

A G E N D A

**LEWISVILLE CITY COUNCIL MEETING
AUGUST 15, 2016**

**LEWISVILLE CITY HALL
151 WEST CHURCH STREET
LEWISVILLE, TEXAS 75057**

**WORKSHOP SESSION - 6:00 P.M.
REGULAR SESSION - 7:00 P.M.**

Call to Order and Announce a Quorum is Present.

WORKSHOP SESSION - 6:00 P.M.

- A. Discussion Regarding Multi-Family Recycling
- B. Discussion of Regular Agenda Items and Consent Agenda Items

REGULAR SESSION - 7:00 P.M.

- A. **INVOCATION:** Deputy Mayor Pro Tem Vaughn
- B. **PLEDGE TO THE AMERICAN AND TEXAS FLAGS:** Councilman Jones
- C. **PUBLIC HEARINGS:**

1. **Public Hearing:** Consideration of an Ordinance Granting a Special Use Permit (SUP) for a Gasoline Service Station, on an Approximately 1.379-Acre Lot Located at the Northeast Corner of FM 544 and Old Denton Road (FM 2281), Legally Described as Lot 1R, Block M, Wyndale Meadows Addition Phase I and Zoned General Business District (GB), as Requested by Karen Mitchell of Mitchell Planning Group, LLC on Behalf of Parker Denton Crossing, L.P., the Property Owner (Case No. SUP-2016-08-07).

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ADMINISTRATIVE COMMENTS:

The applicant has requested that this item be continued to the September 12, 2016, City Council meeting. The Special Use Permit request is for a 7-Eleven brand gasoline service station with six pumps that will also have a neighborhood convenience store. This facility is proposed to operate 24 hours a day, seven days a week. The proposed facility is part of the Wyndale Meadows neighborhood. The gasoline service station portion of this site requires approval of a Special Use Permit. On August 2, 2016, the Planning and Zoning Commission recommended unanimous approval (6-0) of the SUP with a condition that the required masonry screening wall be increased from six feet (6') to eight feet (8') in height.

RECOMMENDATION:

That the City Council continue the public hearing to the September 12, 2016, City Council meeting.

AVAILABLE FOR QUESTIONS: - Nika Reinecke, Director of Economic Development and Planning

2. **Public Hearing: Consideration of an Ordinance Granting a Zone Change Request From Light Industrial District (LI) and Old Town Mixed Use Two District (OTMU2) to Old Town Mixed Use Two District (OTMU2), on Approximately 5.5-Acres Consisting of Multiple Tracts Situated in the A.G. King Survey, Abstract No. 698, Located at the Southeast Corner of East Walters Street and Henrietta Street and the Southwest and Southeast Corners of East College Street and Leonard Street, as Requested by HW Ventures, LLC on Behalf of Lieven J. Van Riet, Trustee for the Property Owner (Case No. PZ-2016-08-19).**

ADMINISTRATIVE COMMENTS:

The approximate 5.5-acre property is vacant and is made up of multiple pieces of land located at the three locations: southeast corner of Walters Street and Henrietta Street and the southwest corner and southeast corner of College Street and Leonard Street. The requested zoning of Old Town Mixed Use Two (OTMU2) is consistent with the Old Town Master Plan. The Planning and Zoning Commission recommended unanimous approval (6-0) of the zone change request at their meeting of August 2, 2016.

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RECOMMENDATION:

That the City Council approve the proposed ordinance as set forth in the caption above.

