

LEWISVILLE CITY COUNCIL

REGULAR SESSION

APRIL 20, 2009

Present:

Gene Carey, Mayor (arrived at 5:38 p.m.)

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 – 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 Pro Tem Thornhill at 5:36 p.m. on Monday, April 20, 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.

DCTA Rail Crossing Closures

(Agenda Item A)

Boro Dedeitch with Parsons Transportation Group and Robert Kennah, URS Corporation, Senior Track Engineer addressed the City Council and advised high risk crossings had been identified for Denton County Transportation Authority rail crossings. They advised they would be reviewing three of those for the City Council and conducted the following PowerPoint regarding DCTA Rail Crossing Closures and requested City Council recommendations following the presentation:

WORKSHOP SESSION – 5:30 P.M.

DCTA Rail Crossing Closures (cont'd)

(Agenda Item A)

DCTA Street Crossing Closures

- Purnell Road
- Cowen Avenue
- Andes Metals Property Driveway

Purnell Road Justification

- Avoids new traffic signal very near to Business 121 signal
- Problematic coordination of railroad gates at two close intersections
- School bus crossing issues avoided

Mr. Dedeitch reviewed an aerial of the Purnell Road crossing and showed traffic counts taken at various times for this area. Mr. Dedeitch then reviewed the various options available mitigate traffic. Discussion was held regarding the various options.

Cowen Avenue Justification

- Closure of this crossing allows for extension of Valley Ridge crossing
- Eliminates need for unsignalized intersection near rail crossing
- Eliminates visibility issues of railroad gate flashers on Cowen Avenue

Mr. Dedeitch reviewed an aerial of the Cowen Avenue crossing and showed traffic counts taken at various times for this area. Mr. Dedeitch then reviewed the various options available mitigate traffic. Discussion was held regarding the various options.

Andes Metals Property Driveway Justification

- Large truck driveway cannot be properly gated without significant narrowing
- Truck movement across tracks impeded by Railroad Street traffic
- Mitigation offers property owner additional access to Purnell Road

Mr. Dedeitch reviewed an aerial of the Andes Metal Property Driveway crossing and showed traffic counts taken at various times for this area. Mr. Dedeitch then reviewed the various options available mitigate traffic. Discussion was held regarding the various options.

WORKSHOP SESSION – 5:30 P.M.

DCTA Rail Crossing Closures (cont'd)

(Agenda Item A)

The general consensus of the City Council was for the City and DCTA to work together contacting and working with the property owners to use options that will least affect the most property owners and business. The further consensus of the City Council was they did not see anything that show these areas should not be closed due to safety reasons.

WORKSHOP SESSION – 6:30 P.M.

**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, Proclamations, 1) Declaring the week of April 26-May 2, 2009, as “Denton County Crime Victims’ Rights Week”; 2) Declaring the week of April 27-May 2, 2009, as “National Cleaning for a Reason Week”; and 3) Declaring the week of April 17-May 1, 2009, as “Clean Your Files Event”. There was no discussion on these items.

Mayor Carey reviewed Agenda Item D-1, Public Hearing: Tabled Item: Consideration of Condemnation of the Structures Located at 339 East College Street, A1167A E. Sutton, Tract 19, Lewisville, Texas. City Manager King advised that up until today there had not been any progress. He stated that Building Official Cleve Joiner met with Mr. Sanchez today. City Manager King advised that staff is attempting to negotiate some progress guidelines and recommended that this item be tabled. Discussion was held that there had been some cleanup; however, there is still a lot to be done. There was no further discussion on this item.

