

LEWISVILLE CITY COUNCIL

REGULAR SESSION

AUGUST 3, 2009

Present:

Dean Ueckert, Mayor

Council Members:

Lathan Watts, Mayor Pro Tem
Rudy Durham, Deputy Mayor Pro Tem
Greg Tierney
David Thornhill
John Gorena

City Staff:

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

WORKSHOP SESSION – 6:00 P.M.

With a quorum of the Council Members present, the workshop session of the Lewisville City Council was called to order by Mayor Ueckert at 6:00 p.m. on Monday, August 3, 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 Regarding Sustainable Materials
Ordinance (Requested by Councilman
Watts)**

(Agenda Item A)

City Manager King advised that workshop was to review materials that could last a long time and clarified that what was being presented was the difference in materials and how long they last and how much effort is required to keep them looking good over time.

Building Official Cleave Joiner conducted a PowerPoint Presentation as follows:

**Discussion Regarding Sustainable Materials
Ordinance (Requested by Councilman
Watts) (cont'd)**

(Agenda Item A)

Cementitious Fiber Products

- Polymerized Process
 - Portland Cement
 - Fly Ash
 - Granulated Slag
 - Silica Fume

Mr. Joiner reviewed a slide regarding Polymerized Building Materials and used an example of sustainability as the Coliseum – Rome, Italy and longevity as the Pyramids - Giza Necropolis, Egypt.

Cementitious Fiber Products PROS

- Reduction in the amount of 'greenhouse' gases
- Re-used materials and byproducts from other processes
- Lower reliance on quarrying material
- Longevity of Product

Cementitious Fiber Products CONS

- Portland Cement is Energy Intensive
- Wood Fibers from Non-Approved Locations
- Installation Issues
- Maintenance Issues
- Low Recycle Content

Solid Wood - PROS

- Easy to repair and install
- Durable - When Maintained
- Takes Stain and Paint Well
- Natural -Environmentally friendly
- Biodegradable w/o Preservatives

Solid Wood - CONS

- Regular Maintenance
- Requires Painting or Staining
- May Foster Growth of Algae, Mildew & Moss
- Untreated Can Promote Rot & Deterioration
- May Be From Unsustainable Forest

**Discussion Regarding Sustainable Materials
Ordinance (Requested by Councilman
Watts) (cont'd)**

(Agenda Item A)

Vinyl Siding - PROS

- Very Popular
- Easy to Maintain—Low Maintenance - No Paint
- Comes in a Variety of Colors
- Very Cost Effective
- Doesn't Rot

Vinyl Siding - CONS

- May be Damaged by Severe Storms or Heat (think BBQ)
- Limited Range of Colors Available
- PVC Vinyl Releases Toxic Dioxin When it is Burned
- Environmentally Unsatisfactory
- Relatively Difficult to Repair

Aluminum Siding - PROS

- Durable
- Low Maintenance
- Aluminum is Good in Coastal Environments
- Can be Damaged Where Hail is a Problem
- Recyclable

Aluminum Siding - CONS

- Limited Colors Available
- More Costly Than Vinyl
- Relatively Difficult to Repair
- Poor Insulation Qualities
- Energy Intensive to Make
- Environmental Impacts – Mining Ore

Stucco - PROS

- Variety of Systems Available
- Long Lasting
- Generally Low Maintenance
- Distinctive Appearance

**Discussion Regarding Sustainable Materials
Ordinance (Requested by Councilman
Watts) (cont'd)**

(Agenda Item A)

Stucco Siding - CONS

- Expensive
- Synthetic Stucco has a History of Moisture Problems
- Requires Professional Installation

What Do Other Cities Do?

	Solid Wood	Vinyl	Stucco	Aluminum	Fiberboard	Cement Fiber
Arlington	Allowed		Allowed			Allowed
Aledo	Allowed					Allowed
North Richland Hills		Allowed	Allowed	Allowed		Allowed
Grand Prairie	Allowed		Allowed	Allowed		Allowed
Midlothian	Allowed					Allowed
Duncanville	Allowed	Allowed	Allowed	Allowed		Allowed
Little Elm	Allowed					Allowed
Lewisville	Allowed*	Allowed	Allowed	Allowed		Allowed*
*Old Town						

Materials Allowed on Remaining Surfaces Beyond Masonry Requirements

Cementitious Fiber Products

- RECOMMENDATIONS
 - No Changes to the GDO
 - Staff Research ‘Green Build’ Ordinances

The consensus of the City Council was to proceed with City staff recommendations.

