

PLANO CITY COUNCIL
October 14, 2003

COUNCIL MEMBERS

Pat Evans, Mayor
Steve Stovall, Mayor Pro Tem
Shep Stahel, Deputy Mayor Pro Tem
Phil Dyer
Scott Johnson
Sally Magnuson
Jean Callison
Ken Lambert

STAFF

Thomas H. Muehlenbeck, City Manager
Frank Turner, Executive Director
Bruce Glasscock, Executive Director
Rod Hogan, Executive Director
Diane C. Wetherbee, City Attorney
John Gilliam, First Assistant City Attorney
Elaine Bealke, City Secretary

Mayor Evans convened the meeting into open session on Tuesday, October 14, 2003, at 7:36 p.m., in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present.

The invocation was led by Rev. David Batchelder of West Plano Presbyterian Church.

The Pledge of Allegiance was led by Jr. Girl Scout Troop 419 of Wyatt Elementary.

Mayor Evans presented a proclamation recognizing 2003 Texas Chamber of Commerce Week.

GENERAL DISCUSSION

Sonja Hammar, citizen of the City, encouraged citizens of the City to utilize the opportunity to come forward to the Council, and stated concerns regarding trucks utilized by the Animal Services Department which do not have air conditioning or temperature gauges in the back area of the trucks. She spoke to sanitizing the vehicles and inquired if it is being done. Mayor Evans advised that a response would be provided.

Richard Simmons, citizen of the City, spoke in support of the reduction of traffic to two lanes on Avenue K.

CONSENT AGENDA

Citizen Sonja Hammar requested that Consent Agenda Items "O" and "P" be removed for individual consideration.

Mayor Pro Tem Stovall and Deputy Mayor Pro Tem Stahel requested that Consent Agenda Items "M," "N," "X," "Y," and "Z" be removed for individual consideration due to possible conflicts of interest.

Upon a motion made by Council Member Lambert and seconded by Council Member Dyer, the Council voted 8-0 to approve and adopt all remaining items on the Consent Agenda as recommended and as follows;

Approval of Minutes [Consent Agenda Item (A)]

September 22, 2003
September 29, 20003

Award, Rejection of Bids/Proposals, Conditional Acceptance of Lowest Responsible Bid/Proposal and Designation of Alternate Lowest Responsible Bid/Proposal when applicable on the following:

Bid No. B124-03 for the purchase and installation of Video Compression and Transmission Equipment in the amount of \$31,620 for the Traffic Engineering Department. [Consent Agenda Item (B)] (See Exhibit "A")

Bid No. C098-03 for a fixed-price contract for Printing Services for Leisure Catalog in the estimated annual amount of \$55,392. [Consent Agenda Item (C)] (See Exhibit "B")

Bid No. B132-03 for the purchase of a Communications Shelter as a replacement for the Parkway Radio Tower Shelter in the amount of \$136,428. [Consent Agenda Item (D)] (See Exhibit "C")

Bid No. B114-03 for a fixed-price contract for Self-Funded Proposals with Carriers of Proprietary Managed Care Networks in the estimated annual amount of \$1,374,413. [Consent Agenda Item (E)] (See Exhibit "C")

Bid No. B130-03 for construction of Teakwood Lane drainage improvements with Alternate I in the amount of \$196,919. [Consent Agenda Item (F)] (See Exhibit "D")

Bid No. C133-03 for a fixed-price contract for Reflective Sheeting in the estimated annual amount of \$26,805 to be utilized by the Public Works Department. [Consent Agenda Item (G)] (See Exhibit "E")

Adoption of Resolutions

Resolution No. 2003-10-1(R): To authorize the purchase of various library materials, including books, books-on-tape, audio cassettes, compact disks, and videocassettes for the Plano Public Library System, from Baker & Taylor in the amount of \$350,000; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the purchase approved herein; and providing an effective date. [Consent Agenda Item (H)]

Resolution No. 2003-10-2(R): To authorize the purchase of specialized online database materials for the Plano Public Library System in the amount of \$29,260 from InfoUSA, a sole source supplier of such materials; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the purchase approved herein; and providing an effective date. [Consent Agenda Item (I)]

Resolution No. 2003-10-3(R): To approve the purchase of books and books-on-tape for the Plano Public Library System from the Brodart Company in the amount of \$350,000 through the Northeast Texas Library System; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the purchase approved herein; and providing an effective date. [Consent Agenda Item (J)]

Resolution No. 2003-10-4(R): To authorize the purchase of various library materials for the Plano Public Library System in the total amount of \$63,431 from Dun & Bradstreet, Mergent (formerly Moody's), Standard & Poor's and Proquest Information and Learning (formerly Bell & Howell), the sole source suppliers of such materials; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the purchase approved herein; and providing an effective date. [Consent Agenda Item (K)]

Resolution No. 2003-10-5(R): To approve the terms and conditions of a lease agreement by and between the City of Plano and Otto Container Management, L.L.C. for lease of space located at 4200 West Plano Parkway; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (L)]

Resolution No. 2003-10-6(R): To approve the purchase of SmartNet800 MHz mobile and portable radios from Motorola Communications and Electronics, Incorporated, a sole-source provider; authorizing the City Manager to take such action as necessary to effectuate the purchase; and providing an effective date. [Consent Agenda Item (Q)]

Resolution No. 2003-10-7(R): To authorize the creation of an officer vest allowance from the seizure fund to be used to purchase replacement vests for officers; and providing an effective date. [Consent Agenda Item (R)]

