

**PLANO CITY COUNCIL**  
**September 13, 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 Preliminary Open Meeting directly into the Regular Meeting on Monday, September 13, 2004, at 7:07 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present.

The invocation was led by Sr. Pastor Bruce Grentz of the First Christian Church of Plano.

The Pledge of Allegiance was led by Girl Scout Troop 292 with Hickey Elementary.

Mayor Evans presented proclamations recognizing "Food Safety Month," "Constitution Week," "Library Card Sign-up Month" and the "25<sup>th</sup> Annual Community Credit Union Plano Hot Air Balloon Festival." Special Recognition was conferred on City of Plano Fire Chief Bill Peterson by City of Frisco's Mayor Mike Simpson and Fire Chief Mack Borchardt.

The Council resumed discussion of the Preliminary Open Meeting at this time.

**Personnel Appointments**

Animal Shelter Advisory Committee

Upon a motion made by Mayor Pro Tem Stahel and seconded by Deputy Mayor Pro Tem Lambert, the Council voted 8-0 to appoint Dr. Karen Dubrow and to reappoint Roger K. Bolin as chair, leaving one resident position remaining.

Civil Service Commission

Upon the recommendation of City Manager Muehlenbeck, a motion was made by Council Member Stovall and seconded by Deputy Mayor Pro Tem Lambert and the Council voted 8-0 to appoint Howard Apple.

Community Relations Commission

Upon a motion made by Council Member Callison and seconded by Council Member Johnson, the Council voted 8-0 to appoint David Woolard and Kimberly Jene Brogan to regular terms and Susan Lavigne to an interim term and to appoint Jane Stevenson as chair, leaving one position remaining.

Cultural Affairs Commission

Upon a motion made by Council Member Magnuson and seconded by Council Member Callison, the Council voted 8-0 to appoint Pam Haines and deferred appointment of the chair and one member position.

Heritage Commission

Upon a motion made by Council Member Stovall and seconded by Council Member Callison, the Council voted 8-0 to appoint Diana Church, Sharon L. Kite and Clinton L. Osteen and to appoint Larry Keen as chair.

International Relations Advisory Commission

Upon a motion made by Council Member Magnuson and seconded by Mayor Pro Tem Stahel, the Council voted 8-0 to appoint Mark A. Ball as an interim member and to reappoint George Wong as chair.

Keep Plano Beautiful Commission

Upon a motion made by Council Member Magnuson, and seconded by Council Member Stovall, the Council voted 8-0 to appoint Christopher Scott Young and Mitch L. Goldstein and to appoint Ed Nalley as chair.

Library Advisory Board

Council Member Stovall advised that the Council would defer appointment of a chair at this time.

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 appoint Bill Neukranz and to appoint R. Guy Wormald as chair.

Plano Transition and Revitalization Commission

Upon a motion made by Council Member Johnson and seconded by Council Member Magnuson, the Council voted 8-0 to appoint resident members Pat Miner for a regular term and Matt Shaheen for an interim term and further to appoint Chris Henry as chair. The Council deferred appointment of members with Planning and Zoning Commission experience, a Plano Economic Development Board representative and Community Relations Representative.

Public Arts Committee

Upon a motion made by Council Member Callison and seconded by Council Member Stovall, the Council voted 8-0 to reappoint Kathryn McGill as chair.

Retirement Security Plan Committee

The Council deferred appointment of a chair at this time.

Self Sufficiency Committee

Upon a motion made by Council Member Magnuson and seconded by Mayor Pro Tem Stahel, the Council voted 8-0 to appoint Diana Lopez Axthem and to reappoint Greg Huckaby as chair.

Senior Citizens Advisory Board

Upon a motion made by Council Member Johnson and seconded by Council Member Magnuson, the Council voted 8-0 to appoint Sue R. Barron, Dave Heinze, Mary Jane Ketcham and Mary Anepohl Norman, MD and deferred the appointment of one member and the chair.