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

(Agenda Item B)

Mayor Ueckert advised that he would be moving Agenda Item No. 7 to the first item on the agenda as it would be better for the City Council to make a decision on this item prior to making a decision on the zoning change request for Public Hearing No. 1.

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

Mayor Ueckert reviewed Agenda Item B, Pledge to the American and Texas Flags. There was no discussion on this item.

Mayor Ueckert reviewed Agenda Item C-1, Continued Public Hearing: Consideration of an Ordinance for a Zone Change Request From Townhouse Two (TH-2) to 3.65 Acres of Medical District (MD) and 2.50 Acres of Office District (OD) on a 6.15 Acre Tract Located at the Northeast Corner of Rockbrook Drive and Highland Drive; Further Identified as The Manors at Vista Ridge II Addition, in its Entirety; as Requested by Churchill Residential Inc., on Behalf of the Property Owners (Case No. PZ20090608). There was no discussion on this item.

Mayor Ueckert reviewed Agenda Item C-2, Public Hearing: Consideration of a Resolution Authorizing the Adoption of the Community Development Block Grant (CDBG) 2009 Annual Action Plan; Authorization for the City Manager to Submit the Plan to the U.S. Department of Housing and Urban Development; and Consideration of Amendments to the 2008 Annual Action Plan Allocating an Additional \$40,000 to the Day Stay for Adults Facility and \$20,000 to the First-Time Homebuyer Assistance Program. Councilman Gorena advised that he would prefer to see funds being directed more toward sticks and bricks. City Manager King advised that additional funding could be directed toward sticks and bricks; however, there were limitations on how much could be given to the social service agencies. Discussion was held regarding funding of social service agencies and the history behind their funding. City Manager King pointed out that over the years the CDBG Committee has been reasonably successful in taking a more balanced approach between social service agency funding and the bricks and sticks funding. Mayor Ueckert stated that he felt the CDBG Committee has done a great job. There was no further discussion on this item.

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

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

(Agenda Item B)

Mayor Ueckert reviewed Agenda Item E-3, Approval of Minutes: City Council Minutes of the July 20, 2009, Workshop Session and Regular Session. There was no discussion on this item.

Mayor Ueckert reviewed Agenda Item E-4, Approval of Revisions to Administrative Policy 2.12.2 – Holiday. At the request of Mayor Ueckert, City Manager King explained the history of this item. There was no further discussion on this item.

Mayor Ueckert reviewed Agenda Item E-5, Approval of the Award of Third Party Administration Services for the Health Plan to CIGNA HealthCare in the Amount of \$418,808 for a One Year Period With an Option to Renew for Two Additional One Year Periods; and Approval of the Award to CIGNA for Individual and Aggregate Stop Loss Insurance in the Amount of \$511,955; and Authorization for the City Manager to Execute all Necessary Documents. There was no discussion on this item.

Mayor Ueckert reviewed Agenda Item E-6, Approval of a Resolution Authorizing the City to Submit a Grant Application to the Texas Criminal Justice Division to Obtain Funding for Technological Initiative for Public Safety Projects; and Authorization for the City Manager or his Designee to Execute the Grant Application. There was no discussion on this item.

Mayor Ueckert reviewed Agenda Item E-7, Approval of a PILOT Agreement for Payment In Lieu Of Taxes for a Proposed Senior Independent Living Facility Located at the Northeast Corner of Rockbrook Drive and Highland Drive, as Submitted by Churchill Residential Inc.; and Authorization for the City Manager to Execute the Agreement. There was no discussion on this item.

Mayor Ueckert reviewed Agenda Item F-8, Consideration of a Variance to the Lewisville City Code, Chapter 6 – Land Use Regulations, Regarding Screening Walls for Edmonds Lane Bible Chapel Located at 1724 South Edmonds Lane, as Requested by the Property Owner. There was no discussion on this item.