Resolution No. 2003-10-8(R): To authorize the City of Plano to participate in and receive funding through the Texas Highway Traffic Safety Program for an Intersection Traffic Control Project, PIN 17560006409000, targeting intersections regulated by means of a signal light; authorizing the City Manager to execute the grant agreement and any other documents necessary to effectuate the action taken; and providing an effective date. [Consent Agenda Item (S)]

Adoption of Ordinances

Ordinance No. 2003-10-9: To amend Section III of Ordinance No. 99-9-29 and Section I of Ordinance No. 2000-7-9, currently codified as Chapter 12, Motor Vehicles and Traffic, Article IV, Speed, Section 12-73(c) of the City of Plano Code of Ordinances, to establish a school zone on Coit Road at Stonehaven Drive during the time periods of 8:00 a.m. through 8:45 a.m. and 3:15 p.m. through 4:00 p.m. on school days, and providing a severability clause, a penalty clause, and an effective date. [Consent Agenda Item (T)]

Ordinance No. 2003-10-10: To amend Section V of Ordinance No. 99-9-29 and Section II of Ordinance No. 2000-7-9, currently codified as Section 12-73(e) of Chapter 12 (Traffic Code) of the City of Plano Code of Ordinances, to establish a school zone on Baxter Drive at Alma Drive during the hours of 7:15 a.m. to 8:45 a.m., 10:45 a.m. to 11:45 a.m. and 2:30 p.m. to 4:00 p.m. on school days; and providing a severability clause, a penalty clause, and an effective date. [Consent Agenda Item (U)]

Ordinance No. 2003-10-11: To revise Section 2-234. Meetings, of Article XI, International Relations Advisory Commission, of Chapter 2. Administration of the Plano Code of Ordinances to change the meetings of the Commission from quarterly to a minimum of once annually; providing a repealer clause, a severability clause, and an effective date. [Consent Agenda Item (V)]

Ordinance No. 2003-10-12: To approve the carrying forward of Fiscal Year 2002-2003 funds to Fiscal Year 2003-2004; and providing an effective date. [Consent Agenda Item (W)]

Award of Contract

To approve and authorize for the selection of Freese & Nichols, Inc. to provide Professional Engineering Services for an amount not to exceed \$151,470 in connection with the design of Dallas North 15 Water Rehabilitation and Fire Hydrants and authorizing the City Manager to execute all necessary documents to effectuate this contract. [Consent Agenda Item (AA)]

To approve and authorize a contract with Jones & Boyd, Inc. (JBI) to provide engineering and architectural work in conjunction with the new construction contractor for the Pecan Hollow Golf Course Clubhouse in the amount of \$22,000; and to authorize the City Manager to execute any and all documents necessary to effectuate the contract. [Consent Agenda Item (BB)]

Approval of Contract Payment

To approve the annual maintenance fee payment of \$240,983 to Motorola Communications under the renewed contract between the City of Plano and Motorola Communications for annual maintenance service of the 800 MHz Trunked Radio System; and authorizing the City Manager to execute all necessary documents. Bid #C9708-250. [Consent Agenda Item (CC)]

Renewal of Agreement

To renew an agreement to provide the Certificate of Public Administration Program between the City of Plano and University of Texas at Dallas in the amount of \$26,000, authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (DD)]

Approval of Reimbursement of Oversize Participation

To approve and authorize reimbursement to EDS Information Services, L.L.C. for oversize participation for paving and water line improvements associated with the construction of Tennyson Parkway and Communications Parkway in the amount of \$395,403. [Consent Agenda Item (EE)]

Approval of Change Order

To URETEK USA, Inc. increasing the contract by \$168,000 for the Residential and Arterial Pavement Undersealing Contract, Change Order No. 1 [Council Resolution No. 2002-10-7(R)] [Consent Agenda Item (FF)]

Adoption of Council Strategic Plan

To adopt the City Council Strategic Plan for 2003-2008. [Consent Agenda Item (GG)]

END OF CONSENT:

Due to possible conflicts of interest, Mayor Pro Tem Stovall and Deputy Mayor Pro Tem Stahel, stepped down from the bench on the following items which were considered concurrently.

Resolution No. 2003-10-13(R): To approve the terms and conditions of a renewal maintenance agreement with Sungard HTE, Inc., a sole source vendor, for the maintenance and support of H.T.E. software applications used by various City departments; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (M)]

Resolution No. 2003-10-14(R): To approve the terms and conditions of an amendment to Schedule #2 of a maintenance agreement with PeopleSoft USA, Inc., a sole source vendor, for the maintenance and support of PeopleSoft Time & Labor, Enterprise Portal, and Government Portal applications; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (N)]

Approval of State Contract - To approve a purchase from IBM the management servers in an amount of \$47,778 through the Department of Information Resources (DIR); and authorizing the City Manager to execute all necessary documents to effectuate the purchase (DIR-94-00151, priority code 8007) [Consent Agenda Item (X)]

Approval of State Contract - To approve obtaining support services for the network infrastructure switches with AT&T in an amount of \$64,609 through the Department of Information Resources (DIR); and authorizing the City Manager to execute all necessary documents to effectuate the purchase (TEX-AN-2000-ATT-EP) [Consent Agenda Item (Y)]

Approval of Agreement - To approve an education services agreement for Unicenter training credit units from Computer Associates International, Inc. in an amount of \$42,500; and authorizing the City Manager to execute all documents necessary to effectuate the purchase. [Consent Agenda Item (Z)]