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

Mayor Carey reviewed Agenda Item F-1, Approval of Minutes: City Council minutes of the April 6, 2009, 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 B)

Mayor Carey reviewed Agenda Item F-2, Approval of a Resolution Suspending the May 5, 2009, Effective Date of Texas-New Mexico Power Company's ("TNMP's") Requested Supplemental Application to Change Rates to Permit the City Time to Study the Request and to Establish Reasonable Rates; Finding That the Meeting at Which This Resolution is Passed is Open to the Public as Required by Law; Requiring Notice of This Resolution to the Company and Legal Counsel. Mayor Carey advised that he wanted this item pulled from Consent and discussed in open session. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item F-3, Approval of an Interlocal Agreement Between the City of Lewisville, the City of Denton, the Town of Flower Mound, the City of The Colony, the Town of Little Elm and the County of Denton to Jointly Submit a Grant Application to the United States Department of Justice Under the Justice Assistance Grant Program; 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 F-4, Approval of Acceptance of the Texas Department of Transportation Grant Award in the Amount of \$5,029 for the Seat Belt Enforcement Program; Approval of a Supplemental Budget Appropriation in the Amount of \$5,029 to the Fiscal Year 2008-2009 Grant Fund; 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 F-5, Approval to Extend the Collections Contract Between the City of Lewisville and McCreary, Veselka, Bragg and Allen, P.C., Hereinafter Styled, "MVBA" for Collection of Outstanding Fines, Fees, Court Costs, Forfeited Bonds, Restitution and Other Amounts in Accordance With Article 103.0031, Texas Code of Criminal Procedure. 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 B)

Mayor Carey reviewed Agenda Item G-6, Consideration of a Request for Two Variances to the Lewisville City Code - Chapter 9.5, Old Town Development Relating to a Proposed Engineering Site Plan for The Lewisville Center for the Creative Arts Located at 201 West Main Street. Mayor Pro Tem Ueckert requested that the two driveways be looked out along with the possibility of reducing the speed limit along this area. Discussion was held regarding taking this issue to the Transportation Board and let them make a recommendation. City Manager King advised that the City could conduct a warrant study and see what it says to determine whether the speed needs to be lowered. Mayor Pro Tem Ueckert pointed out that the City was trying to increase pedestrian traffic in this area and he was concerned about the safety issue. There was no further discussion on this item.

Mayor Carey reviewed Agenda Item G-7, Tabled Item: 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. There was no discussion on this item.

Mayor Carey reviewed Agenda Item G-8, Consideration of Appointment of the Board of Directors of the Tax Increment Reinvestment Zone, Number Two and Appointment of a Chairperson. Discussion was held regarding Mayor Carey talking with the applicants and appointing his Board at the May 4, 2009, City Council meeting. There was no further 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 6:42 p.m. on Monday, April 20, 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 20, 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 Ueckert gave the pledge to the flag.

**Proclamation: Declaring the Week of April
26 – May 2, 2009, as “Denton County Crime
Victims’ Rights Week”**

(Agenda Item C-1)

Mayor Carey read and presented a proclamation declaring the week of April 26 – May 2, 2009, as “Denton County Crime Victims’ Rights Week” to Officer Charlene Collins.

**Proclamation: Declaring the Week of April
27 – May 2, 2009 as “National Cleaning For a
Reason Week.”**

(Agenda Item C-2)

Mayor Carey requested that the proclamation declaring the week of April 27 – May 2, 2009, as “National Cleaning for a Reason Week” be mailed to the requestor.

**Proclamation: Declaring the Week of April
17, 2009 – May 1, 2009, as “Clean Your Files
Event”**

(Agenda Item C-3)

Mayor Carey read and presented a proclamation declaring the week of April 17 – May 1, 2009, as “Clean Your Files Event” to City of Lewisville Records Management Technician Denise Hosack.

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

(Agenda Item D)

This item was tabled at the April 20, 2009, City Council meeting at the request of City staff to allow for additional publication in the City's paper of record. The Building Official has deemed the structures located at the property known by the legal description of 339 East College Street, A1167A E. Sutton, and 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. Staff has recently come to an agreement for possible resolution. After an on-site meeting held April 9, 2009, between staff and the Sanchez', the resident agreed to have all unsightly material removed from the property by April 20, 2009. In addition, they agreed to apply for appropriate building permits and begin demolition of the substandard structure by April 20, 2009. 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 indefinitely.

Mayor Carey opened the public hearing.

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

MOTION: Upon a motion made by Councilman Durham and seconded by Councilman Tierney, the Council voted five (5) "ayes" and no (0) "nays" to continue the public hearing to the June 1, 2009, City Council meeting. The motion carried.