Mayor Ueckert reviewed Agenda Item F-9, Consideration of an Interlocal Cooperation Agreement Between TxDOT and Five Cities to Obtain Reimbursement for the Operation and Maintenance of Traffic Signals; and Authorization for the City Manager to Execute the Agreement. City Manager King explained that City staff had received a new agreement for this item at 3:00 p.m. this afternoon. He advised that City staff was recommending that this item be tabled to allow staff time to review the new agreement. There was no further discussion on this item.

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

(Agenda Item B)

Mayor Ueckert reviewed Agenda Item F-10, Consideration of a Variance to the Lewisville City Code Section 2-201 Regarding Waiving the Special Event Permit Fees for the Annual Masonic Lodge Race for the Children 5K Run. There was no discussion on this item.

Mayor Ueckert reviewed Agenda Item F-11, Consideration of an Ordinance Approving a Settlement Agreement Between the TNMP Cities and Texas-New Mexico Power Company ("TNMP" or "Company") Regarding the Company's Statement of Intent to Change Electric Rates in all Cities Exercising Original Jurisdiction; Declaring Existing Rates to be Unreasonable; Adopting Tariffs That Reflect Rate Adjustments Consistent With the Settlement Agreement and Finding the Rates to be Set by the Attached Tariffs to be Just And Reasonable; Determining That This Ordinance was Passed in Accordance With the Requirements of the Texas Open Meetings Act; Declaring an Effective Date; Repealing any Prior Ordinances Inconsistent With This Ordinance; Requiring Delivery of This Ordinance to the Company and Legal Counsel; and Declaring an Emergency. Mayor Ueckert pointed out that in the administrative comments, the TNMP increase should be one point one million. City Manager King advised that the time frame on this item is much tighter than the Atmos item and needs to be done before the end of August. He further advised that if it goes to three readings, a called-special meeting would have to be held. There was no further discussion on this item.

Mayor Ueckert reviewed Agenda Item F-12, Second Reading: Consideration of an Ordinance Approving a Negotiated Resolution Between the Atmos Cities Steering Committee ("Steering Committee") and Atmos Energy Corp., Mid-Tex Division ("Company") Regarding the Company's Rate Review Mechanism Filing in all Cities Exercising Original Jurisdiction; Declaring Existing Rates to be Unreasonable; Requiring the Company to Reimburse Cities' Reasonable Ratemaking Expenses; Adopting Tariffs That Reflect Rate Adjustments Consistent With the Negotiated Settlement and Finding the Rates to be Set by the Attached Tariffs to be Just and Reasonable; Approving Atmos' Proof of Revenues; Adopting a Savings Clause; Determining That This Ordinance was Passed in Accordance With the Requirements of the Texas Open Meetings Act; Declaring an Effective Date; Requiring Delivery of This Ordinance to the Company and the Steering Committee's Legal Counsel. There was no discussion on this item.

Mayor Ueckert 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 6:50 p.m. on Monday, August 3, 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 Ueckert at 7:00 p.m. on Monday, August 3, 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 Ueckert, Mayor Pro Tem Watts gave the invocation.

Pledge to the American and Texas Flags

(Agenda Item B)

Mayor Ueckert gave the pledge to the flags.

Mayor Ueckert advised that Consent Agenda Item E-7 would be removed from the Consent Agenda for individual consideration at this time.

Approval of a PILOT Agreement for Payment In Lieu Of Taxes for a Proposed Senior Independent Living Facility Located at the Northeast Corner of Rockbrook Drive and Highland Drive, as Submitted by Churchill Residential Inc.; and Authorization for the City Manager to Execute the Agreement

(Consent Agenda Item E-7)

Churchill Residential plans on constructing an assisted living or independent living facility restricted to persons age 55 and older on a 3.48 acre tract listed on tonight's City Council agenda for zoning to Medical District. Because of the method being used for financing, the facility will be tax exempt. As they have on previous developments, Churchill has offered to make a Payment In Lieu Of Taxes, or PILOT Agreement. The PILOT Agreement proposes to make a payment to the City of Lewisville no later than January 31 each year equal to all of the city ad valorem taxes that would normally be due based on the appraised value of the property. This agreement is virtually the same as previously approved by the City when previously offered by Churchill Residential on other properties. The agreement continues in effect until payment is made for the year 2049. Anthony Sisk, principal of Churchill Residential, Inc., has notified staff that closing on the property will not happen until December 2009. Therefore, Churchill has agreed to withhold building permits until such time that the agreement can be executed by Churchill.

