

LEWISVILLE CITY COUNCIL

REGULAR SESSION

JUNE 21, 2010

Present:

Dean Ueckert, Mayor

Council Members:

Rudy Durham, Mayor Pro Tem
Greg Tierney, Deputy Mayor Pro Tem
David Thornhill
Lathan Watts
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 – 6:30 P.M.

With a quorum of the Council Members present, the workshop session of the Lewisville City Council was called to order by Mayor Ueckert at 6:30 p.m. on Monday, June 21, 2010, in the City Council Conference Room of the Lewisville City Hall, 151 West Church Street, Lewisville, Texas. All City Department Heads were in attendance.

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

(Agenda Item A)

Mayor 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, Visitors/Citizens Forum. There was no discussion on this item.

WORKSHOP SESSION – 6:30 P.M.

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

(Agenda Item A)

Mayor Ueckert reviewed Agenda Item D-1, Approval of Minutes, City Council Minutes of the June 7, 2010, Workshop Session and Regular Session. There was no discussion on this item.

Mayor Ueckert reviewed Agenda Item D-2, Approval of Final Acceptance of the Installation of a Traffic Signal Vehicle Detection System on SH 121 Business; and Authorization to Make Final Payment to Roadway Solutions, Inc., in the Amount of \$19,317.16. There was no discussion on this item.

Mayor Ueckert reviewed Agenda Item D-3, Approval of Acceptance of the FY 2009-2010 Texas Criminal Justice Assistance Grant; and Approval of a Supplemental Budget Appropriation in the Amount of \$11,428 to the FY 2009-2010 Grant Fund. There was no discussion on this item.

Mayor Ueckert reviewed Agenda Item D-4, Approval of a Contract Between the City of Lewisville and the Texas Department of Transportation for the Collection of Outstanding Fines and Other Amounts Pursuant to Section 702.003 of the Texas Transportation Code by Allowing the County Tax Assessor-Collector to Deny the Renewal of Vehicle Registration; and Authorization for the City Manager to Execute the Contract. Councilman Gorena advised that he wanted to pull this item from the Consent Agenda as he would be voting against this item. He explained that as an alumnus of the Lewisville Citizens Police Academy he makes courtesy phone calls for the Municipal Judge regarding warrants. He stated that over half of the individuals contacted are down on their luck in the worst way and he thinks if someone is trying to pay for their license plates this is going to be a domino effect on these people's lives. Councilman Gorena further stated that he knew some of these are not good people, but at least they are trying to pay what they can afford even with the economy. Discussion was held that Judge Holman does set up payment plans with individuals that are not able to pay their fines in full, or he will allow them to perform community service in some cases. Municipal Judge Brian Holman advised that once the population of Lewisville reaches 100,000, in order for the Model Collection Plan of the Office of Court Administration to be implemented; this will be one of the requirements. Councilman Gorena again expressed concern that this will have a domino effect on people and used an example of a gentleman that had a warrant issued for his arrest because he did not get his cat spayed. City Manager King and Municipal Court Judge Holman both advised that this would only be for moving violations, not spaying cats. Discussion was held regarding various fines that would be affected by this new rule. Mayor Ueckert pointed out that if they followed the law they would not have had a warrant issued for their arrest. Deputy Mayor Pro

WORKSHOP SESSION – 6:30 P.M.

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

(Agenda Item A)

Tem Tierney questioned if the Judge could, at his discretion, remove the flag. Judge Holman advised that he could; however, it would be somewhat of an administrative burden and would remove the incentive for an individual to take care of their fines. Councilman Gorena acknowledged that Judge Holman works with people; and whether the law was passed or not he felt it was a bad law that would create a domino effect. Police Chief Russ Kerbow advised that he was in favor of this and that he felt people should have to clear the warrant before getting their registration. Discussion was held that if someone with a warrant was stopped they would be sent to jail. Judge Holman advised that an individual would have a warrant issued for them prior to this program becoming effective. Mayor Ueckert questioned Judge Holman if an individual came in prior to a warrant being issued and advised they did not have the money and requested a payment plan or service program, could he work out an arrangement and not issue a warrant. Judge Holman advised that everything was subject to negotiation. Mayor Ueckert requested clarification from Judge Holman why an individual would have a warrant. Judge Holman indicated that it was typically because they did not respond to their promise to appear or to pay per their agreed upon arrangement. Councilman Gorena advised he still wanted this item pulled from the consent agenda. There was no further discussion on this item.

Mayor Ueckert reviewed Agenda Item D-5, Approval of an Economic Development Agreement Between the City of Lewisville and 229 Huffines Ltd; and Authorization for the City Manager to Execute the Agreement. There was no discussion on this item.

Mayor Ueckert reviewed Agenda Item D-6, Approval of an Agreement for Ad Valorem Tax Billing and Collection Between the City of Lewisville and Denton County for Fiscal Year 2010-11; and Authorization for the City Manager to Execute the Agreement. There was no discussion on this item.

Mayor Ueckert reviewed Agenda Item D-7, Approval of an Interlocal Agreement Between the City of Lewisville, the City of Denton, and the County of Denton to Jointly Submit a Grant Application to the U.S. 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.

WORKSHOP SESSION – 6:30 P.M.

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

(Agenda Item A)

Mayor Ueckert reviewed Agenda Item D-8, Approval of a Cooperation Agreement and Intent Memo With TVPUG Entertainment Allowing for the Teen Court Program to be Pitched to Television Networks. Councilman Watts questioned if Judge Holman anticipated any adjustments to the Teen Court Program if this agreement was approved. Judge Homan advised that if approved, he anticipated this would only enhance the program as well as provide additional revenue. He stated that it may change the day Teen Court is conducted and he thought it would be a win-win situation. There was no further discussion on this item.

