

PLANO CITY COUNCIL
July 26, 2004

COUNCIL MEMBERS

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

STAFF

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

Mayor Evans convened the meeting into open session on Monday, July 26, 2004, at 7:20 p.m., in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present.

The invocation was led by Father Tony Densmore of St. Elizabeth Ann Seton Catholic Church.

The Pledge of Allegiance was led by Representatives of Boys & Girls Clubs of Collin County - Plano.

Mayor Evans administered an oath of office to Faye Moses Wilkins, member of the DART Board of Directors.

The Council resumed discussion of the Preliminary Open Meeting.

Discussion and Direction Regarding Solicitation Ordinance Enforcement on Major Thoroughfares

Council Member Stovall spoke to the input received by the Council regarding solicitation in the City and to allowing for speakers at this meeting. City Attorney Wetherbee advised the Council that when the ordinance was adopted, several intersections were noted as exceptions from its application. Ms. Wetherbee stated solicitors are restricted from stepping into the intersections.

Donette Richeson, citizen of the City, spoke to concerns related to 15th Street/Custer Road where solicitors step into traffic and are not paying attention to the traffic signals.

Police Administrative Manager Brashear spoke to the five locations in question (15th Street/Custer Road, Alma Drive/Parker Road, K Avenue/Plano Parkway, Jupiter Road/FM544, and K Avenue/Park Boulevard) and stated that a commercial enterprise must have a permit but that charities do not. Officer Brashear spoke to enforcement efforts when individuals step off curbs which include requesting identification.

Ms. Wetherbee stated that the Council could mirror some of the restricted intersections and add those that have safety risks similar to those already identified. She advised that information would be collected from other cities for Council consideration at a future meeting. Mayor Evans spoke regarding Council members meeting with charitable organizations for their input on the issue.

Personnel Appointments

Tax Increment Financing Reinvestment Zone No 1 Board

The Council concurred to appoint Council Member Johnson as member and chair.

Upon a motion made by Council Member Johnson and seconded by Council Member Magnuson, the Council voted 8-0 to reappoint Michael Booth, Jon Christiansen and Dong Shen. (Zero positions remain for appointment.)

Animal Shelter Advisory Committee

Upon a motion made by Deputy Mayor Pro Tem Lambert and seconded by Mayor Pro Tem Stahel, the Council voted 8-0 to reappoint Jeffrey Cosby, Keith Clark and Eloisa Sue Muzquiz. (Two positions remain for appointment one being a representative of an animal welfare organization the other a citizen-at-large.)

Civil Service Commission

City Manager Muehlenbeck requested the item be deferred.

Community Relations Commission

Council Member Johnson requested the item be deferred.

Cultural Affairs Commission

Upon a motion made by Council Member Callison and seconded by Council Member Magnuson, the Council voted 8-0 to reappoint Cathy Kuo and Tony Vea. (Two positions remain for appointment.)

Heritage Commission

Council Member Callison advised that there were three positions for appointment.

International Relations Advisory Commission

Mayor Evans advised that no nominations have been received from the other entities and that there is currently one interim position for appointment.

Keep Plano Beautiful Commission

Upon a motion made by Council Member Magnuson and seconded by Council Member Stovall, the Council voted 8-0 to reappoint Holly Linskie, Sandy Fletcher and Wanda Stephens. (Two positions remain for appointment.)

Library Advisory Board

Upon a motion made by Deputy Mayor Pro Tem Lambert and seconded by Council Member Stovall the Council voted 8-0 to reappoint Mary McGowan, Hilton Kong and Harmon Norton. (Zero positions remain for appointment.)

Parks and Recreation Planning Board

Upon a motion made by Mayor Pro Tem Stahel and seconded by Council Member Magnuson, the Council voted 8-0 to reappoint Mary Long, Susan Plonka and Francis Ngoh for two-year terms and further to reappoint Jim Norton for a one-year term. (One vacancy remains for appointment.)

Plano Housing Authority

Upon a motion made by Council Member Stovall and seconded by Council Member Johnson, the Council voted 8-0 to reappoint Paul Gephart. (One vacancy remains for appointment.)

Plano Transition and Revitalization

Council Member Johnson requested this item be deferred at this time.