Approval of a PILOT Agreement for Payment In Lieu Of Taxes for a Proposed Senior Independent Living Facility Located at the Northeast Corner of Rockbrook Drive and Highland Drive, as Submitted by Churchill Residential Inc.; and Authorization for the City Manager to Execute the Agreement (cont'd)

(Consent Agenda Item E-7)

That the City Council accept the PILOT Agreement offered by Churchill Residential, subject to approval of the proposed change in zoning that will allow the construction of the proposed senior housing project and; authorize the City Manager to execute the agreement; however, withhold building permits until the PILOT Agreement is fully executed by Churchill Residential, Inc.

MOTION: Upon a motion made by Deputy Mayor Pro Tem Durham and seconded by Councilman Gorena, the Council voted five (5) “ayes” and no (0) “nays” to approve a PILOT Agreement for Payment In Lieu Of Taxes for a proposed Senior Independent Living Facility located at the northeast corner of Rockbrook Drive and Highland Drive, as submitted by Churchill Residential Inc.; and authorized the City Manager to execute the agreement. The motion carried.

Public Hearing: Continued Public Hearing: Consideration of Ordinance No. 3698-08-2009(Z) for a Zone Change Request From Townhouse Two (TH-2) to 3.65 Acres of Medical District (MD) and 2.50 Acres of Office District (OD) on a 6.15 Acre Tract Located at the Northeast Corner of Rockbrook Drive and Highland Drive; Further Identified as The Manors at Vista Ridge II Addition, in its Entirety; as Requested by Churchill Residential Inc., on Behalf of the Property Owners (Case No. PZ20090608)

(Agenda Item C-1)

This item was continued at the July 20th City Council meeting. Churchill Residential is proposing an independent living facility for seniors on the Medical District (MD) portion of the site. In order to qualify for MD zoning the apartments must have an age restriction allowing only senior citizens as well as provide a level of senior programs not typically found in standard garden apartments. The Office District zoning is a more restrictive zoning category allowing

**Public Hearing: Continued Public Hearing:
Consideration of Ordinance No. 3698-08-
2009(Z) for a Zone Change Request From
Townhouse Two (TH-2) to 3.65 Acres of
Medical District (MD) and 2.50 Acres of
Office District (OD) on a 6.15 Acre Tract
Located at the Northeast Corner of
Rockbrook Drive and Highland Drive;
Further Identified as The Manors at Vista
Ridge II Addition, in its Entirety; as
Requested by Churchill Residential Inc., on
Behalf of the Property Owners (Case No.
PZ20090608) (cont'd)**

(Agenda Item C-1)

professional administrative offices, medical and dental offices, churches, schools and government uses. It does not allow outside storage. The site is contiguous to Rockbrook Elementary and Rockbrook Montessori Schools. Vista Ridge Estates, a single-family residential subdivision, is directly across the street, and The Hearthstone, an assisted living facility, is located diagonally across the intersection. The proposed uses would complement the existing uses in that area. The Planning and Zoning Commission voted in favor of this request (6-0) on June 2, 2009.

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 Townhouse Two (TH-2) to Office District (OD) and Medical District (MD).

Mayor Ueckert opened the public hearing.

Gene Lewis, Planning and Community Services Manager, Brad Forslund with Churchill Residential, and Karl Crawley with Masterplan Consultants, were all present to respond to any questions posed by the City Council.

MOTION: Upon a motion made by Councilman Tierney and seconded by Mayor Pro Tem Watts, the Council voted five (5) "ayes" and no (0) "nays" to close the public hearing. The motion carried.

**Public Hearing: Continued Public Hearing:
Consideration of Ordinance No. 3698-08-
2009(Z) for a Zone Change Request From
Townhouse Two (TH-2) to 3.65 Acres of
Medical District (MD) and 2.50 Acres of
Office District (OD) on a 6.15 Acre Tract
Located at the Northeast Corner of
Rockbrook Drive and Highland Drive;
Further Identified as The Manors at Vista
Ridge II Addition, in its Entirety; as
Requested by Churchill Residential Inc., on
Behalf of the Property Owners (Case No.
PZ20090608) (cont'd)**

(Agenda Item C-1)

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 6.15 Acre Tract of Land Fully and Completely Described in the Attached Exhibit "A", Ordering a Change in the Use of Said Property From Townhouse Two (TH-2) District Zoning to Medical (MD) District Zoning and Office (OD) District 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 Councilman Thornhill and seconded by Deputy Mayor Pro Tem Durham, the Council voted five (5) "ayes" and no (0) "nays" to approve and adopt **Ordinance No. 3698-08-2009(Z)**, as previously captioned. The motion carried.