Upon a motion made by Council Member Lambert and seconded by Council Member Johnson, the Council voted 8-0 to approve the terms and conditions of a renewal maintenance agreement with Sungard HTE, Inc., a sole source vendor, for the maintenance and support of H.T.E. software applications used by various City departments; authorizing its execution by the City Manager; and providing an effective date; and further to adopt Resolution No. 2003-10-13(R); to approve the terms and conditions of an amendment to Schedule #2 of a maintenance agreement with PeopleSoft USA, Inc., a sole source vendor, for the maintenance and support of PeopleSoft Time & Labor, Enterprise Portal, and Government Portal applications; authorizing its execution by the City Manager; and providing an effective date; and further to adopt Resolution No. 2003-10-14(R); To approve a purchase from IBM the management servers in an amount of \$47,778 through the Department of Information Resources (DIR); and authorizing the City Manager to execute all necessary documents to effectuate the purchase; to approve obtaining support services for the network infrastructure switches with AT&T in an amount of \$64,609 through the Department of Information Resources (DIR); and authorizing the City Manager to execute all necessary documents to effectuate

the purchase; to approve an education services agreement for Unicenter training credit units from Computer Associates International, Inc. in an amount of \$42,500; and authorizing the City Manager to execute all documents necessary to effectuate the purchase.

Mayor Pro Tem Stovall and Deputy Mayor Pro Tem Stahel resumed their seats on the bench.

The Council considered the following two items concurrently.

Resolution No. 2003-10-15(R): To approve the terms and conditions of annual funding agreements between the City of Plano, Texas, and the Heritage Farmstead Museum, ArtCentre of Plano, Plano Conservancy for Historic Preservation and Douglass Community Arts Advisory Committee, approving the individual appropriations, authorizing the City Manager to execute such agreements, and providing an effective date. [Consent Agenda Item (O)]

Resolution No. 2003-10-16(R): To approve the terms and conditions of funding agreements between the City of Plano, Texas, and various arts organizations, which all render services that are beneficial to the public and serve a valid public purpose; authorizing the City Manager to execute such agreements with these organizations providing for support of the arts; and providing an effective date. [Consent Agenda Item (P)]

Sonja Hammar, citizen of the City, requested information regarding the source of funding for the non-profit organizations for Consent Agenda Items "O" and "P." She further requested information regarding the number employed by the Plano Conservancy for Historic Preservation and whether the item includes the purchase of a flat-screen television.

City Manager Muehlenbeck responded that funds come from the hotel/motel tax and general funds and that general funds are used to make up the net difference from a target figure previously developed. He further responded that information would be provided regarding the use of general funds.

Upon a motion made by Deputy Mayor Pro Tem Stahel and seconded by Council Member Magnuson, the Council voted 8-0 to approve the terms and conditions of annual funding agreements between the City of Plano, Texas, and the Heritage Farmstead Museum, ArtCentre of Plano, Plano Conservancy for Historic Preservation and Douglass Community Arts Advisory Committee, approving the individual appropriations, authorizing the City Manager to execute such agreements, and providing an effective date; and further to adopt Resolution No. 2003-10-15(R), and to approve the terms and conditions of funding agreements between the City of Plano, Texas, and various

Resolution No. 2003-10-16(R) (cont'd)

arts organizations, which all render services that are beneficial to the public and serve a valid public purpose; authorizing the City Manager to execute such agreements with these organizations providing for support of the arts; and providing an effective date; and further to adopt Resolution No. 2003-10-16(R).

Public Hearing and adoption of Ordinance No. 2003-10-17 to designate a certain area within the City of Plano as Reinvestment Zone No. 79 for commercial/industrial tax abatement consisting of a 6.202-acre tract of land located at Collin Creek Corporate Center II, 1801 Alma Drive in the City of Plano; establishing the boundaries of such zone; ordaining other matters relating thereto; and providing an effective date. [Regular Agenda Item (1)]

Director of Finance McGrane advised the Council that the tax abatement agreement would be for a period of ten years from January 1, 2004 through December 31, 2013 and would be based on amounts equal to 50% for real property and business personal property and would result in employment for 43.

Mayor Evans opened the Public Hearing. No one spoke either for or against the request. The Public Hearing was closed.

Upon a motion made by Mayor Pro Tem Stovall and seconded by Council Member Magnuson, the Council voted 8-0 to designate a certain area within the City of Plano as Reinvestment Zone No. 79 for commercial/industrial tax abatement consisting of a 6.202-acre tract of land located at Collin Creek Corporate Center II, 1801 Alma Drive in the City of Plano; establishing the boundaries of such zone; ordaining other matters relating thereto; and providing an effective date; and further to adopt Ordinance No. 2003-10-17.

Resolution No. 2003-10-18(R): To approve the terms and conditions of an agreement by and between the City of Plano, Texas, the County of Collin, the Collin County Community College District, and Pitman Partners, Ltd. IV and Harley-Davidson Financial Services, Inc., and providing for a commercial/industrial tax abatement for Pitman Partners, Ltd. IV and Harley-Davidson Financial Services, Inc., and authorizing its execution by the City Manager; and providing an effective date. [Regular Agenda Item (2)]

Resolution No. 2003-10-18(R) (cont'd)

Upon a motion made by Mayor Pro Tem Stovall and seconded by Council Member Johnson the Council voted 8-0 to approve the terms and conditions of an agreement by and between the City of Plano, Texas, the County of Collin, the Collin County Community College District, and Pitman Partners, Ltd. IV and Harley-Davidson Financial Services, Inc., and providing for a commercial/industrial tax abatement for Pitman Partners, Ltd. IV and Harley-Davidson Financial Services, Inc., and authorizing its execution by the City Manager; and providing an effective date; and further to adopt Resolution No. 2003-10-18(R).

