there was no underground storm sewer in this area.

Michael Perry, 1170 Lloyd Road, Little Elm, Texas, 75068, on behalf of the Lewisville Independent School District (LISD) spoke before the City Council in favor of the variance requests.

Paige Shoven, 617 Price, Lewisville, Texas spoke against the variances. She requested that the City Council hold LISD accountable and keep the children the priority.

Brenda Latham, 1553 Parkside Trail, Lewisville, Texas 75077, spoke against the variances. She requested that the City Council deny the requested variances and hold LISD accountable as any business within the City of Lewisville

Winston Edmondson, 1292 Marchant Place, Lewisville, Texas 75067, spoke against the variances and encouraged the City Council to deny all the requested variances.

Mayor Carey advised the following individuals had filled out cards indicating their opposition to the requested variances:

John Gorena, 417 Creekwood Lane, Lewisville, Texas 75067
Sheva Vanderpoel, 133 Laguna Bay, Lewisville, Texas 75067
Wendy Littrell, 1702 Marblehead Drive, Lewisville, Texas 75067
Tina Adams, 1219 Monaco Drive, Lewisville, Texas 75067
Stacie Barbin, 943 Madison Circle, Lewisville, Texas 75067
Rosa Violante, 114 Kemper Court, Lewisville, Texas 75067
Patricia Olivas, 925 Thompson Drive, Lewisville, Texas 75067
Marguita Gonzales, 402 Hwy 121, #693, Lewisville, Texas 75057
Rita Graza, 181 West Purnell, Lewisville, Texas 75057
Paula Perez, 550 Hunington, Lewisville, Texas 75067
Patricia Stone, 363 West Purnell, Lewisville, Texas 75057
Jimmie C. Stone, 363 West Purnell, Lewisville, Texas 75057
Tomoso Jaimes, 349 West Purnell, Lewisville, Texas 75057
Debra Dominguez. 181 West Purnell, Lewisville, Texas 75057
Raul Jaimes, 349 West Purnell, Lewisville, Texas 75057
Noelia Manreal, 402 Hwy 121 #66, Lewisville, Texas 75057
Tim Grimes, 321 West Purnell, Lewisville, Texas 75057
Benita Fitzgerald, 341 West Purnell, Lewisville, Texas 75057
Ralph Fitzgerald, 341 West Purnell, Lewisville, Texas 75057

Discussion was held that the City's drainage requirements have changed dramatically over the years. He advised that the City now adheres to the 100 Year Flood Plan and reviewed what that would entail.

Discussion was then held regarding the requested parking variance. Mayor Pro Tem Thornhill advised he still was in support of the City Council's previous decision to deny the variance request. Deputy Mayor Pro Tem Watts acknowledged that the proponent had made an improvement on the number of parking locations; however he felt if they could come up with the additional parking they could come up with the required amount.

Councilman Durham advised he was in favor of the variance as he had mentioned at the last meeting that Huffiness was an equivalent school and they have less than this number of parking spots. Discussion was held with Michael Perry regarding the number of parking spots at other middle schools. Councilman Durham also addressed drainage and his concern that if the City wants redevelopment it will be difficult to require everyone bring those locations up to current code requirements.

Councilman Ueckert advised that he agreed with Mayor Pro Tem Thornhill and Deputy Mayor Pro Tem Watts. He stated that he felt there was a difference between the two schools due to a majority of the students and parents walk to the school whereas these children will have to be bused and driven.

MOTION: Upon a motion made by Councilman Ueckert and seconded by Mayor Pro Tem Thornhill, the Council voted three (3) "ayes" and one (1) "nays," with Councilman Durham casting the negative vote to deny the requested variance to reduce the number of additional required parking spaces for the site. The motion carried.

At the request of Mayor Carey, City Manager Claude King reviewed that the current drainage situation was due to a substandard drainage system that would require the pipes to be upsized. He stated that tearing up the existing drainage system would be a costly endeavor. Discussion was held regarding the drainage issue. Deputy Mayor Pro Tem Watts stated that the citizens had brought up a good point that if there is already drainage problems it is not going to get better by keeping it the way it currently exists.

MOTION: Upon a motion made by Mayor Pro Tem Thornhill and seconded by Councilman Ueckert, the Council voted three (3) "ayes" and one (1) "nays," with Councilman Durham casting the negative vote to deny the requested variance to allow more than 2 cubic feet per second of drainage runoff per driveway to flow into Savage Lane. The motion carried.

Consideration of an Agreement to Participate in Tax Increment Reinvestment Zone Number Two, Between the City of Lewisville and Denton County, and Authorization for the City Manager to Execute the Agreement

(Agenda Item H-16)

The agreement to participate in Tax Increment Reinvestment Zone Number Two, (an approximate 427 acre site located at the intersection of IH-35 and SH 121 adjacent to the upcoming DCTA rail stop) between the City of Lewisville and Denton County, establishes the terms and limitations in which the City and County will participate in the zone. The agreement covers duration and participation, increment participation by each taxing authority, bond limit, use of funds, deposit and collection of funds, limit of obligation by the county and county board representation.

The City staff's recommendation was that the City Council approve the agreement to participate in Tax Increment Reinvestment Zone, Number Two between the City of Lewisville and Denton County; and authorize the City Manager to execute the agreement.

Nika Reinecke, Economic Development Director, was present to respond to any questions posed by the City Council.

MOTION: Upon a motion made by Councilman Durham and seconded by Mayor Pro Tem Thornhill, the Council voted four (4) "ayes" and no (0) "nays" to approve an Agreement to participate in Tax Increment Reinvestment Zone Number Two, Between the City of Lewisville and Denton County, and authorized the City Manager to execute the agreement. The motion carried.