Public Hearing: Consideration of Resolution No. 3699-08-2009(R) Authorizing the Adoption of the Community Development Block Grant (CDBG) 2009 Annual Action Plan; Authorization for the City Manager to Submit the Plan to the U.S. Department of Housing and Urban Development; and Consideration of Amendments to the 2008 Annual Action Plan Allocating an Additional \$40,000 to the Day Stay for Adults Facility and \$20,000 to the First-Time Homebuyer Assistance Program

(Agenda Item C-2)

An Annual Action Plan must be adopted by the City of Lewisville and submitted to the U.S. Dept. of Housing and Urban Development (HUD) as a requirement to receive Community Development Block Grant (CDBG) funds of \$582,076 in FY 2009-2010. Committee recommendations were approved by City Council on July 20, 2009 in the form of a draft budget for inclusion in the Plan. The Plan was made available for a 30 day Public Comment period and is now ready for a Public Hearing before adoption. The CDBG Advisory Committee recommended adoption of the plan at its July 21, 2009 meeting by a vote of 4 to 0. The Annual Action Plan must be submitted to HUD by August 15, 2009. The Plan and public notices also include amendments authorizing an additional \$40,000 to be allocated to the Day Stay for Adults Facility Project for a fire safety system and \$20,000 to the First-time Homebuyer Program to complete the current 2008 Annual Action Plan year.

The City staff's recommendation was that the City Council approve the resolution adopting the 2009 Community Development Block Grant Annual Action Plan; authorize the City Manager to submit the plan to the U.S. Department of Housing and Urban Development; and consider amendments to the 2008 Annual Action Plan allocating an additional \$40,000 to the Day Stay for Adults Facility and \$20,000 to the First-time Homebuyer Assistance Program.

Mayor Ueckert opened the public hearing.

At the request of Councilman Gorena, Jamey Kirby, Grants Coordinator, reviewed this agenda item and offered to answer questions posed by the City Council. Discussion was held regarding housing rehabilitation.

MOTION: Upon a motion made by Mayor Pro Tem Watts and seconded by Councilman Tierney, the Council voted five (5) "ayes" and no (0) "nays" to close the public hearing. The motion carried.

Public Hearing: Consideration of Resolution No. 3699-08-2009(R) Authorizing the Adoption of the Community Development Block Grant (CDBG) 2009 Annual Action Plan; Authorization for the City Manager to Submit the Plan to the U.S. Department of Housing and Urban Development; and Consideration of Amendments to the 2008 Annual Action Plan Allocating an Additional \$40,000 to the Day Stay for Adults Facility and \$20,000 to the First-Time Homebuyer Assistance Program

(Agenda Item C-2)

MOTION: Upon a motion made by Councilman Gorena and seconded by Councilman Thornhill, the Council voted five (5) “ayes” and no (0) “nays” to approve and adopt **Resolution No. 3699-08-2009(R)**, A Resolution of the City Council of the City of Lewisville, Texas, Providing for the Adoption of the 2009 Annual Action Plan, as Required by the U.S. Department of Housing and Urban Development (HUD). The motion carried.

Visitors/Citizens Forum

(Agenda Item D)

Dennis DeVaney, 1818 El Paso Street, Lewisville, Texas, spoke before the City Council regarding his concerns about City properties being watering during the heat of the day and wasting water. He stated that he felt that the City should be setting an example and not wasting water.

No one else appeared to speak at this time.

CONSENT AGENDA

(Agenda Item E)

MOTION: Upon a motion made by Councilman Thornhill and seconded by Mayor Pro Tem Watts, 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:

3. APPROVAL OF MINUTES: City Council Minutes of the July 20, 2009 Workshop Session and Regular Session.
4. Approval of Revisions to Administrative Policy 2.12.2 – Holiday.