Mayor Ueckert reviewed Agenda Item D-9, Approval of a Resolution Approving the Fiscal Year 2011 Financial Plan of the Denco Area 9-1-1 District. There was no discussion on this item.

Mayor Ueckert reviewed Agenda Item D-10, Approval of a Resolution Authorizing the City of Lewisville to Participate in a Voluntary Texas Commission on Environmental Quality Sanitary Sewer Overflow Initiative Program to Implement a Comprehensive Plan to Reduce Sanitary Sewer Overflows and Provide Exemption From TCEQ Enforcement Action on Overflows Affiliated With the Plan; Authorize the City to Enter Into an SSO Agreement With TCEQ; and Authorize the City Manager to Execute the Agreement. There was no discussion on this item.

Mayor Ueckert reviewed Agenda Item D-11, Approval of a Resolution Authorizing the Filing of a Project Application With the North Central Texas Council of Governments for a Regional Solid Waste Grant to Provide Funding for Electronic Plan Review Software and Equipment; Authorizing the City Manager or his Designee to Act on Behalf of the City of Lewisville in all Matters Related to the Application; Pledging That if a Project is Received, the City of Lewisville Will Comply With the Project Requirements of the NCTCOG, the Texas Commission on Environmental Quality, and the State of Texas. There was no discussion on this item.

Mayor Ueckert reviewed Agenda Item D-12, Approval of a Resolution Authorizing Intervention in Texas-New Mexico Power Company's Request for Approval of an Advanced Metering System Deployment Plan and Request for AMS Surcharges Filed at the Public Utility Commission of Texas; Approving Cooperation With Cities Served by Texas-New Mexico Power Company to Review the Application, Hire Legal and Consulting Services and to Negotiate With the Company and Direct any Necessary Litigation and Appeals; Finding That the Meeting at Which This Resolution is Passed is Open to the Public as Required by Law; and Requiring Notice of This Resolution to Legal Counsel. There was no discussion on this item.

WORKSHOP SESSION – 6:30 P.M.

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

(Agenda Item A)

Mayor Ueckert reviewed Agenda Item D-13, Approval of a Resolution Accepting the Memorandum of Agreement for Wholesale Treated Water Between Dallas Water Utilities and the City of Lewisville, a DWU Wholesale Treated Water Customer; and Authorization for the City Manager or his Designee to Execute the Agreement. There was no discussion on this item.

Mayor Ueckert reviewed Agenda Item D-14, Approval of the FY 2010-2011 Community Development Block Grant (CDBG) Budget in the Amount of \$769,849; and Acknowledge Receipt of the Recommended FY 2010-2011 City Social Service Agency Fund Budget of \$170,000 From the CDBG Advisory Committee. Discussion was held regarding the reason the funding had not been spent on the Sycamore Park due to census requirements. There was no further discussion on this item.

Mayor Ueckert reviewed Agenda Item E-15, Tabled Item: Consideration of a Variance to the Lewisville City Code, Article V, Special Events for the Parker House Located at 2301 North Stemmons Freeway, as Requested by Marc East of DFW Fright Nights. Councilman Gorena advised that he had been contacted a couple of months ago by Mr. East regarding this item and it had been placed on the City Council agenda for discussion and tabled to allow Mr. East to obtain a mutual agreement between the management of the Parker House and the neighborhood resident. Councilman Gorena indicated that that the proceeds of this venue go to the Heroes of Denton County and between four local Booster Clubs at Lewisville High School. Councilman Gorena questioned if there were any code violations that needed to still be fixed that Mr. East has not addressed. Building Official Cleve Joiner advised that the use of property and storage is a violation and this is an illegal use at this point, which was one of the reasons they had requested everything be taken down and removed and that they reapply. Discussion was held that due to bad weather this event had not been as profitable along with the fact that the inclement weather had made it difficult to remove the items currently being stored in a timely manner. City Manager King advised if the City Council treats this as a special event, then the other violations go away. There was no further discussion on this item.

Mayor Ueckert reviewed Agenda Item E-16, Consideration of a Variance to the Lewisville City Code, Section 7-486 Seasonal/Temporary Sales; Expiration – 120 Days Between Permits for a Single Location to Allow 365 Continuous Days, as Requested by Michael Rhoades of Texas Chips and Cracks, LLC. Discussion was held that this business was being conducted in a parking lot out of a truck. Councilman Gorena expressed concern that this business was competing with the brick and mortar businesses. City Manager King advised that the City Council has not approve a variance request of this nature for this amount of time in the past. There was no further discussion on this item.

WORKSHOP SESSION – 6:30 P.M.

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

(Agenda Item A)

Mayor Ueckert reviewed Agenda Item E-17, Consideration of a Variance to the Lewisville City Code for a Temporary On-Premise Leasing Office to be Located at The Evergreen at Lewisville Development Located at 455 Highland Drive, Requested by Churchill Residential Inc., as Represented by J. Anthony Sisk, Development Manager. There was no discussion on this item.

Mayor Ueckert reviewed Agenda Item E-18, Consideration of Two Variances to the Lewisville City Code Section 2-201, Waiving the Fee for a Variance, and Section 54, When An Old Town Development Plan is Required for the Property Located at 325 North Mill Street, as Requested by Porter Tire Company and Represented by Bill Ridinger, Owner. Councilman Gorena questioned if the original request was for two years, was something supposed to be done within that time frame. City Manager King advised that was just the time frame that had been requested when first approved. Mayor Ueckert advised at the time the variance was originally approved there was not any development in the area and that the requestor was land locked so the individuals that work there park their vehicles across the street. He further advised that the variance had been approved for two years because if development was going on at the end of the two year period then the City may want the requestor to either pave the parking lot or bring it up to code requirements. There was no further discussion on this item.