AVAILABLE FOR QUESTIONS: - Nika Reinecke, Director of Economic Development and Planning

- D. **VISITORS/CITIZENS FORUM:** At this time, any person with business before the Council not scheduled on the agenda may speak to the Council. No formal action can be taken on these items at this meeting.
- E. **CONSENT AGENDA:** All of the following items on the Consent Agenda are considered to be self-explanatory by the Council and will be enacted with one motion. There will be no separate discussion of these items unless a Council Member or citizen so request. For a citizen to request removal of an item, a speaker card must be filled out and submitted to the City Secretary.
3. **APPROVAL OF MINUTES:** (a) City Council Minutes of the July 18, 2016, Workshop Session and Regular Session; and (b) City Council Minutes of the August 1, 2016, Workshop Session and Regular Session.
4. **Acceptance and Appropriation of Regional Toll Revenue Funding in the Amount of \$4,700,000 for Valley Ridge Blvd (Mill Street to College Street) and Re-Appropriation of \$4,700,000 of Local Funding for Kealy Avenue (Main to Mill) and College Street (I-35 to Mill).**

ADMINISTRATIVE COMMENTS:

In November, 2015, Council approved a Local Project Advance Funding Agreement (LPAFA) between the City of Lewisville and the Texas Department of Transportation providing for \$4,700,000 in Regional Toll Revenue Funding for the Valley Ridge Project (Mill Street to College Street). Those funds have been received and must now be accepted and appropriated to the Valley Ridge Project. This funding for Valley Ridge will allow the re-appropriation of local funding to South Kealy Avenue (Main to Mill) and College Street (I-35 to Mill). You may recall that due to shifts in Precinct Boundaries, Precinct 4 Commissioner Hugh Coleman retracted previously approved Denton County Trip-08 bond funding for Kealy and College. As Kealy Avenue and College Street are not eligible for RTR funding (RTR funding is only eligible for roadways that are 4-lane divided or larger), funding for Valley Ridge was requested instead.

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RECOMMENDATION:

That the City Council accept and appropriate the RTR funding and local funds as set forth in the caption above.

- 5. Approval of an Agreement for Furnishing and Installing of Traffic Signal Equipment Between the City of Lewisville and TxDOT for Costs Related to Providing New Equipment for the Traffic Signal on FM 423 at Lone Star Ranch Parkway Within the City of The Colony; and Authorization for the City Manager to Execute the Agreement.**

ADMINISTRATIVE COMMENTS:

The City of Lewisville presently maintains traffic signals on FM 423 within the City of The Colony as part of an Interlocal Agreement with TxDOT. The widening of FM 423 by TxDOT requires installing a new traffic signal at the intersection of FM 423 and Lone Star Ranch Parkway. TxDOT is offering to let the City of Lewisville provide the controller cabinet and associated equipment at the intersection of FM 423 and Lone Star Ranch Parkway, which will allow the City of Lewisville to continue to control, monitor, and maintain this signal in a manner compatible with the City's existing traffic signal system. The agreement will provide full reimbursement from TxDOT in the amount of \$13,797 for the signal equipment assembly at the intersection.

RECOMMENDATION:

That the City Council approve the Reimbursement Agreement with TxDOT as set forth in the above caption.

- 6. Approval of a Professional Services Agreement With Halff Associates, Inc. in the Amount of \$608,750 for Design and Construction Phased Services Relating to the Timberbrook Neighborhood Improvement Project; Approval of a Total Project Design Budget of \$639,187; and Authorization for the City Manager or Her Designee to Execute the Agreement.**

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ADMINISTRATIVE COMMENTS:

The Timberbrook project, funded in the 2015 GO Bond Program consists of replacing the existing concrete paving and sidewalks, replacing existing sanitary sewers & water lines, and making storm sewer improvements in phased construction. The engineer's construction cost estimate for the entire project is \$9,874,000. Given recent inflation, the Professional Services Agreement provides for the project to be designed in a manner that it can be constructed in two phases if necessary. Staff has negotiated a Professional Services Agreement with Halff Associates, Inc. in the amount of \$608,750 to include a Storm and Sanitary Sewer Study, resident meetings, design, surveying, subsurface utility exploration, and geotechnical investigation for the total project, and construction services for phase one. A total project budget amount of \$639,187 is requested, which includes \$30,437 (approximately 5%) for contingencies. Funding is available in the Timberbrook Capital Project.

RECOMMENDATION:

That the City Council approve the Professional Services Agreement with Halff Associates, Inc. as set forth in the caption above.