Public Arts Committee

Upon a motion made by Council Member Callison and seconded by Council Member Stovall, the Council voted 8-0 to reappoint Robert Drotman and Janet Shaw. (One vacancy remains for appointment.)

Retirement Security Plan Committee

Upon a motion made by Mayor Evans and seconded by Deputy Mayor Pro Tem Lambert the Council voted 8-0 to reappoint John McGrane, Mike Busch and Karen Rhodes as recommended by City Manager Muehlenbeck. (Zero vacancies remain for appointment.)

Self Sufficiency Committee

Upon a motion made by Mayor Pro Tem Stahel and seconded by Council Member Magnuson the Council voted 8-0 to reappoint Greg Huckaby. (One vacancy remains for appointment.)

Senior Citizens Advisory Board

Upon a motion made by Council Member Magnuson and seconded by Council Member Johnson, the Council voted 8-0 to reappoint Joseph Celso. (Five vacancies remain for appointment.)

Technology Commission

Upon a motion made by Council Member Stovall and seconded by Mayor Pro Tem Stahel, the Council voted 8-0 to reappoint Dana Johnson and Jim Ryan. (Two vacancies remain for appointment.)

Transportation Advisory Commission

Deputy Mayor Pro Tem Lambert advised that there are three vacancies for appointment.

Council Items for Discussion/Action on Future Agendas

No items were discussed

Consent and Regular Agendas

Council Member Dyer and citizen Jack Lagos requested that Consent Agenda Item "O," an ordinance to establish funding sources for the Public Art Fund be removed for individual consideration.

Deputy Mayor Pro Tem Lambert requested that Consent Agenda Item "W," consideration of rescheduling the October 25, 2004 Council Meeting be removed for individual consideration.

Council Reports

Council Member Stovall spoke regarding the immigration/naturalization ceremony held on July 23, 2004 and the efforts put forth by those seeking citizenship. Mayor Evans spoke regarding establishment of a federal district courthouse in the City.

Mayor Pro Tem Stahel spoke regarding the annual installation of officers at American Legion Post 321 and advised that in 2006, the state convention will be held in the City of Plano.

Mayor Evans spoke regarding a resolution received from the Plano Homeowners Council confirming support for local control of income/finances and supporting the City's opposition to tax caps.

GENERAL DISCUSSION

Sonja Hammar, citizen of the City, stated concern regarding the level of crime in apartments and requested that the City involve owners, management firms and residents by extending the Crime Watch Program into apartments. She further spoke regarding the Heritage Commission allowing the use of hotel/motel tax monies for scholarships when the Cultural Affairs Commission does not.

CONSENT AGENDA

Upon a motion made by Council Member Stovall and seconded by Council Member Callison, 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"]

June 28, 2004

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. B123-04 for screening wall repairs, landscaping and irrigation on the River Bend Screening Wall Landscape Improvements Project (along Coit Road from Irvine Drive to Parker Road), Project No. 5441 within the City of Plano in the amount of \$334,824. [Consent Agenda Item "B"] (See Exhibit "A")

Bid No. B126-04 for construction of Dallas North 15 Water Rehab & Fire Hydrants and State Highway 121 Utility Relocations in the amount of \$1,672,496. [Consent Agenda Item "C"] (See Exhibit "B")

Bid No. B115-04 for the Pecan Hollow Golf Course – Golf Cart Wash Facility in the amount of \$61,530. [Consent Agenda Item “D”] (See Exhibit “C”)

Adoption of Resolutions

Resolution No. 2004-7-1(R): To authorize participation with other cities in studying possibilities for municipalization of gas distribution services; authorizing said coalition to retain counsel and consultants; authorizing legal Counsel to the Allied Coalition of Cities to enter into discussions with TXU and the ultimate purchasers of TXU’s Gas Utilities Assets; authorizing payment from funds retained by the Steering Committee of Cities served by TXU Gas. [Consent Agenda Item “E”]

Resolution No. 2004-7-2(R): To approve the settlement of the lawsuit styled Denise Evans v. City of Plano, Cause No. C2002 00631 pending in the District Court of Johnson County, Texas, 413th Judicial District in the amount of \$95,000; authorizing the City Manager to execute any and all documents necessary to settle such lawsuit; and providing an effective date. [Consent Agenda Item “F”]