Mayor Ueckert reviewed Agenda Item E-19, Consideration of an Ordinance Amending the Lewisville City Code, Section 15-36, Maximum Speed Limits Near Schools; Establishing New Times of Operation for Certain School Speed Zones; and Establishing New School Speed Zones on Country Ridge Road, McCartt Drive and Southwest Parkway. Discussion was held that the only signs being replaced were in areas that would be applicable to change. City Engineer T.S. Kumar advised that there are about 118 signs for a cost of about \$3,000. City Manager King advised there would have been more but not all of the school zones were being changed when it was only a five or ten minute change one way or the other. There was no further discussion on this item.

WORKSHOP SESSION – 6:30 P.M.

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

(Agenda Item A)

Mayor Ueckert reviewed Agenda Item E-20, Discussion and Consideration of Appointments to Various City Boards/Commissions/Committees. Mayor Ueckert advised the following individuals had been recommended by each of the interview teams: Animal Services Advisory Committee: Place No. 2 – Denise Jeffery, Place No. 4 – Laura Wise, Place No. 6 – Janice Magrini; Community Development Block Grant Advisory Committee: Place No. 2 – Barbara Carey, Place No. 4 – Carol Rooney, Place No. 6 – Kevin Davis; Library Board: Place No. 2 – Karen Locke, Place No. 4 – Erika Lowery, Place No. 6 –Janine Golden,; Old Town Design Review Committee: Place No. 2 – Amanda Ferguson, Place No. 4 – James Crockett; Park Board: Place No. 2 – Jeff Pelletier, Place No. 4 – Angela Brescia, Place No. 6 – Katy Morris, Place No. 8 – David Adkisson; Planning and Zoning Commission: Place No. 1 – Karen Boenker, Place No. 3 – Rodney Russell, Place No. 5 – William Price, Place No. 7 – James Davis; Zoning Board of Adjustment: Place No. 2. – Antonio Gazzilli, Place No. 4- Debbie Ingledue, Alternate No. 1 – Rochelle Jones, and Alternate No. 2 – Aaron Foley.

Mayor Ueckert reviewed Agenda Item F, Reports. 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 7:03 p.m. on Monday, June 21, 2010.

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, June 21, 2010, 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, Deputy Mayor Pro Tem Tierney gave the invocation.

Pledge to the American and Texas Flags

(Agenda Item B)

At the request of Mayor Ueckert, Mayor Pro Tem Durham gave the pledge to the American and Texas flags.

Visitors/Citizens Forum

(Agenda Item C)

No one appeared to speak at this time.

CONSENT AGENDA

(Agenda Item D)

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

1. Consent Agenda Item No. 4 – Approval of a Contract Between the City of Lewisville and the Texas Department of Transportation for the Collection of Outstanding Fines and Other Amounts Pursuant to Section 702.003 of the Texas Transportation Code by Allowing the County Tax Assessor-Collector to Deny the Renewal of Vehicle Registration; and Authorization for the City Manager to Execute the Contract.

MOTION: Upon a motion made by Deputy Mayor Pro Tierney and seconded by Councilman Gorena, 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 June 7, 2010, Workshop Session and Regular Session.
2. Approval of Final Acceptance of the Installation of a Traffic Signal Vehicle Detection System on SH 121 Business; and Authorization to Make Final Payment to Roadway Solutions, Inc., in the Amount of \$19,317.16.
3. Approval of Acceptance of the FY 2009-2010 Texas Criminal Justice Assistance Grant; and Approval of a Supplemental Budget Appropriation in the Amount of \$11,428 to the FY 2009-2010 Grant Fund.
5. Approval of an Economic Development Agreement Between the City of Lewisville and 229 Huffines Ltd; and Authorization for the City Manager to Execute the Agreement.
6. Approval of an Agreement for Ad Valorem Tax Billing and Collection Between the City of Lewisville and Denton County for Fiscal Year 2010-11; and Authorization for the City Manager to Execute the Agreement.

CONSENT AGENDA (cont'd)

(Agenda Item D)

7. Approval of an Interlocal Agreement Between the City of Lewisville, the City of Denton, and the County of Denton to Jointly Submit a Grant Application to the U.S. Department of Justice Under the Justice Assistance Grant Program; and Authorization for the City Manager or his Designee to Execute the Agreement.
8. Approval of a Cooperation Agreement and Intent Memo With TVPUG Entertainment Allowing for the Teen Court Program to be Pitched to Television Networks.
9. Approval of a **Resolution No. 3781-06-2010(R)**: Approving the “Draft” Fiscal Year 2011 Financial Plan of the Denco Area 9-1-1 District, Pursuant to the Texas Health and Safety Code, Chapter 772, as Amended; and Providing an Effective Date.
10. Approval of a **Resolution No. 3782-06-2010(R)**: Authorizing the City of Lewisville to Participate in a Voluntary Texas Commission on Environmental Quality Sanitary Sewer Overflow Initiative Program to Implement a Comprehensive Plan to Reduce Sanitary Sewer Overflows and Provide Exemption From TCEQ Enforcement Action on Overflows Affiliated With the Plan; Authorize the City to Enter Into an SSO Agreement With TCEQ; and Authorize the City Manager to Execute the Agreement.
11. Approval of a **Resolution No. 3783-06-2010(R)**: Authorizing the Filing of a Project Application With the North Central Texas Council of Governments for a Regional Solid Waste Grant to Provide Funding for Electronic Plan Review Software and Equipment; Authorizing the City Manager or his Designee to Act on Behalf of the City of Lewisville in all Matters Related to the Application; Pledging That if a Project is Received, the City of Lewisville Will Comply With the Project Requirements of the NCTCOG, the Texas Commission on Environmental Quality, and the State of Texas.