Consideration of a Request For a Variance to the Lewisville City Code, Article VIII, Off Street Parking, for Temporary Event Parking Located at the Southeast Corner of FM 3040 and Duncan Lane, as Requested by the Town of Flower Mound

(Agenda Item H-18)

The Town of Flower Mound is hosting an event titled "Wild About Flower Mound" on April 17, 2009 through April 18, 2009. The event will be held at Bakers Field Park in Flower Mound. A variance is being requested to allow a temporary grass parking lot, located in the City of Lewisville, on property owned by the Lewisville Independent School District. The proposed

parking area is located at the southeast corner of FM 3040 and Duncan Lane. Staff has met with representatives of the Town of Flower Mound and is in support of this request.

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

Jack Jones, 2121 Cross Timber Road, Flower Mound, Texas, 75028, was available for any questions posed by the City Council.

MOTION: Upon a motion made by Deputy Mayor Pro Tem Watts and seconded by Councilman Durham, the Council voted four (4) "ayes" and no (0) "nays" to approve a variance to the Lewisville City Code, Article VIII, Off Street Parking, for Temporary Event Parking located at the southeast corner of FM 3040 and Duncan Lane, as requested by the Town of Flower Mound. The motion carried.

**Tabled Item: Consideration of an
Appointment to Place No. 3 on the Library
Board**

(Agenda Item H-17)

At the March 16, 2009, City Council meeting, Council accepted the resignation of Marcia DeAvila from the Library Board. 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 consider an appointment to fill the vacancy created by the resignation of Marcia DeAvila from the Library Board.

MOTION: Upon a motion made by Deputy Mayor Pro Tem Watts and seconded by Councilman Ueckert, the Council voted four (4) "ayes" and no (0) "nays" to appoint Gloria Johnson to Place No. 3 of the Library Board. The motion carried.

Consideration of a Three Party Escrow Agreement to Allow Simultaneous Construction of Public and Private Infrastructure Improvements Requested by Peregrine Development; and Authorization for the City Manager, or His Designee, to Execute the Escrow Agreement

(Agenda Item H-19)

Peregrine Development is in the process of developing the Arthur James Addition, a multi-use commercial project site. The project includes public infrastructure improvements to include water and sanitary sewer with an estimated value of \$215,619. Waterside Hospitality Inc. has purchased a 1.98 acre tract from the developer for a Candlewood Suites extended stay hotel and is anxious to begin site improvements in order to secure financing for the project by a lender imposed March 31 deadline. The Candlewood site is located at the northwest corner of the property with access to I-35 Frontage Road. Peregrine Development is responsible for construction of the offsite public water and sewer to the Candlewood site. The developer is seeking a variance to obtain engineering site plan approval, a building permit and simultaneous construction of public offsite and private onsite improvements including building construction. No building permit will be issued for vertical construction beyond the foundation until mandated fire and life safety features such as fire access lanes and functional fire hydrants are completed and pass inspection. In addition, staff recommends several conditions to be included in a development agreement between the City, Peregrine and Waterside.

The City staff's recommendation was that the City Council consider the Three-Party Escrow Agreement to allow simultaneous construction of public and private infrastructure improvements; and, if approved, authorize the City Manager, or his designee, to execute the agreement subject to execution of a development agreement specifying certain conditions for Peregrine and Waterside.

David Salmon, Assistant City Engineer, was present reviewed this item with the City Council.

At the request of Mayor Carey, City Manager Claude King reviewed this agenda item with the City Council. He referenced the memo that had been handed out during the workshop session regarding the development agreement and advised the City Council could either table or deny this item.

Discussion was held regarding the March 31st deadline that the proponent had referenced in his request letter. Arthur James, 1017 Colonial Drive, Coppell Texas advised that he had been able get the financing extended a little bit past today. Mr. James advised that he had discussed

the request that City staff had and was willing to execute a document once he received one.

Proponent Ray Patel, advised that the term for his loan has certain milestones that he must meet in this economy and the lenders are more than willing to allow loans to go and not to fund and as he misses those milestones it gives the bank more leverage to not fund his loan.

Councilman Ueckert advised that he did not want to prohibit this project; however, he wanted City staff to have enough time to get the information that the City needs and he was not comfortable with just a verbal commitment. Deputy Mayor Pro Tem Watts advised that he agreed with Councilman Ueckert and wanted something in writing before approving this item.

MOTION: Upon a motion made by Deputy Mayor Pro Tem Watts and seconded by Councilman Durham, the Council voted four (4) “ayes” and no (0) “nays” to table this item to the April 20, 2009, City Council meeting to allow City staff and the parties involved to work together to bring something in writing regarding the conditions back to the City Council. The motion carried.

Report

(Agenda Item I)

- 2009 First Quarter Boards/Commissions/Committees Attendance Reports

There were no additional reports at this time.

Mayor Carey adjourned the regular session of the Lewisville City Council into Closed Session at 8:33 p.m. Monday, April 6, 2009, 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 8:35 p.m. on Monday, April 6, 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 8:50 p.m. on Monday, April 6, 2009.

**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 8:50 p.m. on Monday, April 6, 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 L)

MOTION: Upon a motion made by Councilman Durham and seconded by Councilman Ueckert, the Council voted four (4) “ayes” and no (0) “nays” to adjourn the Regular Session of the Lewisville City Council at 8:50 p.m. on Monday, April 6, 2009. The motion carried.

These minutes approved by the Lewisville City Council on the 20th day of April, 2009.

APPROVED

Gene Carey
MAYOR

ATTEST:

Julie Heinze
CITY SECRETARY