An ordinance granted to Oncor Electric Delivery Company, a Texas Corporation, its successors and assigns, a non-exclusive franchise to use the present and future streets, avenues, alleys, roads, highways, sidewalks, easements and other public rights-of-way of the City of Plano, Texas for the purposes of constructing and operating an electric distribution and transmission system; setting forth terms and conditions to govern the franchise; providing a repealer clause, a severability clause, a savings clause and an effective date. (First Reading) [Regular Agenda Item (3)]

Assistant to the City Manager Israelson advised the Council that this item would provide a ten-year franchise. City Manager Muehlenbeck responded to Council Member Johnson that Oncor has an agreement to provide street lights whose rates are set by the Public Utility Commission. Council Member Johnson stated concern regarding the number of street lights malfunctioning and requested addressing this need individually.

Steve Matthews, of Oncor Electric Delivery Company spoke to this area as being a focus of Oncor and the process for receiving notice of malfunctioning lights including a link on the City's web page. He responded to Council Member Johnson that he would review the lights on Chapel Hill from Plano Parkway to the Dallas North Tollway and advised that some locations are served by Coserv. He stated that the City's Public Works Department would forward those requests related to Coserv. Mayor Pro Tem Stovall stated that the franchise fees are a rental charge for the use of rights of way and its impact on the City's budget.

Upon a motion made by Council Member Lambert and seconded by Mayor Pro Tem Stovall, the Council voted 8-0 to approve the first reading of an ordinance to grant to Oncor Electric Delivery Company, a Texas Corporation, its successors and assigns, a non-exclusive franchise to use the present and future streets, avenues, alleys, roads, highways, sidewalks, easements and other public rights-of-way of the City of Plano, Texas for the purposes of constructing and operating an electric distribution and transmission system; setting forth terms and conditions to govern the franchise; providing a repealer clause, a severability clause, a savings clause and an effective date.

Resolution No. 2003-10-19(R): To adopt the Meadows Addition Neighborhood Action Plan as proposed by the Meadows Addition Neighborhood Planning Team; approving its use by appropriate personnel and departments of the City of Plano for the purpose of guiding future development and provision of City services within the Meadows Addition Neighborhood; and providing an effective date. [Regular Agenda Item (4)]

Dani Gaither, citizen of the Meadows Addition Neighborhood, stated concerns regarding the number of residents in some homes in the area, neglect and vandalism, inadequate lights, the overabundance of trash not in containers and excess bulk waste. She requested that an allowance be made for the neighborhood to acquire enough trash containers for the area. Ms. Gaither spoke regarding the number of unrestrained animals in the area and advised that when a homeowners association is established they will offer “catch cages” to residents. She stated concerns regarding loitering in Shoshoni Park, communications issues, parking concerns in the neighborhood and spoke to developing a “tree program.” Ms. Gaither spoke to enforcement of codes to address issues.

Director of Planning Jarrell responded to Mayor Evans regarding restrictions on the number of residents in a dwelling and the difficulty in defining a family and stated that basic housing codes govern occupancy based on square footage available. City Attorney Wetherbee advised that the Fair Housing Act precludes a community from enacting an ordinance that limits family members in a household and further spoke regarding the limited enforcement tools. City Manager Muehlenbeck spoke to enforcement of square-footage requirements by Property Standards Staff. Ms. Jarrell advised that while there are no ordinances limiting the number of automobiles per residence, vehicles must be on paved surfaces. Mr. Muehlenbeck spoke to vehicles being a proper distance from fire hydrants and not blocking driveways. He further spoke regarding difficulties in enforcement of bulk trash violations.

City Manager Muehlenbeck spoke regarding the canopy of the trees in the area interfering with lighting and codes that require lights to be installed at a specific height advising that the only solution would be additional lights. Neighborhood Planner Soltan advised that Staff is working with the Urban Forester to add new trees to the area. Mayor Evans requested new plantings be placed into the yards so they do not block lights. Mr. Muehlenbeck advised that tree farm stock is intended for the public right-of-way and Council discussion would be needed if they were to be made available for private property. Ms. Soltan advised that more patrols will be added to the area and that Staff is working with Animal Services to address animal-related issues.

City Manager Muehlenbeck advised Council Member Lambert that he would look into providing the report in a digital form.

Resolution No. 2003-10-19(R) (cont'd)

Upon a motion made by Council Member Lambert and seconded by Deputy Mayor Pro Tem Stahel, the Council voted 8-0 to adopt the Meadows Addition Neighborhood Action Plan as proposed by the Meadows Addition Neighborhood Planning Team; approving its use by appropriate personnel and departments of the City of Plano for the purpose of guiding future development and provision of City services within the Meadows Addition Neighborhood; and providing an effective date; and further to adopt Resolution No. 2003-10-19(R).

The Council concurred to address the following two items concurrently.