CONSENT AGENDA (cont'd)

(Agenda Item D)

12. Approval of a **Resolution No. 3784-06-2010(R)**: Authorizing Intervention in Texas-New Mexico Power Company's Request for Approval of an Advanced Metering System Deployment Plan and Request for AMS Surcharges Filed at the Public Utility Commission of Texas; Approving Cooperation With Cities Served by Texas-New Mexico Power Company to Review the Application, Hire Legal and Consulting Services and to Negotiate With the Company and Direct any Necessary Litigation and Appeals; Finding That the Meeting at Which This Resolution is Passed is Open to the Public as Required by Law; and Requiring Notice of This Resolution to Legal Counsel.
13. Approval of a **Resolution No. 3785-06-2010(R)**: Accepting the Memorandum of Agreement for Wholesale Treated Water Between Dallas Water Utilities and the City of Lewisville, a DWU Wholesale Treated Water Customer; and Authorization for the City Manager or his Designee to Execute the Agreement.
14. Approval of the FY 2010-2011 Community Development Block Grant (CDBG) Budget in the Amount of \$769,849; and Acknowledge Receipt of the Recommended FY 2010-2011 City Social Service Agency Fund Budget of \$170,000 From the CDBG Advisory Committee.

The motion carried.

END OF CONSENT AGENDA

Approval of a Contract Between the City of Lewisville and the Texas Department of Transportation for the Collection of Outstanding Fines and Other Amounts Pursuant to Section 702.003 of the Texas Transportation Code by Allowing the County Tax Assessor-Collector to Deny the Renewal of Vehicle Registration; and Authorization for the City Manager to Execute the Contract

(Consent Agenda Item D-4)

Section 702 of the Texas Transportation Code authorizes municipalities to enter into agreements with the Texas Department of Transportation (TxDOT) to deny registration of motor vehicles if the vehicle owner has failed to appear or failed to pay a fine on a complaint that involves the violation of a traffic law. The program works by placing a "flag" on vehicle registration and in order to remove a "flag" the owner must contact the court and pay the fine. The cost to the City will be \$23.00 per computer run (file submission) plus \$0.12 (twelve cents) for each transaction in the file. The TxDOT contract also requires payment be remitted either at the time each file is submitted or, as an alternative, through a non-interest bearing escrow account that the city must establish. There is an inherent delay in collecting fines and costs through this method simply because a vehicle owner only renews the registration annually. However, similar state programs designed to enforce court orders have been successful and staff anticipates this will provide an additional tool to assist collections of past due fines and court costs.

The City staff's recommendation was that the City Council approve the contract and all items as set forth in the caption above.

At the request of Mayor Ueckert, Municipal Court Judge Brian Holman briefed the City Council regarding this item. Mayor Ueckert clarified with Judge Holman that once the City of Lewisville reaches a population of over 100,000 this would become a mandatory requirement in the Model Collection Plan of the Office of Court Administration. He further clarified that this program was not intended for everyone that gets a moving traffic violation, but for individuals that commit a moving violation and then for whatever reason they choose to either not show up in Court or contact the Court by their appointed time, or did not make restitution for the fine levied upon them, thus requiring a warrant be issued.

Discussion was held regarding individuals with flags on their registration would be required to come back to the Municipal Court who had placed the flag to pay their fines. Further discussion was held that it would be cheaper for someone to pay their fines rather than go to jail, which would cause more fines.

Approval of a Contract Between the City of Lewisville and the Texas Department of Transportation for the Collection of Outstanding Fines and Other Amounts Pursuant to Section 702.003 of the Texas Transportation Code by Allowing the County Tax Assessor-Collector to Deny the Renewal of Vehicle Registration; and Authorization for the City Manager to Execute the Contract (cont'd)

(Consent Agenda Item D-4)

Councilman Gorena stated that he felt this was a bad law. He advised that every Sunday he is part of a group that voluntarily contacts individuals with warrants and a lot of them are either down on their luck or just simply forgot to pay their tickets. On over half this would be another domino to fall on them, and while he agreed they broke the law and needed to pay the ticket he was concerned that when someone can afford to pay for their license or registration they should be allowed to pay that or else they will be driving with an expired license or registration. Councilman Gorena stated that he felt Judge Holman worked with a lot of people regarding payment of fines; however, that does not remove the flag. Councilman Gorena further stated that he understood that when the population of Lewisville exceeds 100,000 this will be a requirement, but at this time he did not want to add anymore dominos to fall on people. Councilman Gorena advised that if an individual with a warrant gets stopped, they are automatically going to go to jail. Councilman Gorena again reiterated that he was not in favor of this item.

City Manager Claude King clarified with Judge Holman that someone who had agreed to a payment plan would not be subject to this flag on their registration or license renewal unless they failed to comply with that payment plan and then a warrant would be issued. Judge Holman stated that the only way this program would be implemented was if there was an outstanding warrant; therefore, if they have a payment plan there would be no warrant as long as they were complying.

Councilman Watts stated that there are plenty of laws that he did not like and while he was not sure if this is one of them, Judge Holman had pointed out that the City was eventually not going to have a choice. He further stated that he saw no reason to delay a program that is going to be mandated shortly. Councilman Watts stated that while he understood Councilman Gorena's points, in his brief experience with the justice system, he had not met a defendant who did not have a hard luck story. Councilman Watts further stated that they would not have a warrant for their arrest if it was not for the poor choices they had made and that he was in favor of this item.