### Technology Commission

Upon a motion made by Council Member Stovall and seconded by Mayor Pro Tem Stahel, the Council voted 8-0 to appoint Hu Shen and Michael James Becker for regular terms and Scott E. Copeland and Stacey Dees for interim terms and further to appoint Dana Johnson as Chair.

### Transportation Advisory Committee

Upon a motion made by Deputy Mayor Pro Tem Lambert and seconded by Council Member Magnuson, the Council voted 8-0 to appoint Dennis Abraham, Michael W. Copeland and Borivoje P. Dedietch and deferred appointment of a chair.

### **GENERAL DISCUSSION**

Sharon Overall, citizen of the City, stated concern regarding making S.H. 121 a toll road. She spoke to the legality of having one state highway as a free thoroughfare while another has a toll tax and stated that the monies generated will be used for other projects. Ms. Overall recommended alternatives of either a gas tax or a car registration fee.

### **CONSENT AGENDA**

Council Member Magnuson requested that Consent Agenda Item "U" be removed for individual consideration due to a possible conflict of interest.

Upon a request from citizen Richie Floyd, Consent Agenda Item "V" was removed for individual consideration.

Mayor Pro Tem Stahel and Council Member Stovall requested Consent Agenda Item "CC" be removed for individual consideration due to possible conflicts of interest.

Upon a motion made by Mayor Pro Tem Stahel and seconded by Council Member Stovall, the Council voted 8-0 to approve and adopt all remaining items on the agenda as recommended and as follows:

### **Approval of Minutes [Consent Agenda Item (A)]**

August 9, 2004  
August 14, 2004  
August 17, 2004  
August 19, 2004  
August 30, 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. C131-04** to establish a fixed-price contract with renewals for Automotive & Truck Filters. Initial two (2) year term in the amount of \$56,056 with two optional annual renewals estimated at \$28,028 per year. [Consent Agenda Item (B)] (See Exhibit "A")

**Bid No. B116-04** for Plano Centre Lighting Control Renovation Project No. 5479 in the amount of \$130,050. [Consent Agenda Item (C)] (See Exhibit "B")

**Bid No. B162-04** for the purchase of Mobile Surveillance Tower in the amount of \$45,167 to be utilized by the Police Department. [Consent Agenda Item (D)] (See Exhibit "C")

**Bid No. B128-04** for the purchase of Haggard Library Expansion Project Furniture in the amount of \$266,360. [Consent Agenda Item (E)] (See Exhibit "D")

**Bid No. P163-04** for the Sanitary Sewer Rehabilitation Requirements Contract in the amount of \$1,778,350 within the City of Plano. This project will involve the trench-less rehabilitation of sanitary sewer mains and replacement of sanitary sewer laterals at various locations in the Prairie Creek, Spring Creek and Rowlett Creek drainage basins to eliminate infiltration and inflow into the City's sanitary sewer system. [Consent Agenda Item (F)] (See Exhibit "E")

**Bid No. B110-04** for Preston Road Median Landscaping, Project No. 5365 in the amount of \$176,887. This bid is for the installation of trees and irrigation on Preston Road between Old Shepard Place Drive and Headquarters Drive. [Consent Agenda Item (G)] (See Exhibit "F")

**Bid No. B168-04** for Jack Carter Pool Renovation in the amount of \$1,289,500 (Project #5411). [Consent Agenda Item (H)] (See Exhibit "G")

**Bid No. C161-04** for an annual contract for Pharmacy Benefits Management Services. Expenditures will be made in the Health Claims fund within approved budget appropriations. The estimated annual amount from actual pharmacy claims is \$1,861,000 at an overall savings of \$32,000. This will be a one-year contract commencing on 1/1/05 with two optional one-year renewals. [Consent Agenda Item (I)] (See Exhibit "H")