Resolution No. 2004-7-3(R): To authorize the City Manager to enter into interlocal agreements with qualified entities pursuant to Chapter 791 of the Texas Government Code to provide Pesticide Application for Mosquito Control, setting restrictions on such agreements; and providing an effective date. [Consent Agenda Item “G”]

Resolution No. 2004-7-4(R): To approve and authorize refunds of property tax overpayments; and providing an effective date. [Consent Agenda Item “H”]

Resolution No. 2004-7-5(R): To approve the terms and conditions of an interlocal agreement by and between the City of Plano and the City of Allen concerning measurement and payment of sanitary sewer flow from each City into the other; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item “I”]

Resolution No. 2004-7-6(R): To ratify the terms and conditions of a discretionary service agreement for the removal and relocation of electrical service lines along Mortonvale Road north of Parker Road by TXU Electric Delivery Company to underground facilities not conflicting with the City’s Los Rios Boulevard Roadway project, and authorizing the City Manager to take such action and execute such documents as necessary to effectuate the agreement in an amount not to exceed \$53,388; and providing an effective date. [Consent Agenda Item “J”]

Resolution No. 2004-7-7(R): To approve the terms and conditions of an agreement for the removal and relocation of electrical service lines along 15th Street from G Avenue to I Avenue by TXU Electric Delivery Company, and authorizing the City Manager to take such action and execute such documents as necessary to effectuate the agreement in an amount not to exceed \$36,423; and providing an effective date. [Consent Agenda Item “K”]

Resolution No. 2004-7-8(R): To approve the terms and conditions of a Public Right-of-Way Use Agreement by and between the City of Plano, Texas and AMEC Earth and Environmental, Inc., a Texas Limited Partnership, to locate, place, attach, install, operate, and maintain monitoring wells in certain specific portions of the public rights-of-way in the City of Plano; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item “L”]

Adoption of Ordinances

Ordinance No. 2004-7-9: To amend Subsection (c)(1) of Section 12-114 “Parking of Truck, Tractors, etc., in Residential District” of the Code of Ordinances of the City of Plano by deleting the rated capacity restriction on trucks and substituting a width restriction on all vehicles parked on residential streets or alleys; providing a repealer clause, a savings clause, a severability clause and an effective date. [Consent Agenda Item “M”]

Ordinance No. 2004-7-10: To abandon all right, title and interest of the City in and to a portion of Lots 1A and 2A, Block 5 of the Aldridge Place Addition, as acquired in Volume 891 at Page 283 of the Land Records of Collin County, Texas, being situated in the Joseph Klepper Survey, Abstract No. 213 and located at the southeast corner of 13th Street and F Avenue, which is located in the City Limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in a portion of such right-of-way to the abutting property owner, Christ United Methodist Church, to the extent of its interest; authorizing the City Manager, or in his absence, an Executive Director, to execute any documents deemed necessary; and providing an effective date. [Consent Agenda Item “N”]

Ordinance No. 2004-7-11: 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 Legacy Drive at Quarry Chase Trail 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 repealer clause, a severability clause, a savings clause, a penalty clause, and an effective date. [Consent Agenda Item “P”]

Approval of Agreement

To approve the terms and conditions of a professional services contract between the City of Plano and Family Services of Plano in the amount of \$115,000 wherein Family Services of Plano will provide services to the Police Department to combat juvenile delinquency and authorizing execution of such agreement by the City Manager, and providing an effective date. [Consent Agenda Item “Q”]

To approve and authorize for the selection of BBC Research and Consulting to provide consulting services in conjunction with the HUD required Housing and Community Development Plan and the Analysis of Impediments to Fair Housing in an amount of \$49,450 and authorizing the City Manager to execute all necessary documents to effectuate this contract. (B118-04) [Consent Agenda Item “R”]

To approve the terms and conditions of an agreement between the City of Plano and April Zoccali, Data Entry Clerk, for professional services related to data entry duties for the Integrated Ballistics Information System. This request, not to exceed \$52,500 overlaps three fiscal budget years and grant funds received will be used to pay for the services. [Consent Agenda Item "S"]