Approval of a Contract Between the City of Lewisville and the Texas Department of Transportation for the Collection of Outstanding Fines and Other Amounts Pursuant to Section 702.003 of the Texas Transportation Code by Allowing the County Tax Assessor-Collector to Deny the Renewal of Vehicle Registration; and Authorization for the City Manager to Execute the Contract (cont'd)

(Consent Agenda Item D-4)

MOTION: Upon a motion made by Councilman Thornhill and seconded by Deputy Mayor Pro Tem Tierney, the Council voted four (4) “ayes” and one (1) “nay,” with Councilman Gorena casting the negative vote to approve a contract between the City of Lewisville and the Texas Department of Transportation for the Collection of Outstanding Fines and Other Amounts Pursuant to Section 702.003 of the Texas Transportation Code by allowing the County Tax Assessor-Collector to deny the renewal of vehicle registration; and authorize the City Manager to execute the contract. The motion carried.

Tabled Item: Consideration of a Variance to the Lewisville City Code, Article V, Special Events for the Parker House Located at 2301 North Stemmons Freeway, as Requested by Marc East of DFW Fright Nights

(Agenda Item E-15)

This item was tabled at the April 19, 2010 City Council meeting to allow staff time to provide additional information. Marc East, owner of DFW Fright Nights, claiming a hardship, is requesting that the Parker House (Haunted House) located at 2301 North Stemmons Freeway remain on site as constructed with all equipment associated with the event. Mr. East is also requesting that the event take place from September 24, 2010 through October 31, 2010. After the event is over, Mr. East will return the property to the original condition prior to the setting up of the event, by December 1, 2010. Mr. East further agrees to add an additional 60 feet of 8-foot solid wood fence on the northwest side of the property to screen the event from the adjacent neighborhood.

The City staff’s recommendation was that the City Council consider the requests to allow the event to be held from September 24, 2010 through October 31, 2010 and to allow the event materials and equipment to remain on the property until December 1, 2010.

Tabled Item: Consideration of a Variance to the Lewisville City Code, Article V, Special Events for the Parker House Located at 2301 North Stemmons Freeway, as Requested by Marc East of DFW Fright Nights (cont'd)

(Agenda Item E-15)

At the request of Mayor Ueckert, Cleve Joiner, Building Official gave a presentation regarding this agenda item. Mayor Ueckert questioned if Mr. East wanted to continue to use this site if there was another way it could be done other than the Special Use Permit. Mr. Joiner advised that in that case it would have to be run as a business, which would mean Mr. East would need to comply with the General Development Ordinance. Mayor Ueckert clarified with Mr. Joiner that staff's recommendation was if Mr. East wanted to stay in this location longer then be required to comply with the General Development Ordinance. Mr. Joiner advised that was correct.

Janelle R. Nailling, 370 West Main Street, #6, Lewisville, Texas 75057, spoke before the City Council in support of this item and stated that this gives the kids something to do that is safe and creative.

Ken W. Jones, 1649 Claredon Drive, Lewisville, Texas 75067, spoke before the City Council in support of this item and stated that there are a lot of kids involved in this event through their various organizations and he felt it was good place for them.

Preston (Marc) East, 2438 Antler Trail, Lewisville, Texas 75067, spoke before the City Council in support of this item. Mr. East handed out a map of the neighborhood for the City Council's review that showed the homes they had spoken with and received support signatures from the homeowners that they were in support or had no complaint either way. He advised that there was only one that would not sign one way or the other and that was the homeowner that had complained. Mr. East addressed the sound issue that was brought to their attention at the end of the season and advised they have made plans to alleviate that this year with other activities. Mr. East showed a 20 second video of the neighborhood and property location where the fence would be located. He stated that they are trying to do whatever they can, such as building the fence during the first season that was not required; however, they ran out of money so they could not go all the way around. Mr. East stated that they were still operating under the Special Events since the prior ordinance read differently. Mr. East reviewed the prior ordinance and how their event was handled regarding time.

Tabled Item: Consideration of a Variance to the Lewisville City Code, Article V, Special Events for the Parker House Located at 2301 North Stemmons Freeway, as Requested by Marc East of DFW Fright Nights (cont'd)

(Agenda Item E-15)

Mr. East advised that all participants were volunteers working toward raising money for various charities. Mr. East reviewed the various non-profit organizations that they support and that are involved in the event, such as the teachers, LHS Choir, Cheerleaders, ROTC, various booster clubs, etc., and stated that everyone puts in a lot of time. He stated that there were a number of for-profit and non-profit Haunted Houses and that they were voted #1 Haunted House in the area and one of the top ones in the country. Mr. East advised that because of multiple rains and snow, this caused things to get turned around where it looked worse than it should have and that the only thing up on the property currently is a front façade. Mr. East reviewed the storage that was currently on the property and explained because of bad weather they did not make the funds they anticipated last year and were not able to get everything completed, thus the request for the variance. Mr. East explained that they are requesting that the event take place from September 24, 2010 through October 31, 2010. He stated that people come from all over to the City of Lewisville to attend this event which brings money into the City. He explained that if they are not allowed to stay at this time, the time frame that it will take to move everything is lengthy because volunteers that are normally amped up at the end of the season will not be as available.

Mayor Ueckert requested clarification from Mr. East that he understood with what he was asking for they would be required to have everything removed by December 1st. Mr. East advised that he did understand that requirement and the volunteers would be available to make those preparations now.

Sonia Fletcher, 1312 Falcon Drive, Lewisville, Texas 75077 spoke before the City Council in support of this variance request and advised that she lives in close proximity to the Parker House and she did not feel noise was an issue. She stated that her son was involved in this organization and it taught him a number of good skills. Ms. Fletcher further advised there were a number of adults in attendance throughout the event.