- 7. Approval of Change Order No. 1 Modifying the Contract to JNA Painting and Contracting Co. in the Amount of \$132,072 for a Revised Contract Amount of \$770,662 for the Painting of the C.R. Feaster Water Plant Exterior and Filter and Chemical Rooms; Approval of a 60-Day Extension of the Contract Time; and Authorization for the City Manager to Execute the Contract.**

ADMINISTRATIVE COMMENTS:

On January 4, 2016 City Council approved a contract with JNA Painting and Contracting Co. for the repainting of the C. R. Feaster Water Treatment Plant. Change Order No. 1 includes the painting of the filter rooms, the chemical room and the exterior of the C.R. Feaster Water Plant building. This work will be scheduled to take place after November 1, 2016 and be completed by February 15, 2017.

RECOMMENDATION:

That the City Council approve Change Order No. 1 in the amount of \$132,072; approve a 60-day extension of the contract time; and authorize the City Manager to execute the change order.

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- 8. Approval of Wrecker Services Contracts Between the City of Lewisville and Brad's Towing Services, Inc., and Recovery Systems, Inc., dba Pro-Tow Wrecker, for the Provision of Towing and Wrecker Services; and Authorization for the City Manager to Execute the Contracts.**

ADMINISTRATIVE COMMENTS:

These contracts cover wrecker service, as well as the operation and maintenance of a vehicle impound and storage facility, including the auctioning of unclaimed vehicles. Each company will be on call rotation established by the Police Chief or his designee. The term of the contract is three (3) years, with an option to extend for up to two (2) additional years.

RECOMMENDATION:

That the City Council approve the contracts as set forth in the caption above.

- 9. Approval of a Bid Award for Jones Street Improvements (Mill Street to Cowan Avenue) to McMahon Contracting, L.P., Grand Prairie, Texas, in the Amount of \$2,454,174.92; and Authorization for the City Manager to Execute the Contract.**

ADMINISTRATIVE COMMENTS:

A total of twenty (20) bid invitations were downloaded from Bidsync.com. A total of two (2) bids were received and opened July 21, 2016. The Jones Street project will replace the existing two lane rural asphalt street with a three (3)-lane collector street (two (2) lanes westbound and one (1) lane eastbound) from Mill Street to Cowan Avenue. This project consist of providing concrete pavement, drainage improvements, and a wider DCTA rail crossing. Funding is available in street capital projects.

RECOMMENDATION:

That the City Council approve the contract as set forth in the caption above.

- 10. Approval of an Agreement for Assessment Billing and Collection Between the City of Lewisville and Denton County for Fiscal Year 2016-17; and Authorization for the City Manager to Execute the Agreement.**

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ADMINISTRATIVE COMMENTS:

On October 6, 2014, the City created Josey Lane Public Improvement District for construction of street and water/wastewater improvements in a designated area located along Josey Lane north of FM544 and south of Windhaven Drive. The approval of this agreement will allow the billing and collection of assessments and annual installments within the district by Denton County who has been billing and collecting the City's ad valorem taxes since 1997. The contract rate per parcel will be \$0.72 and is an administrative cost of the PID and will be reimbursed via the assessments.

RECOMMENDATION:

That the City Council approve the agreement for assessment billing and collection between the City of Lewisville and Denton County for Fiscal Year 2016-17; and authorize the City Manager to execute the agreement.

11. Approval of Waiving the Penalty and Interest on Property Tax Account 662758DEN for 2015.

ADMINISTRATIVE COMMENTS:

This account is one of a number of tax delinquencies discovered the past two years to have been placed in an "Exempt" status under the name of "TxDOT". This involves a condemnation process whereby the Texas Department of Transportation acquired property from the taxpayer in the year 2015 that is at issue here for unpaid taxes. Timely notice was not provided to the taxpayer of taxes owed for the portion of the year the property was owned by the taxpayer. Upon recent notification by Sawko & Burroughs, the City's delinquent tax collector, that this 2015 tax was unpaid, the taxpayer timely paid same under protest, together with accrued penalty and interest, and filed this request for waiver and refund of the penalty and interest paid. It is the opinion of Sawko & Burroughs, based on the information provided, the circumstances in this case satisfy the waiver provision in state law. The waiver for the taxpayer totals \$180.57.