Award of Contract

To approve and authorize for the selection of Brinkley Sargent Architects, Inc. to provide Professional Architectural Services for an amount not to exceed \$1,616,150 in connection with the design of the West Plano Recreation & Aquatics Center and authorizing the City Manager to execute all necessary documents to effectuate this contract. [Consent Agenda Item "T"]

Approval of Change Order

To Jim Bowman Construction Company, L.P., increasing the contract by \$29,134 for intersection improvements – Westside project, Change Order No. 2 (Bid No. B116-03). Change Order No. 2 is for revising the scope of work to extend the Alma Road right transition lane north of Legacy Drive to improve the merge transition. [Consent Agenda Item "U"]

To Site Concrete, Inc. increasing the contract by \$76,583 for additional bridge work and street pavement repairs necessary to complete the Jupiter Road – Spring Creek Parkway to Chaparral Road project, Change Order No. 4 (Bid No. B062-03). [Consent Agenda Item "V"]

END OF CONSENT

Ordinance No. 2004-7-12: To establish funding sources for the Public Art Fund, permissible uses of funds, administration of fund, definitions; and providing a severability clause and an effective date. [Consent Agenda Item "O"]

City Manager Muehlenbeck responded to citizen Jack Lagos that the request includes an October 1, 2005 portion for those projects to be considered in a May 2005 bond referendum and a number of capital projects already approved by citizens and starting before that time which the arts committee will review individually and bring recommendations to the Council for consideration.

Mr. Lagos stated concern that the Council is passing an item allocating 2% on an October 2004 budget which has not yet been considered. Mr. Muehlenbeck advised that the projects are in the CIP that are outside of the budget and have been funded by a previous bond referendum or appropriated capital reserve funds. He further stated that if there is room in the project cost of 2% or less, the arts committee could make a recommendation to the Council for a public arts project.

Mr. Lagos stated concern that there may be divisiveness among groups in the decision-making process when it comes time to allocate funds and recommended taking projects on an individual basis.

Deputy Mayor Pro Tem Lambert stated concern regarding the language in the ordinance and requested it be worked through the budget process. Council Member Stovall spoke to making any needed changes following the budget process. City Attorney Wetherbee spoke to the ordinance providing a public art fund “place holder.”

Deputy Mayor Pro Tem Lambert spoke to working through the budget process then making changes before the ordinance is enacted. He stated no problem setting up the public art fund, but requested the language reflect the process.

Public Arts Committee Chair Kathryn McGill reviewed the process undertaken to arrive at the language included in the ordinance, receiving a commitment from the Council and having the ability to move forward.

Ms. McGill responded to Mayor Pro Tem Stahel that it is her understanding that when projects are in the design phase, input would be received so that any funding appropriated would have the maximum effect and cost-savings. She advised that it would not be necessary to have the ordinance in place for the West Side Recreation Center or the Oak Point Recreation Center, but that it does give the committee and public a sense of confidence that the City is supportive of public art. Mr. Muehlenbeck responded to Mayor Pro Tem Stahel that for projects such as the West Side Recreation Center or Oak Point Recreation Center, the committee would develop a list of recommendations to be brought forward for Council consideration. He further stated that the source for funding would be bond monies already appropriated for the project and not the General Fund. Mr. Stahel spoke to supporting the concept of public art on a project-by-project basis and to clarifying the ordinance language.

Council Member Stovall spoke to the ordinance setting out the process as a whole and to the committee working through each project and bringing recommendations before the Council at budget time. Ms. McGill spoke to the ordinance providing credibility when applying for grants and in development of the “private side” of public art. Council Member Dyer spoke to the ordinance providing a structure by which any monies approved by the Council may be allocated and utilized. Mayor Evans spoke to setting up a structure to aid in application for federal and state grants as well as the acceptance of private gifts.

City Manager Muehlenbeck responded to Deputy Mayor Pro Tem Lambert that when the Community Investment Program is passed, funding is provided for the first year, even though the program may be for five years. Council Member Stovall spoke to allocating funds only when bonds are sold and monies are available.

Deputy Mayor Pro Tem Lambert requested a delay of 30 days and to working out the language advising that he could not vote for the ordinance.