Jill Salas, 837 Auburn Drive, Lewisville, Texas 75067, spoke before the City Council in support of this variance request and advised that she had been a volunteer coordinator and had worked with a number of the volunteers and that the kids learned a number of important social skills.

Tabled Item: Consideration of a Variance to the Lewisville City Code, Article V, Special Events for the Parker House Located at 2301 North Stemmons Freeway, as Requested by Marc East of DFW Fright Nights (cont'd)

(Agenda Item E-15)

Christie Dostal, 125 West Shore Drive, Lewisville, Texas 75067, spoke before the City Council in support of this variance request and advised that her son was in ROTC at LHS and he had been able to attend a recent ROTC trip because of Parker House. She stated that he learned communication skills by being a part of this event. She advised that she lives in close proximity to this location and hears more noise from Sneaky Pete's.

Mayor Ueckert advised the following individuals had submitted cards indicating their support of this variance request; however, they did not wish to speak:

Chris Ratliff, 506 North Cherry Street, Aubrey, Texas 76227
Grace Beauchamp, 9 Kean Circle, The Colony, Texas 75056
Lisa Garling, 9 Kean Circle, The Colony, Texas 75056
Taryn Nailling, 626 Northside Avenue, Lewisville, Texas
Alonna Nailling, 370 West Main Street, #6, Lewisville, Texas 75057
Debbie Jones, 1649 Claredon Drive, Lewisville, Texas 75067
Ashley East, 2438 Antler Trail, Lewisville, Texas 75067
Joe Salas, 837 Auburn Drive, Lewisville, Texas 75067
William Yuhasz, 1408 College Parkway, Lewisville, Texas 75077
Killian Barber, 1312 Falcon Drive, Lewisville, Texas 75077
Colton Maples, 1679 SH 121, 1910, Lewisville, Texas 75067
Tyler East, 256 Corporate Drive, Apt. 2012, Lewisville, Texas 75067

Councilman Gorena indicated that he was in support of this variance request for this season based upon Mr. East assurance that he will remove everything by December 1st and the property will be returned to the original condition. He stated that he felt Mr. East and the group was trying to do some noble things and that based on the video it shows they are working on doing more by putting up the fence.

Councilman Watts questioned Mr. East as to what policies and procedures he had in place to make sure there is not illicit activity going on. Mr. East explained about the security measures that are in place. He advised that there were about five to eight of the parents present supervising at all times until dark and then they operate with 100 volunteers and about 35 of those are supervising adults. He stated they have off duty uniformed officers to help make sure nothing happens with the community coming in to the event. He further stated that they have a zero alcohol tolerance policy and a security staff of 12 that walk around inside and outside to

Tabled Item: Consideration of a Variance to the Lewisville City Code, Article V, Special Events for the Parker House Located at 2301 North Stemmons Freeway, as Requested by Marc East of DFW Fright Nights (cont'd)

(Agenda Item E-15)

take care of the people in the line along with a parking lot crew which last season was made up of the Choir Director and Booster Club President along with a group of students. Mr. East advised that they also have 36 infra-red cameras all over the dark areas of the Haunted House. He reviewed how the actors all check in and are kept in a controlled area. He stated that they do not allow any smoking; however, the kids occasionally try and get away with it and are required to put them out. He stated anyone bringing alcohol is subject to grounds to not come back. Mr. East stated that they were limited to what they could do on background checks; however, they do check for sex offenses and require a long list of information be provided, such as a drivers license, which is maintained on file. Councilman Watts advised he was more questioning the people coming from all over the metroplex. Mr. East advised that they have strategically placed cameras for those reasons and that the police officers are some of the first people the patrons come in contact. He reviewed one incident had occurred that an officer had to be called from his post to calm down and remove a patron. Councilman Watts stated that since it was almost the end of June he did not see much point in asking them to tear the thing down now and then put it back. Councilman Watts thanked the folks that had spoken about the lesson the kids were learning; however, he stated that if the variance was approved, this was not intended to be on this property year round and in addition to all the lessons the kids working there are learning if this variance is granted and the items not removed by December 1st they can learn vicariously through Mr. East how expensive it can be to violate a City ordinance.

Councilman Thornhill stated that he felt sure Parker House provides a lot of benevolence for the school and he appreciated everything they were doing. Discussion was held that the current Ordinance did not prevent them from having the Halloween event. Councilman Thornhill expressed concern that he felt the current ordinance was because of events that had taken place with Parker House events in the past and at this time he was not comfortable voting against an ordinance the City Council had approved. He advised that he had received a lot of complaints in the past because of this event through e-mails from the neighbors and that the City had struggled with Parker House in the past. He stated that he would be supporting the current ordinance and voting against the variance request.

Tabled Item: Consideration of a Variance to the Lewisville City Code, Article V, Special Events for the Parker House Located at 2301 North Stemmons Freeway, as Requested by Marc East of DFW Fright Nights (cont'd)

(Agenda Item E-15)

MOTION: Upon a motion made by Deputy Mayor Pro Tem Tierney and seconded by Mayor Pro Tem Durham, the Council voted four (4) “ayes” and one (1) “nay,” with Councilman Thornhill casting the negative vote to approve a variance to the Lewisville City Code, Article V, Special Events for the Parker House located at 2301 North Stemmons Freeway to allow the Parker House to remain on site as constructed with all equipment associated with the event, allow the event to take place from September 24, 2010 through October 31, 2010 with the understanding that after the event is over the property will be returned to the original condition prior to the setting up of the event, by December 1, 2010; and with further understanding that Mr. East will add an additional 60 feet of 8-foot solid wood fence on the northwest side of the property to screen the event from the adjacent neighborhood, as requested by Marc East of DFW Fright Nights. The motion carried.