**Adoption of Resolutions**

**Resolution No. 2004-9-1(R):** To approve the terms and conditions of a real estate contract by and between the City of Plano, Texas, and Kreymer Investments, L.P., for the purchase of 0.060 acres of land at the northwest corner of Plano Parkway and Dallas North Tollway, in the City of Plano, Collin County, Texas; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (J)]

**Resolution No. 2004-9-2(R):** To repeal Resolution No. 2003-10-33(R) and designate a certain area within the City of Plano as Neighborhood Empowerment Zone No. 1; establishing the boundaries of such zone; providing for waiving of certain fees; and providing an effective date. [Consent Agenda Item (K)]

**Resolution No. 2004-9-3(R):** To approve the terms and conditions of an airspace agreement with The Shops at Legacy, L.P., a Texas Limited Partnership, for the construction and maintenance of a pedestrian crossing over Kincaid Road, a public right-of-way; authorizing its execution by the City Manager, and providing an effective date. [Consent Agenda Item (L)]

**Resolution No. 2004-9-4(R):** To approve and authorize refunds of property tax overpayments in the amount of \$5,036; and providing an effective date. [Consent Agenda Item (M)]

**Resolution No. 2004-9-5(R):** To authorize the Cities Aggregation Power Project, Inc. (CAPP) to negotiate an electric supply agreement for deliveries of electricity effective January 1, 2005; authorizing CAPP to act as an agent on behalf of the City to enter into a contract for electricity; authorizing the Chairman of CAPP to execute an electric supply agreement for deliveries of electricity effective January 1, 2005; and committing to budget for energy purchases in 2005 and to honor the City of Plano's commitments to purchase power for its electrical needs in 2005 through CAPP. [Consent Agenda Item (N)]

**Resolution No. 2004-9-6(R):** To approve the terms and conditions of an amendment to the contract by and between the City of Plano, Texas and Wireless Capital and Management Services, LLC, a Delaware Limited Liability Company to market and manage City cellular sites to cellular service providers 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 (O)]

**Resolution No. 2004-9-7(R):** To approve the terms and conditions of a Public Right-of-Way Use Agreement by and between the City of Plano, Texas and Sprint Spectrum L.P., a Delaware Limited Partnership, to locate, place, attach, install, and operate, telecommunications ground equipment 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 (P)]

**Resolution No. 2004-9-8(R):** To suspend the effective date of Coserv Gas Ltd.'s requested rate changes to permit the City time to study the request and to establish reasonable rates; approving cooperation with other cities within the CoServ System to hire legal and consulting services and to negotiate with the company and direct any necessary litigation; requiring reimbursement of cities' rate case expenses; authorizing intervention in the proceeding at the Railroad Commission; requiring notice of this resolution to the company. [Consent Agenda Item (Q)]

**Resolution No. 2004-9-9(R):** To approve the terms and conditions of an amendment to the Tax Abatement Agreement by and between the City of Plano, Texas, the County of Collin, the Collin County Community College District, Advanced Neuromodulation Systems, Inc., Reinvestment Zone No. 77; authorizing its execution by the City Manger; and providing an effective date. [Consent Agenda Item (R)]

### **Adoption of Ordinances**

**Ordinance No. 2004-9-10:** To adopt and enact Supplement Number 66 and Supplement Number 66 Rev. to the Code of Ordinances for the City of Plano; providing for amendment to certain sections of the code; and providing an effective date. [Consent Agenda Item (S)]

**Ordinance No. 2004-9-11:** To amend a portion of Ordinance No. 2002-7-10, currently codified under Chapter 12, Motor Vehicles and Traffic, Article V, Stopping, Standing, and Parking, Section 12-102(e) to include the prohibition of stopping, standing or parking of motor vehicles along the south side of San Gabriel Drive from a point 250 feet west of the westernmost entrance drive to Dooley Elementary School and extending to the easternmost drive to Dooley Elementary School between the hours of 7:15 a.m. to 8:15 a.m. and 2:30 p.m. to 3:15 p.m. on school days; declaring the stopping, standing or parking of motor vehicles in said section of San Gabriel Drive within the defined time limits as unlawful and a misdemeanor; and providing a repealer clause, a severability clause, a savings clause, a penalty clause, and an effective date. [Consent Agenda Item (T)]