CONSENT AGENDA (cont'd)

(Agenda Item E)

5. Approval of the Award of Third Party Administration Services for the Health Plan to CIGNA HealthCare in the Amount of \$418,808 for a One Year Period With an Option to Renew for Two Additional One Year Periods; and Approval of the Award to CIGNA for Individual and Aggregate Stop Loss Insurance in the Amount of \$511,955; and Authorization for the City Manager to Execute all Necessary Documents.
6. Approval of a **Resolution No. 3700-08-2009(R)**: A Resolution of the City Council of the City of Lewisville, Texas, Authorizing the City to Apply for a Grant From the Office of the Governor, Texas Criminal Justice Division for Technological Initiatives for Public Safety (Grant Number 2267901).

The motion carried.

END OF CONSENT AGENDA

**Consideration of a Variance to the Lewisville
City Code, Chapter 6 – Land Use
Regulations, Regarding Screening Walls for
Edmonds Lane Bible Chapel Located at 1724
South Edmonds Lane, as Requested by the
Property Owner**

(Agenda Item F-8)

The subject property is zoned Multi-Family, is platted and currently being used for a church. The owners are providing a new engineering site plan to facilitate the addition of a new 1560 sq. ft building which is to be used for classroom instruction. The church is requesting one variance: a) to waive the required screening wall. The applicant has spoken to the adjacent property owner, who has signed their letter indicating that they are in favor of the variance.

The City staff's recommendation was that the City Council approve the requested variance to waive the required screening wall.

Gene Lewis, Planning and Community Services Manager; Lawton Owen with Edmonds Lane Bible Chapel; and George John, Pastor of Edmonds Lane Baptist Church were all present to answer any questions posed by the City Council.

Consideration of a Variance to the Lewisville City Code, Chapter 6 – Land Use Regulations, Regarding Screening Walls for Edmonds Lane Bible Chapel Located at 1724 South Edmonds Lane, as Requested by the Property Owner (cont'd)

(Agenda Item F-8)

MOTION: Upon a motion made by Mayor Pro Tem Watts and seconded by Councilman Thornhill, the Council voted five (5) “ayes” and no (0) “nays” to approve the a variance to the Lewisville City Code, Chapter 6 – Land Use Regulations, Regarding Screening Walls for Edmonds Lane Bible Chapel located at 1724 South Edmonds Lane, as requested by the Property Owner to waive the required screening wall. The motion carried.

Consideration of an Interlocal Cooperation Agreement Between TxDOT and Five Cities to Obtain Reimbursement for the Operation and Maintenance of Traffic Signals; and Authorization for the City Manager to Execute the Agreement

(Agenda Item F-9)

This is a renewal of an agreement approved by Council on March 1, 1999. TxDOT procedures require cities with greater than 50,000 population to maintain traffic signals on state highways within their incorporated City limits. The Interlocal Cooperation Agreement allows the City of Lewisville to assist TxDOT in maintaining state traffic signals in The Colony, Coppell, Corinth, Hickory Creek and Lake Dallas which are less than 50,000 population. TxDOT benefits from this agreement because the City of Lewisville can respond faster than TxDOT crews operating out of Mesquite, Texas. The City of Lewisville benefits from the agreement because annual reimbursements exceed operating costs for this activity. The proposed Interlocal Cooperation Agreement increases annual reimbursements from \$3,702.75 to \$4,195 per year for the 14 traffic signals listed in the agreement. A new reimbursement rate of \$5,120 per year is also included in the agreement for two traffic signals in Corinth on IH35E that require additional control equipment.

The City staff’s recommendation was that the City Council approve the Interlocal Cooperation Agreement with TxDOT and five member cities to operate and maintain 16 traffic signals; and authorize the City Manager to execute the agreement.

John Black, Traffic Engineer, was present to respond to any questions posed by the City Council.

Consideration of an Interlocal Cooperation Agreement Between TxDOT and Five Cities to Obtain Reimbursement for the Operation and Maintenance of Traffic Signals; and Authorization for the City Manager to Execute the Agreement (cont'd)

(Agenda Item F-9)

MOTION: Upon a motion made by Councilman Tierney and seconded by Councilman Gorena, the Council voted five (5) “ayes” and no (0) “nays” to table this item to the August 17, 2009, City Council meeting. The motion carried.