Public Hearing and adoption of Ordinance No. 2003-10-21 as requested in Zoning Case 2003-44 – To amend Subsection 3-105 (Private Clubs) 2. of Section 3-100 (Supplementary Regulations for Principal Permitted and Specific Uses) of Article 3 (Supplementary Regulations) of the Comprehensive Zoning Ordinance, Ordinance No. 86-3-14, as heretofore amended, to permit City Council to waive the 300-foot separation distance between private clubs and churches within the Downtown Business/Government (BG) zoning district if the City Council finds that issuance of the specific use permit would not be detrimental or injurious to the public health, safety or general welfare, or otherwise offensive to the neighborhood; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: City of Plano [Regular Agenda Item (5)]

Public Hearing and adoption of Ordinance No. 2003-10-20 as requested in Zoning Case 2003-45 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, granting Specific Use Permit No. 509 so as to allow the additional use of a Private Club on 1.1± acres of land located on the west side of H Avenue, 250± feet north of 15th Street in the City of Plano, Collin County, Texas, presently zoned Downtown Business/Government; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Neighborhood # 59 Applicant: City of Plano [Regular Agenda Item (6)]

Director of Planning Jarrell advised the Council that one item (Regular Agenda Item 5) amends the private club requirements for the Business/Government District to allow Council the ability to waive the 300-foot distance requirement between church property and private clubs and the other (Regular Agenda Item 6) is to consider a specific use permit for the Courtyard Theater. She advised that the Zoning Ordinance currently permits waivers between private clubs and parks, hospitals and residential districts and that the request would only affect churches in the BG District. Ms. Jarrell advised that the specific use permit for the Courtyard Theater would only apply to the interior and

Ordinance No. 2003-10-20 (cont'd)

not the outdoor courtyards and patios, that the distance to the front door of First Christian Church is approximately 130 feet and that a waiver would be required from the church along with a park and residential district. She advised that a letter in opposition has been received from the First Christian Church and that as an owner of more than 20% of land within the notice boundary, this action invokes the $\frac{3}{4}$ vote requirement for approval.

Ms. Jarrell advised that approval of an amendment to the private club requirements for the BG District (Zoning Case 2003-44) is recommended for approval by the Planning and Zoning Commission with the following stipulations: (Additions are indicated by underlined text. Deletions are indicated by strike-through text.)

Amend Section 3-105-2 to read as follows:

“2. A private club shall be prohibited within 1,000 feet of the property line of any church, public or parochial school, hospital, or publicly-owned park, except that this prohibition will not apply to property located within 1,000 feet of a hospital or publicly-owned park if the City Council affirmatively finds that issuance of the specific use permit would not be detrimental or injurious to the public health, safety or general welfare, or otherwise offensive to the neighborhood. In the BG district, the minimum separation between any church or public or private school shall be 300 feet, measured as prescribed above. All other separation provisions shall be as noted above, except that the prohibition will not apply to property located within 300 feet of a church if the City Council affirmatively finds that issuance of the specific use permit would not be detrimental or injurious to the public health, safety or general welfare, or otherwise offensive to the neighborhood.”

Ms Jarrell advised that approval of a specific use permit for the Courtyard Theater (Zoning Case 2003-45) is recommended for approval by the Planning and Zoning Commission with the following stipulations:

1. The area of the private club is limited to the inside of the theater only.
2. City Council approval of Zoning Case 2003-44.
3. City Council finding that issuance of the specific use permit would not be detrimental or injurious to the public health, safety or general welfare, or otherwise offensive to the neighborhood, and waiving the 1,000-foot distance requirement from a publicly owned park and the 300-foot distance requirement from a residential district and church.

Ordinance No. 2003-10-20 (cont'd)

Ms. Jarrell advised Council Member Lambert that the distance requirement to churches was reduced approximately five years ago to 300 feet in the BG district due to the density of development and that there is not a current waiver provision.

Executive Director Turner spoke regarding the conversion of the Cox Gymnasium into a small theater and to its contribution to the revitalization of the downtown area and preservation of the gymnasium. He spoke to the shortage of public meeting spaces and advised that the lobby of the theater is used for dinners and receptions and further that the lease in place with the Plano Independent School District states no objection to the lawful sale or consumption of alcoholic beverages on the property. Mr. Turner spoke to events held where beverages were provided and served by event sponsors, stated that no beverages are allowed at ticketed events due to restrictions, and advised if the request is approved, service would be exclusively provided by Plano Centre only at the sponsor's request, would be limited to the interior and provided at events held Monday-Saturday 11:30 a.m. - 11:30 p.m. He spoke regarding sales that would be generated and to meeting the needs of community-based organizations.

Mayor Evans opened the Public Hearing. Sonja Hammar, citizen of the City, spoke in opposition to the sale of alcoholic beverages in the Courtyard Theater and stated concerns that beverages may be brought outside the theater and that the request would be precedent setting. Pam Hatcher, citizen of the City, spoke in support of the proposal offering control and safety and regarding current service being unregulated having open containers leaving the premises. She spoke to research done on similar venues, lack of incidents reported, and further spoke to removal of the specific use permit should the property be vacated. Ms. Hatcher stated that the neighborhood would be vigilant.

L. B. Showalter, First Christian Church trustee, a resident of Frisco, Texas, spoke in opposition and stated that the First Christian Church board has voted against both issues, stated concerns related to the development of the Courtyard Theater and spoke to the item not being approved if the request came from a private developer. Mr. Showalter responded to Mayor Pro Tem Stovall that he was not a church trustee four years ago and had no knowledge of discussions at that time. Pam Richardson, citizen of the City, spoke in opposition to the location, regarding risks and to current law not allowing alcohol sales within 300 feet of a church, and further to being afforded the protection of the law.