RECOMMENDATION:

That the City Council approve the waiver of the penalty and interest on the property tax account set forth in the caption above.

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F. REGULAR HEARINGS:

- 12. Consideration of an Ordinance of the City of Lewisville approving the 2016-2017 Annual Service Plan Update to the Service and Assessment Plan and Assessment Roll for Public Improvements for the Josey Lane Public Improvement District with Chapter 372, Texas Local Government Code, as Amended; Providing a Repealer, Severability, and an Effective Date; and Declaring an Emergency.**

ADMINISTRATIVE COMMENTS:

On October 6, 2014, the City created Josey Lane Public Improvement District for construction of street and water/wastewater improvements in a designated area located along Josey Lane north of FM544 and south of Windhaven Drive. An update to the Service Plan and Assessment Roll must be considered and approved by City Council. This plan identifies public improvement costs to be provided by the PID along with the manner of assessing the property in the PID and the assessment roll.

RECOMMENDATION:

That the City Council consider and approve the ordinance as set forth in the caption above.

- 13. Consideration of a Variance to the Lewisville City Code, Section 4-28, Temporary Structures and Uses Regarding Three Temporary Buildings for Classroom Use Located at 2680 MacArthur Blvd, as Requested by Danny McDaniel, the Property Owner.**

ADMINISTRATIVE COMMENTS:

Bethel Dallas Church of Lewisville operates out of the Champion Center located at 2680 MacArthur Blvd. They are requesting an extension of a previously awarded variance allowing temporary classrooms for church use only. Currently, the classrooms are located to the west and rear of the campus screening the classrooms from the frontage on MacArthur Blvd and frontage along Vista Ridge Mall Drive. A conceptual plan for Phase I has been submitted to demonstrate the owner's intent to build a 5000-8000 square foot addition of classroom space to the existing facility which should be under construction and complete within the 2-year period extension being requested. Similar variances have been granted since 2010 for churches and private schools.

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RECOMMENDATION:

That the City Council consider the requested variance as set forth in the caption above, subject to the following conditions: (1) An Engineering Site Plan must be submitted to City Staff within one year; (2) the Phase I plan must be under construction within 18 months; and (3) Should the church cease operations, the temporary buildings must be removed.

AVAILABLE FOR - Cleve Joiner, Director of Neighborhood Services
QUESTIONS: Danny McDaniel, Champion Center Owner

- 14. Consider and Act upon Adoption of a Resolution Authorizing the Acquisition of Right-Of-Way (In Fee Simple) and Easements for the Construction, Access, and Maintenance of Midway Road and Drainage Improvements from the intersection of Midway Road and Huffines Boulevard to Fire Station #6 at 2120 Midway Road, and to Undertake all Associated Utility Improvements (The “Project”); Authorizing the Appointment of an Appraiser and Negotiator as Necessary; Authorizing the City Manager (or Her Designee) to Establish Just Compensation for the Property Rights to be Acquired; Authorizing the City Manager (or Her Designee) to take Steps Necessary to Acquire the Needed Property Rights in Compliance with all Applicable Laws and Resolutions; and Authorizing the City Attorney (or Her Designee) to Institute Condemnation Proceedings to Acquire the Property if Purchase Negotiations are not Successful; Providing for Repealing, Savings, and Severability Clauses; and Providing for an Effective Date.**

ADMINISTRATIVE COMMENTS:

Associated with the scope of work for the Project, right-of-way and easements will need to be acquired from numerous parcels. As required by Texas Property Code Section 21.0113, the City is required to first attempt to acquire the necessary acquisition(s) from the landowners voluntarily through the making of a bona fide offer prior to filing any eminent domain procedure. Funding is available in the Midway Capital Project.