Visitors/Citizens Forum

(Agenda Item E)

Jack Jones, 2121 Cross Timber Road, Flower Mound, Director of Parks for the Town of Flower Mound spoke before the City Council and thanked them for approving the requested variance for the Wild About Flower Mound Event.

No one else appeared to speak at this time.

CONSENT AGENDA

(Agenda Item F)

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

1. Consent Agenda Item No. 2 – Approval of a Resolution Suspending the May 5, 2009 Effective Date of Texas-New Mexico Power Company's ("TNMP'S") Requested Supplemental Application to Change Rates to Permit the City Time to Study the Request and to Establish Reasonable Rates; Finding That the Meeting at Which This Resolution is Passed is Open to the Public as Required by Law; Requiring Notice of This Resolution to the Company and Legal Counsel

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

1. Approval of Minutes: City Council Minutes of the April 6, 2009, Workshop Session and Regular Session.
3. Approval of an Interlocal Agreement Between the City of Lewisville, the City of Denton, the Town of Flower Mound, the City of The Colony, the Town of Little Elm and the County of Denton to Jointly Submit a Grant Application to the United States Department of Justice Under the Justice Assistance Grant Program; and Authorization for the City Manager or his Designee to Execute the Agreement.
4. Approval of Acceptance of the Texas Department of Transportation Grant Award in the Amount of \$5,029 for the Seat Belt Enforcement Program; Approval of a Supplemental Budget Appropriation in the Amount of \$5,029 to the Fiscal Year 2008-2009 Grant Fund; and Authorization for the City Manager or his Designee to Execute the Grant Agreement.
5. Approval to Extend the Collections Contract Between the City of Lewisville and McCreary, Veselka, Bragg and Allen, P.C., Hereinafter Styled, "MVBA" for Collection of Outstanding Fines, Fees, Court Costs, Forfeited Bonds, Restitution and Other Amounts in Accordance With Article 103.0031, Texas Code of Criminal Procedure.

The motion carried.

END OF CONSENT AGENDA

**Approval of Resolution No. 3671-04-2009:
Suspending the May 5, 2009 Effective Date of
Texas-New Mexico Power Company's
("TNMP'S") Requested Supplemental
Application to Change Rates to Permit the
City Time to Study the Request and to
Establish Reasonable Rates; Finding That
the Meeting at Which This Resolution is
Passed is Open to the Public as Required by
Law; Requiring Notice of This Resolution to
the Company and Legal Counsel.**

(Consent Agenda Item F-2)

Texas-New Mexico Power Company ("TNMP") filed an application on August 29, 2008, with cities retaining original jurisdiction seeking to increase system-wide transmission and distribution rates by \$8.7 million. In December, the Company requested an abatement of the case in order for them to update their filing to include costs associated with Hurricane Ike and to update their cost of debt request. On March 31, 2009, the Company filed a Supplemental Application and Statement of Intent to Change Rates. In the Supplemental Application, the Company requests a net increase of approximately \$18.2 million over current rates, or an 11.75% overall increase. Because the Company is seeking a larger rate increase in the Supplemental Application, they are required to file the case with all cities having original jurisdiction. The resolution suspends the May 5, 2009, effective date of the Company's rate increase for the maximum period permitted by law to allow the City, working in conjunction with other cities served by TNMP, to evaluate the filing, determine whether the filing complies with law, and if lawful, to determine what further strategy, including settlement, to pursue.

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

At the request of Mayor Carey, City Manager Claude King reviewed this agenda item with the City 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 approve and adopt **Resolution No. 3671-04-2009**, as captioned previously. The motion carried.

**Consideration of a Request for Two
Variances to the Lewisville City Code-
Chapter 9.5, Old Town Development
Relating to a Proposed Engineering Site
Plan for The Lewisville Center for the
Creative Arts Located at 201 West Main
Street**

(Agenda Item H-6)

The subject 2.256 acre property is the proposed site for the Lewisville Center for the Creative Arts and is owned by the City of Lewisville. An Old Town Development Plan for the Arts Center is being reviewed by staff and complies with the Old town Development Ordinance with the exception of two variances, a) to allow head-in parking within the right of way on an arterial street for a commercial use; and b) to allow 20-foot spacing between commercial driveways on adjacent properties along an arterial street. The property is zoned Public Use (PU) and is located within the Old Town Design District.