Ed Wales, representing First Christian Church and citizen of the City, spoke in opposition to the proposals, stating that the church board has voted in opposition and that the permit would be harmful to the church. He spoke regarding rebuilding at the church and requirements to obey city codes, planned activities and a mothers' day out program and questioned if consideration is a revenue issue. Mr. Wales responded to the Council that he was not aware alcohol would be provided at the theater when the site first

Ordinance No. 2003-10-20 (cont'd)

came under consideration. Mr. Turner spoke to the City's acquisition of right-of-way which enabled the church to remove a service station. He stated that while there was not a formal agreement, the church had been informed. Mayor Pro Tem Stovall spoke to the understanding that alcoholic beverages would be served inside the theater in a controlled manner. Council Member Johnson and Mr. Wales spoke to the give-and-take between the City and the church resulting from a church fire.

Connie Holliday, citizen of the City, spoke in opposition stating that the City should not be in the business of selling alcohol, citing liability issues, and stated that the policy is not a good moral issue. She spoke regarding the church members being in opposition, to there being no previous discussion of alcohol, scheduled activities at the church and spoke to a home for children in the area. Tim Kelly, of Kelly's Eastside Downtown Plano Restaurant and citizen of the City, spoke in support of the requests citing the control the City will have and to helping to draw people to the downtown area. Donna Showalter, citizen of Frisco and member of this church, spoke in opposition stating that the City is being manipulative with the ordinance and spoke regarding the impression this gives young people that alcohol is needed for entertainment. Rob Harrington, citizen of the City, spoke in opposition stating it would be morally wrong and that the law should be obeyed. Dan Smith, citizen of the City, spoke in opposition and stated concern that the City is changing regulations that have been in place for many years and that he was not aware of the intent to sell alcohol. No one else spoke either for or against the request. The Public Hearing was closed.

Council Member Dyer stated that these items are not revenue related and that out of respect for the opinion of the church he will vote in opposition. Council Member Lambert spoke regarding the 1,000-foot distance requirement for churches in other areas of the City, the current 300-foot distance requirement for this church and stated concern with reducing the buffer to 130 feet. He spoke to the proximity of the location to Haggard Park and City House, the current level of use of the facility and advised that he will vote in opposition.

Mayor Pro Tem Stovall spoke regarding prior discussions, previous consideration of the downtown area for the large performing arts center and to the failure of the bond election. He spoke to tabling the requests to allow time to review issues.

Mr. Turner responded to Council Member Magnuson that a specific use permit was necessary for Plano Station due to its proximity to Haggard Park. He advised that no alcohol-related incidents have been reported and that if these items are approved, the City will comply with regulations. Mr. Turner stated that there have been a couple of instances when events were not booked at the Courtyard Theater due to restrictions

Ordinance No. 2003-10-20 (cont'd)

and clarified that currently the sale of alcohol is illegal if an event includes a ticket cost and further that this restriction may deter some future business opportunities. He spoke to lost revenue and having services available in the community. Mr. Turner clarified that Staff did communicate with the church regarding plans for the facilities but did not request permission or ask them to take positions and stated that no expressions of opposition were received and that initially church leadership was on the planning committee.

Mr. Turner responded to Council Member Johnson that there have been no reported incidents or complaints to this point at the Courtyard Theater or Plano Station and that Plano Centre would operate the concessions. He clarified for Mayor Evans that if these items do not pass, parties renting the facility will be responsible for purchasing and delivery of beverages or hiring staff to serve the beverages and further that the City may bring a halt should any disruption occur. He further responded to Council Member Lambert that the City could prohibit alcohol entirely and that if the theater were operated under a specific use permit the City would be the only entity allowed to bring alcoholic beverages onto the property.

Deputy Mayor Pro Tem Stahel spoke regarding the distance requirements including "walking distance" and to placement of a screening wall along the southern boundary of the Courtyard Theater property. Mr. Turner stated that a screen of some sort might be extended from the building back towards the street without interfering with fire protection functions. Mr. Stahel spoke to measuring how people walk, not "how the crow flies."

Council Member Lambert spoke to consideration of the request for a specific use permit for the Courtyard Theater (Regular Agenda Item 6) prior to making a change to the Zoning Ordinance (Regular Agenda Item 5) to which the Council concurred. He stated that variances to churches have not previously occurred in the City.

A motion was made by Deputy Mayor Pro Tem Stahel and seconded by Council Member Magnuson to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, granting Specific Use Permit No. 509 so as to allow the additional use of a Private Club on 1.1± acres of land located on the west side of H Avenue, 250± feet north of 15th Street in the City of Plano, Collin County, Texas, presently zoned Downtown Business/Government as requested in Zoning Case 2003-45 and as recommended by the Planning and Zoning Commission *with an additional stipulation requiring screening (consisting of masonry, wrought iron and/or landscaping) shall be placed along the southern property line from the sidewalk to the east facade of the Courtyard Theater and subject to approval of Zoning Case 2003-44;* directing a change accordingly in the official zoning map of the City; and providing

Ordinance No. 2003-10-20 (cont'd)

a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date; and further to adopt Ordinance No. 2003-10-20 with revision. The Council voted 6-2 with Council Members Dyer and Lambert voting in opposition. The motion carried. (Regular Agenda Item 6)