Consideration of a Variance to the Lewisville City Code, Section 7-486 Seasonal/Temporary Sales; Expiration – 120 Days Between Permits for a Single Location to Allow 365 Continuous Days, as Requested by Michael Rhoades of Texas Chips and Cracks, LLC

(Agenda Item E-16)

Texas Chips and Cracks, a windshield repair service, has been in operation at the Vista Ridge Mall in the parking lot area between Sears and JC Penney for two months under the City’s Seasonal/Temporary Permitting. Due to the success of this location, the owner of Texas Chips and Cracks is requesting that a variance to the City Code be allowed for a one-year period. Vista Ridge Mall Manager Leanne Lowry has contacted staff in support of this request.

The City staff’s recommendation was that the City Council consider the variance request.

Discussion was held that a variance of this nature had not previously been granted for this length of time. At the request of the City Council, Building Official Cleave Joiner, gave a brief presentation. Mr. Joiner advised that he had contacted the Vista Ridge Mall and they had indicated they were in support of this request due to the convenience for their customers.

Consideration of a Variance to the Lewisville City Code, Section 7-486 Seasonal/Temporary Sales; Expiration – 120 Days Between Permits for a Single Location to Allow 365 Continuous Days, as Requested by Michael Rhoades of Texas Chips and Cracks, LLC (cont'd)

(Agenda Item E-16)

Councilman Watts questioned if there were other properties that would allow this business similar visibility where they could relocate. Mr. Joiner advised that many vendors will go from one intersection to another and there would probably be other locations. Councilman Watts stated that he would prefer if this business, if it was as successful as it sounds, find a spot for a permanent location.

Deputy Mayor Pro Tem Tierney stated that he felt it was great this business was doing well and he would like to see them build a permanent structure.

Mayor Pro Tem Durham stated that he had mixed feelings; however, since the Mall, which was one of the bigger buildings in town and was in support, he would be in favor of this request.

Councilman Gorena advised that he agreed there were a number of commercial buildings open where this business could have a permanent location. He advised that he was not in support of this variance request.

MOTION: Upon a motion made by Councilman Watts and seconded by Councilman Thornhill, the Council voted three (3) “ayes” and two (2) “nays,” with Deputy Mayor Pro Tem Tierney and Councilman Gorena casting the negative votes to approve a variance to the Lewisville City Code, Section 7-486 Seasonal/Temporary Sales; Expiration – 120 Days Between Permits for a Single Location to allow 365 Continuous Days, as requested by Michael Rhoades of Texas Chips and Cracks, LLC. The motion carried.

Consideration of a Variance to the Lewisville City Code for a Temporary On-Premise Leasing Office to be Located at The Evergreen at Lewisville Development Located at 455 Highland Drive, Requested by Churchill Residential Inc., as Represented by J. Anthony Sisk, Development Manager

(Agenda Item E-17)

Churchill Residential Inc., is currently constructing a multi-family project for senior citizens called Evergreen at Vista Ridge located at 455 Highland Drive. The applicant is requesting a variance to place a temporary leasing office on their site for the purpose of pre-leasing units to senior citizens before the project is completed. The City of Lewisville building code does not allow portable buildings to be placed in the City for the purposes of sales offices of this type.

The City staff's recommendation was that the City Council approve the variance request provided that the temporary sales office be removed when a Certificate of Occupancy is issued for the multi-family project.

J. Anthony Sisk, Churchill Residential, Inc. was present to respond to any questions posed by the City Council.

MOTION: Upon a motion made by Councilman Thornhill and seconded by Councilman Gorena, the Council voted five (5) "ayes" and no (0) "nays" to approve a variance to the Lewisville City Code for a temporary On-Premise Leasing Office to be located at The Evergreen at Lewisville Development located at 455 Highland Drive, provided that the temporary sales office be removed when a Certificate of Occupancy is issued for the multi-family project, as requested by Churchill Residential Inc., as represented by J. Anthony Sisk, Development Manager. The motion carried.

Consideration of Two Variances to the Lewisville City Code Section 2-201, Waiving the Fee for a Variance, and Section 54, When An Old Town Development Plan is Required for the Property Located at 325 North Mill Street, as Requested by Porter Tire Company and Represented by Bill Ridinger, Owner

(Agenda Item E-18)

Porter Tire Company is requesting two variances to the Lewisville City Code. The requested variances are to: a) to waive the \$350 variance filing fee; and, b) to waive the Old Town Development Plan requirement for the property located at 325 North Mill Street. Porter Tire Company is requesting that the existing crushed concrete parking lot be allowed to remain for an additional 3 years. The lot is approximately 9,000 s.f. The owners have indicated that being allowed to use this lot for temporary parking will allow them time to make plans for permanent facilities. Porter Tire has indicated that the lot can be utilized for parking purposes during Old Town special events.

The City staff's recommendation was that the City Council consider waiving the \$350 variance filing fee and consider the request to allow the crushed concrete parking lot to remain for a 3 year period.

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

Bill Ridinger, Porter Tire Company spoke before the City Council regarding this variance request.

MOTION: Upon a motion made by Deputy Mayor Pro Tem Tierney and seconded by Councilman Gorena, the Council voted five (5) "ayes" and no (0) "nays" to waive the \$350 variance filing fee and approve the request to allow the crushed concrete parking lot to remain for a 3 year period. The motion carried.