Ordinance No. 2004-7-12 (cont'd)

A motion was made by Council Member Stovall and seconded by Council Member Magnuson, to establish funding sources for the Public Art Fund, permissible uses of funds, administration of fund, definitions; and providing a severability clause and an effective date; and further to adopt Ordinance No. 2004-7-12 with amendment revising Section II.a.4. to read, "For the fiscal year beginning *October 1, 2005*, and for each fiscal year thereafter..." The Council voted 6-2 with Mayor Pro Tem Stahel and Deputy Mayor Pro Tem Lambert voting in opposition. The motion carried.

Consideration of rescheduling the October 25, 2004 City Council meeting to October 28, 2004. [Consent Agenda Item "W"]

Mayor Pro Tem Stahel and Deputy Mayor Pro Tem Lambert advised that they would be at the Texas Municipal League meeting on October 28, 2004.

City Manager Muehlenbeck advised that Staff would bring the item back for Council consideration.

Public Hearing and adoption of Ordinance No. 2004-7-13 to adopt the maximum permitted rates for basic cable services and certain equipment and installation to be charged by Comcast Cable Communications, Inc. ("Comcast") (Formerly AT&T Broadband and TCI of Plano, Inc.) (Comcast and all its predecessors collectively are referred to herein as "Comcast") for the period June 1, 2004 to May 31, 2005, providing for enforcement action generally; providing a repealer clause, a severability clause and an effective date. [Regular Agenda Item "1"]

City Attorney Wetherbee advised the Council that this item represents a request of Council approval of rates/charges. She stated that following review of the recommendations reductions were made in the rates proposed by Comcast Cable Communications, Inc.

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 Deputy Mayor Pro Tem Lambert and seconded by Council Member Stovall, the Council voted 8-0 to adopt the maximum permitted rates for basic cable services and certain equipment and installation to be charged by Comcast Cable Communications, Inc. ("Comcast") (Formerly AT&T Broadband and TCI of Plano, Inc.) (Comcast and all its predecessors collectively are referred to herein as "Comcast") for the period June 1, 2004 to May 31, 2005 as recommended by Staff, providing for enforcement action generally; providing a repealer clause, a severability clause and an effective date; and further to adopt Ordinance No. 2004-7-13.

Public Hearing and an ordinance to amend the “Land Use,” and “Transportation” Elements of the Comprehensive Plan as originally adopted by Resolution No. 86-11-22(R) providing procedures approving the utilization of said chapters as revised and amended by the appropriate personnel and departments of the City of Plano for the purpose of guiding future development within the City of Plano, Texas; and providing an effective date. Updates include the Introduction, Land Use and Transportation Elements including the Land Use and Thoroughfare Maps. Additionally, the Comprehensive Plan has been revised to include Policy Statements. Tabled 06-28-04 [Regular Agenda Item “2”]

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

Planner Adams advised the Council that this request represents a two-year update of the Comprehensive Plan along with a reformatting. He advised that the goals of reformatting are to create a general and visionary document, reorganize information around broad themes, remove information that is no longer relevant given the City’s stage of development and create a user-friendly document. Mr. Adams reviewed the document themes which include a livable city, a city of organized development and a city in transition. Mr. Adams spoke regarding key issues in the Land Use Element which include the City’s changing regional context as it is affected by growth of other cities and changes in development trends. He spoke regarding the Transportation Element which includes the issue of regional accessibility and stated that both elements discuss regional mobility and environmental issues. Mr. Adams spoke to changes in the thoroughfare map including removal of grade separation designations from the Preston Road and Spring Creek Parkway corridors and Coit Road/Plano Parkway; a change in the classification of Spring Creek Parkway; an extension of Des Moines Drive to Legacy Drive and a thoroughfare running from US 75 to K Avenue south of Spring Creek Parkway. Mr. Adams stated that another major change is the separate policy statements outlining specific guidelines.

Director of Planning Jarrell responded to Deputy Mayor Pro Tem Lambert, stating that it is anticipated that Spring Creek Parkway will continue to have more limited access than a typical Type “C” thoroughfare, at least in the area west of Alma Drive and spoke regarding limitations to declaring Parkwood Boulevard south of Park Boulevard as a Type “C” thoroughfare. She advised that the Plan includes a recommendation that right-of-way be retained at major intersections with the exception of Spring Creek Parkway/Jupiter Road and Coit Road/Plano Parkway.