A motion was made by Deputy Mayor Pro Tem Stahel and seconded by Council Member Magnuson to amend Subsection 3-105 (Private Clubs) 2. of Section 3-100 (Supplementary Regulations for Principal Permitted and Specific Uses) of Article 3 (Supplementary Regulations) of the Comprehensive Zoning Ordinance, Ordinance No. 86-3-14, as heretofore amended, to permit City Council to waive the 300-foot separation distance between private clubs and churches within the Downtown Business/Government (BG) zoning district if the City Council finds that issuance of the specific use permit would not be detrimental or injurious to the public health, safety or general welfare, or otherwise offensive to the neighborhood as requested in Zoning Case 2003-44 and as recommended by the Planning and Zoning Commission; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date; and further to adopt Ordinance No. 2003-10-21. The Council voted 6-2 with Council Members Dyer and Lambert voting in opposition. The motion carried. (Regular Agenda Item 5)

Public Hearing and adoption of Ordinance No. 2003-10-22 as requested in Zoning Case 2003-46 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, granting Specific Use Permit No. 510 so as to allow the additional use of a Private Club on 1.6± acres of land located on the west side of U.S. 75, 1,050± feet north of Ruisseau Drive in the City of Plano, Collin County, Texas, presently zoned Corridor Commercial; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Neighborhood #36 Applicant: GMRI, Texas L.P. [Regular Agenda Item (7)]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission recommended approval of the request as submitted and that the site is currently under construction.

Mayor Evans opened the Public Hearing. Brian Burger, representing the applicant advised he was available to respond to any questions. No one else spoke either for or against the request. The Public Hearing was closed.

Upon a motion made by Deputy Mayor Pro Tem Stahel and seconded by Council Member Johnson, the Council voted 8-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, granting Specific Use Permit No. 510 so as to allow the additional use of a Private Club on 1.6± acres of land located

Ordinance No. 2003-10-22 (cont'd)

on the west side of U.S. 75, 1,050± feet north of Ruisseau Drive in the City of Plano, Collin County, Texas, presently zoned Corridor Commercial as requested in Zoning Case 2003-46 and as recommended by the Planning and Zoning Commission; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date; and further to adopt Ordinance No. 2003-10-22.

Public Hearing and adoption of Ordinance No. 2003-10-23 as requested in Zoning Case 2003-47 - To amend the Comprehensive Zoning Ordinance of the City of Plano, Ordinance No. 86-3-14, as heretofore amended, so as to amend Planned Development-20-Mixed Use 2. (Sub-Area B - Town Center) m. (Phasing), 6. (Architecture and Landscape Design – General Requirements) a. (Definitions) 7. (Quasi-Public Streets), 7. (Sub-Area A) a. (Building Arrangement) 1., 8. (Sub-Area B – Town Center) a. (Building Arrangement) 1., 9. (Sub-Area C) a. (Building Arrangement) 1., and 10. (Sub-Area D) a., (Building Arrangement) 1; and adopting Exhibit D as a part of this ordinance and amending references to Exhibits B and C by adding Exhibit D on 135.3± acres located on the southeast corner of McDermott Road and Preston Road in the City of Plano, Collin County, Texas, directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Neighborhood #1 Applicant: Preston 121 Joint Venture [Regular Agenda Item (8)]

Director of Planning Jarrell advised the Council that the applicant is requesting to amend the planned development stipulations pertaining to phasing within Sub-Area A relating to Sub-Area B and to revise the concept of the promenade. She advised that the request would not modify any of the requirements of Sub-Areas C or D. Ms. Jarrell stated that the Planning and Zoning Commission recommended approval of the request subject to the following:

1. Amending Section 2 (Sub Area B [Town Center]) (m.) of Planned Development-20-Mixed-Use to read as follows:
 2. Sub-Area B (Town Center)
 - m. Phasing - The northern building fronting Town Square must be constructed concurrent or prior to any development above ~~235,000~~ 200,000 square feet in aggregate within the 31.4 acre portion of Sub-Area A lying north of the promenade connecting Preston Road to the Town Square or concurrent with or prior to any development within that 31.4 acres for which plan or permit approval is sought after September 9, 2004.
2. Adopting Exhibit D as a part of the Ordinance.

Ordinance No. 2003-10-22 (cont'd)

3. Amending references to Exhibits B and C by adding Exhibit D as follows.

A. Restrictions:

The map attached hereto as Exhibit B, as amended by Exhibits C and D, is hereby adopted as part of this ordinance.

B. 6. Architecture and Landscape Design - General Requirements

a. Definitions:

(7) Quasi-Public Streets - Quasi-Public streets are privately owned and maintained drives open to public access. Required quasipublic streets are designated on the zoning exhibit as amended by Exhibits C and D. Additional quasi-public streets proposed by the developer may be designated on subsequent plans approved by the city. A fire lane shall be located within all quasi-public streets. Lots may be platted to quasi-public streets.

C. 7. Sub-Area A

a. Building Arrangement

(1) Buildings located along the promenade west of town square shall be arranged in a pattern generally consistent with that illustrated in Exhibit B as amended by Exhibits C and D.

D. 8. Sub-Area B (Town Center)

a. Building Arrangement

(1) The buildings in Town Center shall be arranged in a pattern generally consistent with that illustrated in Exhibit B as amended by Exhibits C and D.

E. 9. Sub-Area C

a. Building Arrangement

(1) Buildings shall be placed square to streets and diagonal green belts illustrated in Exhibit B as amended by Exhibits C and D. Where a building abuts two or more streets or a green belt, the primary quasi-public street shall take priority in determining building orientation.

Ordinance No. 2003-10-22 (cont'd)

F. 10. Sub-Area D

a. Building Arrangement

(1) The buildings in Sub-Area D shall be arranged in a pattern generally consistent with that illustrated in Exhibit B as amended by Exhibits C and D.