**Consideration of Ordinance 3786-06-2010
Amending the Lewisville City Code, Section
15-36, Maximum Speed Limits Near Schools;
Establishing New Times of Operation for
Certain School Speed Zones; and
Establishing New School Speed Zones on
Country Ridge Road, McCartt Drive and
Southwest Parkway**

(Agenda Item E-19)

The Lewisville Independent School District has revised the operational hours of all the schools throughout the district. As a result, some of the school speed zones will need to be adjusted to reflect these changes. Additionally, LISD will be opening a new elementary school campus on Country Ridge Road this fall. The new campus will generate pedestrian traffic and will require new school zones to be established. The Transportation Board considered these items separately at their April 20, 2010 meeting and voted (5) to (0) with one abstention to recommend approval of the adjustment of the school zone hours and voted unanimously (6) to (0) to recommend approval of the school zones for the new elementary school on Country Ridge Road.

The City staff's recommendation was that the City Council approve the ordinance as set forth in the caption above.

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

An Ordinance of the City Council of the City of Lewisville, Texas, Amending Chapter 15, Article II, Sections 15-36; 15-36.2; and 15-36.3; of the Lewisville City Code; Establishing New Hours of Operation for Certain School Speed Zones and Establishing School Speed Zones on Southwest Parkway, Country Ridge Road, and McCartt Drive; Providing a Penalty Clause; Providing for Severability; Providing a Repealer; Providing an Effective Date; and Declaring An Emergency

MOTION: Upon a motion made by Deputy Mayor Pro Tem Tierney and seconded by Councilman Gorena, the Council voted five (5) "ayes" and no (0) "nays" to approve and adopt **Ordinance No. 3786-06-2010**, as captioned previously. The motion carried.

**Discussion and Consideration of
Appointments to Various City
Boards/Commissions/Committees**

(Agenda Item E-20)

On June 30, various terms of office on the City's boards, commissions, and committees will be expiring. Those positions have been identified and current appointees notified. The Board/Commission/Committee Appointment Process Notebooks have been created for City Council's review. Data sheets for members requesting reappointment and all new applicants have been included in the books. City Council identified interview teams at the June 7, 2010 meeting and now needs to consider the appointments.

The City staff's recommendation was that the City Council proceed with the appointment process to the various City Boards/Commissions/Committees.

MOTION: Upon a motion made by Mayor Pro Tem Durham and seconded by Councilman Thornhill, the Council voted five (5) "ayes" and no (0) "nays" to appoint the following individuals:

| <u>Name</u> | <u>Board/Commission/Committee</u> | <u>Place No.</u> | <u>Term Expires</u> |
|-----------------|------------------------------------|------------------|---------------------|
| Denise Jeffery | Animal Services Advisory Committee | Place No. 2 | 06/30/2012 |
| Laura Wise | Animal Services Advisory Committee | Place No. 4 | 06/30/2012 |
| Janice Magrini | Animal Services Advisory Committee | Place No. 6 | 06/30/2012 |
| Barbara Carey | Community Development Block Grant | Place No. 2 | 06/30/2012 |
| Carol Rooney | Community Development Block Grant | Place No. 4 | 06/30/2012 |
| Kevin Davis | Community Development Block Grant | Place No. 6 | 06/30/2012 |
| Karen Locke | Library Board | Place No. 2 | 06/30/2012 |
| Erika Lowery | Library Board | Place No. 4 | 06/30/2012 |
| Janine Golden | Library Board | Place No. 6 | 06/30/2012 |
| Amanda Ferguson | Old Town Design Review Committee | Place No. 2 | 06/30/2012 |
| James Crockett | Old Town Design Review Committee | Place No. 4 | 06/30/2012 |
| Jeff Pelletier | Park Board | Place No. 2 | 06/30/2012 |
| Angela Brescia | Park Board | Place No. 4 | 06/30/2012 |
| Katy Morris | Park Board | Place No. 6 | 06/30/2012 |
| David Adkisson | Park Board | Place No. 8 | 06/30/2012 |
| Karen Boenker | Planning and Zoning Commission | Place No. 1 | 06/30/2012 |
| Rodney Russell | Planning and Zoning Commission | Place No. 3 | 06/30/2012 |
| William Price | Planning and Zoning Commission | Place No. 5 | 06/30/2012 |
| James Davis | Planning and Zoning Commission | Place No. 7 | 06/30/2012 |
| Debbie Ingledue | Zoning Board of Adjustment | Place No. 4 | 06/30/2012 |
| Rochelle Jones | Zoning Board of Adjustment | Alt No. 1 | 06/30/2011 |
| Aaron Foley | Zoning Board of Adjustment | Alt No. 2 | 06/30/2012 |

The motion carried.

Reports

(Agenda Item F)

- Director Public Services Carole Bassinger gave an update on status of the lake.

There were no additional reports at this time.

Mayor Ueckert adjourned the regular session of the Lewisville City Council into Closed Session at 8:14 p.m. Monday, June 21, 2010, 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 8:14 p.m. on Monday, June 21, 2010, 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 551.074 (Personnel Matters):

2. Discussion of Replacement of City Attorney

Section 551.087 (Economic Development):

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

The Closed Session was adjourned at 9:25 p.m. on Monday, June 21, 2010.

**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 9:25 p.m. on Monday, June 21, 2010, 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 Deputy Mayor Pro Tem Tierney and seconded by Mayor Pro Tem Durham, the Council voted five (5) “ayes” and no (0) “nays” to adjourn the Regular Session of the Lewisville City Council at 9:25 p.m. on Monday, June 21, 2010. The motion carried.

These minutes approved by the Lewisville City Council on the 12th day of July, 2010.

APPROVED

Dean Ueckert
MAYOR

ATTEST:

Julie Heinze
CITY SECRETARY