RECOMMENDATION:

That the City Council consider and adopt the Resolution as set forth in the caption above by using the following motion, which is prescribed by Texas Government Code Section 2206.053(e):

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“I move that the City of Lewisville, Texas adopt the Resolution described in Agenda No. 14 and authorize the use of the power of eminent domain to acquire for public use the property described and depicted in Attachment 1 attached to the Resolution, said description and depiction being incorporated into this motion for all purposes, for the construction, access, and maintenance of Midway Road and other associated drainage, slope, and utility improvements. This vote applies to all units of property described and depicted in Attachment 1 attached to the Resolution.”

- 15. Consider and Act upon Adoption of a Resolution Authorizing the Acquisition of Easements for the Construction, Access, and Maintenance of the Midway Branch Sanitary Sewer Force Main from a future Midway Lift Station Site across from 527 Holfords Prairie Rd to the north Right-of-Way of S.H. 121 and to Undertake all Associated Utility Improvements (The “Project”); Authorizing the Appointment of an Appraiser and Negotiator as Necessary; Authorizing the City Manager (or Her Designee) to Establish Just Compensation for the Easement Rights to be Acquired; Authorizing the City Manager (or Her Designee) to take Steps Necessary to Acquire the Needed Easement Rights in Compliance with all Applicable Laws and Resolutions; and Authorizing the City Attorney (or Her Designee) to Institute Condemnation Proceedings to Acquire the Easements if Purchase Negotiations are not Successful; Providing for Repealing, Savings, and Severability Clauses; and Providing for an Effective Date.**

ADMINISTRATIVE COMMENTS:

Associated with the scope of work for the Project, easements will need to be acquired from two parcels. As required by Texas Property Code Section 21.0113, the City is required to first attempt to acquire the necessary acquisition(s) from the landowners voluntarily through the making of a bona fide offer prior to filing any eminent domain procedure. Funding is available in the Midway Capital Project.

RECOMMENDATION:

That the City Council consider and adopt the Resolution as set forth in the caption above by using the following motion, which is prescribed by Texas Government Code Section 2206.053(e):

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“I move that the City of Lewisville, Texas adopt the Resolution described in Agenda No. 15 and authorize the use of the power of eminent domain to acquire for public use the property described and depicted in Attachment 1 attached to the Resolution, said description and depiction being incorporated into this motion for all purposes, for the construction, access, and maintenance of the Midway Branch Easement and other associated utility improvements.”

- 16. Consideration of a Resolution Authorizing the City Manager to Submit an Application to the Texas Department of Housing and Community Affairs for the Homeowner Rehabilitation Assistance Program; Approval of a Language Access Plan for the Grant; and Approval to Commit Matching Funds Should the Grant be Awarded.**

ADMINISTRATIVE COMMENTS:

The U.S. Department of Housing and Urban Development (HUD) makes an annual allocation of funds for the HOME Investment Partnership Program (HOME) to the state of Texas. The Texas Department of Housing and Community Affairs (TDHCA), in turn, makes the funds available through a competitive grant to local entities that are not already direct recipients from HUD. The City will apply for \$200,000. The resolution includes a commitment for local match of 15% (\$30,000) which can include cash, waived permit fees and in-kind donations of services or material. It also includes approval of a Language Access Plan as required by the grant.

RECOMMENDATION:

That the City Council approve the resolution and authorize the City Manager to submit the application as set forth in the caption above.

- G. **REPORTS:** Reports about items of community interest regarding which no action will be taken.

◆ Quarterly Investment Report From April 1, 2016 – June 30, 2016

- H. **CLOSED SESSION:** In Accordance with Texas Government Code, Subchapter D,

1. Section 551.071 (Consultation with Attorney): Legal Issues Related to Outdoor Receptacles

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2. Section 551.072 (Real Estate): Property Acquisition
 3. Section 551.087 (Economic Development): Deliberation Regarding Economic Development Negotiations
- I. **RECONVENE** into Regular Session and Consider Action, if Any, on Items Discussed in Closed Session.
- J. **ADJOURNMENT**

The City Council reserves the right to adjourn into closed session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Section 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.087 (Economic Development).