The City staff's recommendation was that the City Council consider the request for two variances to the Lewisville City Code – Chapter 9.5, Old Town Development relating to a proposed engineering site plan for the Lewisville center for the Creative Arts located at 201 W. Main Street.

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

At the request of Mayor Carey, City Manager Claude King reviewed this agenda item with the City Council.

Councilman Ueckert requested that the Transportation Board review the 25 mph speed limit from Charles Street to Mill Street and see if the speed limit back to Herod Street should be lowered due to the increased pedestrian foot traffic in this area. He further requested that while the required number of spaces for handicap are being provided that review be done to see if there is more of a need for additional spaces and suggested they could be added on the west end of the building.

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 the following two variances to the Lewisville City Code- Chapter 9.5, Old Town Development Relating to a Proposed Engineering Site Plan for The Lewisville Center for the Creative Arts located at 201 West Main Street: a) to allow head-in parking within the right of way on an arterial street for a commercial use; and b) to allow 20-foot spacing between commercial driveways on adjacent properties along an arterial street. The motion carried.

Tabled Item: 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-7)

This item was tabled at the April 6, 2009 City Council meeting for staff to obtain additional information. 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. 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. Since the last Council meeting the developer has stated that the variance is no longer needed.

The City staff's recommendation was that the City Council table this item indefinitely.

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 Mayor Pro Tem Thornhill and seconded by Deputy Mayor Pro Tem Watts, the Council voted five (5) "ayes" and no (0) "nays" to table this item indefinitely. The motion carried.

**Consideration of Appointment of the Board
of Directors of the Tax Increment
Reinvestment Zone, Number Two and
Appointment of a Chairperson**

(Agenda Item H-8)

On October 20, 2008, City Council approved an ordinance creating Tax Increment Reinvestment Zone, Number Two, for the City of Lewisville, pursuant to Chapter 311 of the Texas Tax Code, and created a Board of Directors for this Zone. The Board of Directors will have seven members, with Positions One through Five to be appointed by the City Council and Places 6 and 7 to be appointed by Denton County. The Board will be responsible for approving a final Project Plan, Financing Plan, Budget and other documents that it deems necessary. Data sheets of applicants interested in being appointed to this board have been included for City Council consideration.

The City staff's recommendation was that the City Council appoint Tax Increment Reinvestment Zone, Number Two, Board members to Positions One through Five, and appoint a Chairperson for 2009.

Sarah McLain, Economic Development Specialist was present to respond to any questions posed by the City Council.

Deputy Mayor Pro Tem Watts requested that Mayor Carey meet with the five applicants and determine who should be appointed as chairman.

MOTION: Upon a motion made by Deputy Mayor Pro Tem Watts and seconded by Councilman Tierney, the Council voted five (5) "ayes" and no (0) "nays" to table this item to the May 4, 2009, City Council meeting. The motion carried.

Mayor Carey adjourned the regular session of the Lewisville City Council into Closed Session at 7:20 p.m. Monday, April 20, 2009, in accordance with the requirements of the Open Meetings Law.

Closed Session

(Agenda Item I)

In accordance with Texas Government Code, Subchapter D, Section 551.072 (Real Estate), the Lewisville City Council convened into Closed Session at 7:20 p.m. on Monday, April 20, 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 7:40 p.m. on Monday, April 20, 2009.

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

(Agenda Item J)

Mayor Carey reconvened the Regular Session of the Lewisville City Council at 7:40 p.m. on Monday, April 20, 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 K)

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 7:40 p.m. on Monday, April 20, 2009. The motion carried.

These minutes approved by the Lewisville City Council on the 4th day of May, 2009.

APPROVED

Gene Carey
MAYOR

ATTEST:

Julie Heinze
CITY SECRETARY