Consideration of a Variance to the Lewisville City Code Section 2-201 Regarding Waiving the Special Event Permit Fees for the Annual Masonic Lodge Race for the Children 5K Run

(Agenda Item F-10)

The Lewisville Masonic Lodge No 201 is requesting City Council to waive permit fees in the amount of \$1,630.43 for the Annual Masonic Lodge Race for The Children 5K Run. The event will be held on Saturday, September 19, 2009. All requested City services are the same as last year’s race. The fees were paid in full at the 2005 event and a variance to all special event fees for the event was granted in 2006, 2007 and 2008.

The City staff’s recommendation was that the City Council approve waiving the special event permit fees in the amount of \$1,630.43.

MOTION: Upon a motion made by Mayor Pro Tem Watts and seconded by Deputy Mayor Pro Tem Durham, the Council voted five (5) “ayes” and no (0) “nays” to approve a variance to the Lewisville City Code Section 2-201 Regarding Waiving the Special Event Permit Fees for the Annual Masonic Lodge Race for the Children 5K Run to waive the special event permit fees in the amount of \$1,630.43. The motion carried.

Consideration of Ordinance No. 3701-08-2009 Approving a Settlement Agreement Between the TNMP Cities and Texas-New Mexico Power Company (“TNMP” or “Company”) Regarding the Company’s Statement of Intent to Change Electric Rates in all Cities Exercising Original Jurisdiction; Declaring Existing Rates to be Unreasonable; Adopting Tariffs That Reflect Rate Adjustments Consistent With the Settlement Agreement and Finding the Rates to be Set by the Attached Tariffs to be Just And Reasonable; Determining That This Ordinance was Passed in Accordance With the Requirements of the Texas Open Meetings Act; Declaring an Effective Date; Repealing any Prior Ordinances Inconsistent With This Ordinance; Requiring Delivery of This Ordinance to the Company and Legal Counsel; and Declaring an Emergency

(Agenda Item F-11)

The City, along with nine other cities served by Texas-New Mexico Power Company (“TNMP” or “Company”) is a member of a coalition referred to as TNMP Cities. Since June, TNMP Cities' members have worked with TNMP representatives to explore options to address TNMP's request to increase rates by \$24.4 million which includes \$18.2 million base rate increase plus \$1.1 associated with carrying charges on TNMP's stranded cost balance plus \$5.1 million related to Hurricane Ike costs. The Settlement Agreement will reduce the amount of increase as follows (48% reduction):

	Request	Amount	Settlement	Amount
Residential Base Rate (average)	31.31%	\$9.48	3.83%	\$1.10
Residential - Hurricane Ike 5 yr.		\$1.90		\$1.04
Commercial Base Rate (average)	93.92%	\$14.62	14.46%	\$1.91
Commercial - Hurricane Ike 5 yr.		\$1.95		\$0.87
Street Lighting Cost	88.43%		2.12%	

The City staff’s recommendation was that the City Council adopt the ordinance.

Consideration of Ordinance No. 3701-08-2009 Approving a Settlement Agreement Between the TNMP Cities and Texas-New Mexico Power Company (“TNMP” or “Company”) Regarding the Company's Statement of Intent to Change Electric Rates in all Cities Exercising Original Jurisdiction; Declaring Existing Rates to be Unreasonable; Adopting Tariffs That Reflect Rate Adjustments Consistent With the Settlement Agreement and Finding the Rates to be Set by the Attached Tariffs to be Just And Reasonable; Determining That This Ordinance was Passed in Accordance With the Requirements of the Texas Open Meetings Act; Declaring an Effective Date; Repealing any Prior Ordinances Inconsistent With This Ordinance; Requiring Delivery of This Ordinance to the Company and Legal Counsel; and Declaring an Emergency (cont'd

(Agenda Item F-11)

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, (“City”) Approving a Settlement Agreement Between the TNMP Cities and Texas-New Mexico Power Company (“TNMP” or “Company”) Regarding the Company’s Statement of Intent to Change Electric Rates in all Cities Exercising Original Jurisdiction; Declaring Existing Rates to be Unreasonable; Adopting Tariffs That Reflect Rate Adjustments Consistent With the Settlement Agreement and Finding the Rates to be set by the Attached Tariffs to be Just and Reasonable; Determining That This Ordinance was Passed in Accordance With the Requirements of the Texas Open Meetings Act; Declaring an Effective Date; Repealing any Prior Ordinances Inconsistent With This Ordinance; Requiring Delivery of This Ordinance to the Company and Legal Counsel; and Declaring an Emergency.