Mayor Evans opened the Public Hearing. Larry Good, representing the applicant, stated that the request would allow for better traffic flow and responded to the Council that the development is starting to take shape as envisioned. No one else spoke either for or against the request. The Public Hearing was closed.

Upon a motion made by Council Member Lambert and seconded by Council Member Dyer, the Council voted 8-0 to amend the Comprehensive Zoning Ordinance of the City of Plano, Ordinance No. 86-3-14, as heretofore amended, so as to amend Planned Development-20-Mixed Use 2. (Sub-Area B - Town Center) m. (Phasing), 6. (Architecture and Landscape Design – General Requirements) a. (Definitions) 7. (Quasi-Public Streets), 7. (Sub-Area A) a. (Building Arrangement) 1., 8. (Sub-Area B – Town Center) a. (Building Arrangement) 1., 9. (Sub-Area C) a. (Building Arrangement) 1., and 10. (Sub-Area D) a., (Building Arrangement) 1; and adopting Exhibit D as a part of this ordinance and amending references to Exhibits B and C by adding Exhibit D on 135.3± acres located on the southeast corner of McDermott Road and Preston Road in the City of Plano, Collin County, Texas, as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2003-47 directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date; and further to adopt Ordinance No. 2003-10-23.

Public Hearing and consideration of an Appeal of the Planning & Zoning Commission's Denial of Zoning Case 2003-22 - A request for a Specific Use Permit (SUP) for a Used Car Dealer on one lot on 0.2+ acre on the west side of K Avenue and 60+ feet north of 20th Street. Zoned Light Commercial with Specific Use Permit #223 for Limited Assembly and Manufacturing Uses. Neighborhood #60. Applicant: David Howard Tabled 09-08-03 and 09-22-03 [Regular Agenda Item (9)]

Upon a motion made by Deputy Mayor Pro Tem Stahel and seconded by Council Member Lambert, the Council voted 8-0 to remove the item from the table.

Zoning Case 2003-22 (cont'd)

Director of Planning Jarrell advised that due to an error in the printing of the Zoning Ordinance which omitted the "S" designation for specific use permit approval for this location a used car dealership has been established at this location. She advised that the Planning and Zoning Commission expressed concern and denied the specific use permit request therefore a three-quarter vote of the Council is necessary for approval.

Mayor Evans opened the Public Hearing. Rocky Dhir, attorney for Elite Motorsport, reviewed the investment that has been made in the property, advised that the number of vehicles is small and spoke regarding the applicant checking with the City to be sure this was an allowed use in the location and further stated that the applicant relied on that information. He spoke regarding an "auto show" held at the location and advised that no complaints were received regarding this activity. Mr. Dhir presented a petition supporting the business from others in the area and stated that the petition does not indicate the terms of the permit. He advised that the lease is for five years, spoke regarding interior improvements and stated that no vehicle servicing takes place at the site.

Council Member Lambert spoke to the length of the lease and future uses and to the SUP running with the land and stated that the requirement for a specific use permit has been in effect for 20 years. Ms. Jarrell advised the Council that they could attach conditions to the permit such as limiting the number of cars at the site. Deputy Mayor Pro Tem Stahel spoke to using discretion in how much time the applicant would have to find another location and in enforcement. City Attorney Wetherbee spoke to determining a period of time that is reasonable.

David Howard, owner of the property, stated support for the applicant at this location and the desire that they be allowed to stay through the term of their lease which expires February 2006. Adam Christenson of Elite Motorsport spoke to upkeep on the property and the loss of clientele that would result from relocation. Ami Umdeewai, representing Elite Motorsport, spoke in support of the request, the success of the car show and the business striving to please the community and customers. Sherin Thainer, attorney for Elite Motorsport stated support for the request. No one else spoke either for or against the request. The Public Hearing was closed.

Deputy Mayor Pro Tem Stahel spoke to making a motion to deny with instructions to Staff to use greatest discretion in working with the applicant for a reasonable period of time to find a suitable alternative location.

Council Member Magnuson advised she could not support the motion as stated and spoke to the City's obligation to deal in good faith with citizens and not penalizing the applicant. Mayor Evans stated agreement with Council Member Magnuson's position on the case.

Zoning Case 2003-22 (cont'd)

Council Member Dyer spoke to the City's responsibility to all its citizens and the decision made to upgrade this area.

Council Member Johnson spoke to the possibility of revising the motion to include using discretion in enforcement through the end of the lease period. Deputy Mayor Pro Tem Stahel stated concern with revising the motion and spoke to this being a part of the long-term vision. Council Member Lambert spoke to the homework done by the applicant but stated concern that a clerical error would result in rezoning property and a loss of control.

A motion was made by Deputy Mayor Pro Tem Stahel and seconded by Council Member Lambert to deny a request for a Specific Use Permit (SUP) for a Used Car Dealer on one lot on 0.2+ acre on the west side of K Avenue and 60+ feet north of 20th Street. Zoned Light Commercial with Specific Use Permit #223 for Limited Assembly and Manufacturing Uses as requested in Zoning Case 2003-22 with instructions to Staff to use greatest discretion in working with the applicant for a reasonable period of time to find an alternative location. The Council voted 5-3 with Mayor Evans and Council Members Johnson and Magnuson voting in opposition. The motion carried.

There being no further discussion, Mayor Evans adjourned the meeting at 10:54 p.m.

Pat Evans, **MAYOR**

ATTEST:

Elaine Bealke, City Secretary