Mayor Pro Tem Stahel requested clarification on the Thoroughfare Map that the roadway south of Spring Creek Parkway from U.S. 75 to K Avenue is designated as a Type “E.”

Mayor Evans opened the Public Hearing. Stephen Scott, citizen of the City, spoke to the Legacy Drive/Preston Road intersection and consideration of a grade separation if needed. He spoke to strengthening the language regarding the Spring Creek Parkway/Preston Road intersection once a final at-grade design is determined. William Fitzgerald, citizen of the City, requested adherence to the 2002 decision not to go forward with proposed grade separations on Spring Creek Parkway.

Mark Klapper, citizen of the City, spoke in opposition to grade separations on Spring Creek Parkway and Preston Road. Steve Pinkowitz, citizen of the City, spoke to making necessary intersection improvements without grade separations. No one else spoke either for or against the request. The Public Hearing was closed.

A motion was made by Council Member Stovall to approve the request, however no second was made and no vote was taken at this time.

Ms. Jarrell responded to Council Member Dyer stating that the Plan removes all grade separations from the map and includes the retention of right-of-way with the exception of Spring Creek Parkway/Jupiter Road and Coit Road/Plano Parkway intersections.

Mayor Evans spoke to concerns of EDS representatives regarding the Legacy Drive/Preston Road intersection and reviewed language indicating that, if warranted, a grade separation may be considered at the location. Council Member Dyer spoke to it being unlikely that a grade separation would be needed at this intersection, but stated support for this notation. City Engineer Upchurch advised that a short statement of such could be included on the Thoroughfare Map.

Mayor Evans spoke to the effect the possibility of an overpass and the retention of right-of-way has on the development of properties at Spring Creek Parkway/Preston Road. Council Member Stovall stated concern with releasing right-of-way and spoke to the Council receiving a potential layout of the intersection with at-grade improvements. Mr. Upchurch advised that if the decision were made to return land for development opportunities, as long as the normal right-of-way is retained, capacity improvements can be made. Deputy Mayor Pro Tem Lambert spoke to reviewing a layout before giving up right-of-way. Mr. Upchurch advised that the City does not have right-of-way for one of the corners at Spring Creek Parkway/Preston Road and requested Council direction regarding acquisition of the southeast corner. Mayor Pro Tem Stahel spoke to incorporating the appropriate language, footnotes and map designations for Council consideration.

Upon a motion made by Council Member Stovall and seconded by Council Member Dyer, the Council voted 8-0 to table the request to amend the "Land Use," and "Transportation" Elements of the Comprehensive Plan as originally adopted by Resolution No. 86-11-22(R) providing procedures approving the utilization of said chapters as revised and amended by the appropriate personnel and departments of the City of Plano for the purpose of guiding future development within the City of Plano, Texas; and providing an effective date to the August 9, 2004 Council meeting in order to incorporate revisions.

Public Hearing and an ordinance as requested in Zoning Case 2004-17 – to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, granting Specific Use Permit No. 542 so as to allow the additional use of Contract Construction on 1.0± acre of land located on the northeast corner of K Avenue and Capital Avenue in the City of Plano, Collin County, Texas, presently zoned Light 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 #67 Applicant: BMS Partners [Regular Agenda Item “3”]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission recommended approval of the request as submitted. She advised that the applicant has requested that the specific use permit be applied to the entire property rather than an interior tenant space used by the janitorial service.

Mayor Evans opened the Public Hearing. Scott Casper, representing the applicant, responded to the Council that the specific use permit is being requested by the owner for the entire property due to a zoning change and a grandfathered business (roofing company) that is more likely to represent contract construction use. No one else spoke either for or against the request. The Public Hearing was closed.

Ms. Jarrell advised that the category “Contract Construction” includes uses that have storage and materials, run fleets of vehicles and employ repair people so that there are several uses outside the typical definition. She responded to the Council that should the SUP be granted and the roofing company wanted to expand at a later date, they could do so into the newly designated space.

Council Member Magnuson stepped down from the bench due to a possible conflict of interest.

Deputy Mayor Pro Tem Lambert spoke to defining the janitorial service as a conforming use rather than requiring a specific use permit and stated opposition to granting the permit to the entire building. He spoke to “missing” the vision for the area should “Contract Construction” be made a permanent use.