MOTION: Upon a motion made by Deputy Mayor Pro Tem Durham and seconded by Councilman Tierney, the Council voted five (5) “ayes” and no (0) “nays” to approve and adopt **Ordinance No. 3701-08-2009**, as captioned previously. The motion carried.

Second Reading: Consideration of an Ordinance Approving a Negotiated Resolution Between the Atmos Cities Steering Committee ("Steering Committee") and Atmos Energy Corp., Mid-Tex Division ("Company") Regarding the Company's Rate Review Mechanism Filing in all Cities Exercising Original Jurisdiction; Declaring Existing Rates to be Unreasonable; Requiring the Company to Reimburse Cities' Reasonable Ratemaking Expenses; Adopting Tariffs That Reflect Rate Adjustments Consistent With the Negotiated Settlement and Finding the Rates to be Set by the Attached Tariffs to be Just and Reasonable; Approving Atmos' Proof of Revenues; Adopting a Savings Clause; Determining That This Ordinance was Passed in Accordance With the Requirements of the Texas Open Meetings Act; Declaring an Effective Date; Requiring Delivery of This Ordinance to the Company and the Steering Committee's Legal Counsel

(Agenda Item F-12)

At the July 20, 2009, 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:

Second Reading: Consideration of an Ordinance Approving a Negotiated Resolution Between the Atmos Cities Steering Committee (“Steering Committee”) and Atmos Energy Corp., Mid-Tex Division (“Company”) Regarding the Company’s Rate Review Mechanism Filing in all Cities Exercising Original Jurisdiction; Declaring Existing Rates to be Unreasonable; Requiring the Company to Reimburse Cities’ Reasonable Ratemaking Expenses; Adopting Tariffs That Reflect Rate Adjustments Consistent With the Negotiated Settlement and Finding the Rates to be Set by the Attached Tariffs to be Just and Reasonable; Approving Atmos’ Proof of Revenues; Adopting a Savings Clause; Determining That This Ordinance was Passed in Accordance With the Requirements of the Texas Open Meetings Act; Declaring an Effective Date; Requiring Delivery of This Ordinance to the Company and the Steering Committee’s Legal Counsel (cont’d)

(Agenda Item F-12)

An Ordinance of the City Council of the City of Lewisville, Texas, (“City”) Approving a Negotiated Resolution Between the Atmos Cities Steering Committee (“ACSC” or “Steering Committee”) and Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex” or “Company”) Regarding the Company’s Rate Review Mechanism Filing in all Cities Exercising Original Jurisdiction Declaring Existing Rates to be Unreasonable; Requiring the Company to Reimburse Cities’ Reasonable Ratemaking Expenses; Adopting Tariffs That Reflect Rate Adjustments Consistent With the Negotiated Settlement and Finding the Rates to be Set by the Attached Tariffs to be Just and Reasonable; Approving Atmos’ Proof of Revenues; Adopting a Savings Clause; Determining That This Ordinance was Passed in Accordance With the Requirements of the Texas Open Meetings Act; Declaring an Effective Date; Requiring Delivery of This Ordinance to the Company and the Steering Committee’s Legal Counsel.

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

Mayor Ueckert adjourned the regular session of the Lewisville City Council into Closed Session at 7:29 p.m. Monday, August 3, 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 7:40 p.m. on Monday, August 3, 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 8:20 p.m. on Monday, August 3, 2009.

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

(Agenda Item H)

Mayor Ueckert reconvened the Regular Session of the Lewisville City Council at 8:20 p.m. on Monday, August 3, 2009, in the Council Chambers of the Lewisville City Hall.

Mayor Ueckert 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 Mayor Pro Tem Watts, the Council voted five (5) “ayes” and no (0) “nays” to adjourn the Regular Session of the Lewisville City Council at 8:20 p.m. on Monday, August 3, 2009. The motion carried.

These minutes approved by the Lewisville City Council on the 17th day of August, 2009.

APPROVED

Dean Ueckert
MAYOR

ATTEST:

Julie Heinze
CITY SECRETARY