Director of Planning Jarrell advised that the Council could request Staff and the Planning and Zoning Commission review the “Contract Construction” definition and consider whether a new classification needs to be created that covers those uses not clearly defined as such.

Deputy Mayor Pro Tem Lambert clarified to Mr. Casper that the specific use permit is granted to the land and not the occupant and that any future use that complies would be allowed in the space. Mr. Casper spoke regarding the firm’s grand opening and requested the Council consider approving the request with restrictions.

Zoning Case 2004-17 (cont'd)

Council Member Dyer spoke to approving the request only for a limited space, reviewing the process and then rescinding the permit. The Council spoke to restricting outside storage and parking. Mr. Dyer spoke to a review by the Planning and Zoning Commission with consideration to make janitorial services a permitted use under the Light-Commercial category.

Upon a motion made by Council Member Dyer and seconded by Mayor Pro Tem Stahel, the Council voted 7-0 to approve amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, granting Specific Use Permit No. 542 so as to allow the additional use of Contract Construction at the northeast corner of K Avenue and Capital Avenue in the City of Plano, Collin County, Texas, presently zoned Light Commercial as requested in Zoning Case 2004-17 with the following stipulations:

1. No outside storage is allowed.
2. A maximum of four service vehicles may be stored onsite.

City Council limited the area of the SUP to the lease space for the janitorial and housecleaning enterprise.

Ms. Jarrell advised that an ordinance reflecting a revised meets and bounds description will be brought back for the Council's consideration.

Council Member Magnuson resumed her place on the bench.

Public Hearing and adoption of Ordinance No. 2004-7-14 as requested in Zoning Case 2004-23 – to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, so as to rezone 53.0± acres located on the west side of Jupiter Road and the east side of Des Moines Drive, 625± feet north of Spring Creek Parkway, in the City of Plano, Collin County, Texas, from Planned Development-103-Light Commercial to Single-Family-Attached and Patio Home; 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 #22. Applicant: Royce Eugene Carter & Jimmie Littrell, et al [Regular Agenda Item "4"]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission recommended approval as submitted. She responded to Council Member Johnson stating that the applicant would be responsible for constructing their share of Des Moines Drive for this development and as the roadway extends further north to connect to Legacy Drive it is likely that the City may have some obligation.

Mayor Evans opened the Public Hearing. Thomas Juhn, citizen of the City, advised he was available for any questions. No one else spoke either for or against the request. The Public Hearing was closed.

Ordinance No. 2004-7-14 (cont'd)

Upon a motion made Mayor Pro Tem Stahel and seconded Council Member Dyer the Council voted 8-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, so as to rezone 53.0± acres located on the west side of Jupiter Road and the east side of Des Moines Drive, 625± feet north of Spring Creek Parkway, in the City of Plano, Collin County, Texas, from Planned Development-103-Light Commercial to Single-Family-Attached and Patio Home as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2004-23; 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. 2004-7-14.

Public Hearing and adoption of Ordinance No. 2004-7-15 as requested in Zoning Case 2004-25 – to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, amending Specific Use Permit No. 462 to allow a modification to the boundary of the existing Specific Use Permit for a Private Club on 0.1± acre located on the west side of Bishop Road, 220± feet south of Legacy Drive in the City of Plano, Collin County, Texas, presently zoned Planned Development-65-Central Business-1 with Specific Use Permit No. 462; 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 #16 Applicant: The Shops at Legacy, L.P. [Regular Agenda Item “5”]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission recommended approval of the request as submitted.

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 Deputy Mayor Pro Tem Lambert and seconded Council Member Stovall the Council voted 8-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, amending Specific Use Permit No. 462 to allow a modification to the boundary of the existing Specific Use Permit for a Private Club on 0.1± acre located on the west side of Bishop Road, 220± feet south of Legacy Drive in the City of Plano, Collin County, Texas, presently zoned Planned Development-65-Central Business-1 with Specific Use Permit No. 462 as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2004-25; 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. 2004-7-15.

There being no further discussion, Mayor Evans adjourned the meeting at 10:20 p.m.

Pat Evans, **MAYOR**

ATTEST:

Elaine Bealke, City Secretary