### **Award of Contract**

To approve and authorize a contract with Carter & Burgess, Inc. to provide Landscape Architectural Services in conjunction with improvements to Bluebonnet Trail Extension in an amount not to exceed \$135,000 and authorizing the City Manager to execute any and all documents necessary to effectuate the contract. [Consent Agenda Item (W)]

### **Approval of Modification**

To approve a third modification to United HealthCare contract to delete Pharmacy Network Services and to adjust the fee to reflect the deletion. [Consent Agenda Item (X)]

### **Approval of Change Order**

To approve Change Order No. 3 for the Bronze Leaf Drainage Improvements project, increasing the contract by \$58,396 for additional storm sewer, water main and paving needed to complete the project. (Bid No. B019-04). [Consent Agenda Item (Y)]

### **Ratification of a Change of Assignment**

To ratify a change of assignment on Contract No. C018-03 for Traffic Signal Items and C058-02 for Pedestrian Signal Equipment from U.S. Traffic Corporation to Peek Traffic Corporation. [Consent Agenda Item (Z)]

### **Approval of Amendment to Interlocal Agreement**

To extend the period of the NIBRS/TIBRS Grant from August 1, 2004 through July 31, 2005, in order for the Plano Police Department to comply with conditions of the grant so as to be eligible for receipt of grant monies in the amount of \$125,000. [Consent Agenda Item (AA)]

### **Approval of Contract Amendment**

To approve a contract amendment with Phillips Swager Associates, Inc., for Professional Architectural Services in the amount of \$63,351 in connection with construction of the Haggard Library Expansion; and authorizing the City Manager to execute all necessary documents. [Consent Agenda Item (BB)]

### **END OF CONSENT**

Due to a possible conflict of interest, Council Member Magnuson stepped down from the bench on the following item.

**Ordinance No. 2004-9-12:** 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 0.1± 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. (Zoning Case 2004-17) Neighborhood #67. Applicant: BMS Partners Public Hearing Conducted 07/26/04 [Consent Agenda Item (U)]

Upon a motion made by Deputy Mayor Pro Tem Lambert and seconded by Council Member Dyer, the Council voted 7-0 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 0.1± 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; and further to adopt Ordinance No. 2004-9-12.

Council Member Magnuson resumed her place on the bench.

**Ordinance No. 2004-9-13:** To amend Article IV of Chapter 11, "Licenses and Business Regulations" of the Code of Ordinances of the City of Plano to add a definition for solicitation and to add intersections prohibited for solicitation; deleting Sec. 11-144(b), which allowed solicitation; providing a penalty clause, a severability clause, a repealing clause and a publication clause; and providing an effective date. [Consent Agenda Item (V)]

**Ordinance No. 2004-9-13 (cont'd)**

Richie Floyd, citizen of the City, spoke to the need to improve public safety and in support of a regulated permitting process and further requested the opportunity to meet with members of the Council to further address the issue. Deputy Mayor Pro Tem Lambert spoke to addressing safety issues at intersections previously excluded and to then looking for an alternative. Council Member Magnuson spoke to not detrimentally affecting charitable organizations, but to addressing safety concerns. Mayor Evans and Council Member Magnuson spoke to continuing efforts to address the needs of the City and the organizations.

Upon a motion made by Deputy Mayor Pro Tem Lambert and seconded by Council Member Stovall, the Council voted 8-0 to amend Article IV of Chapter 11, "Licenses and Business Regulations" of the Code of Ordinances of the City of Plano to add a definition for solicitation and to add intersections prohibited for solicitation; deleting Sec. 11-144(b), which allowed solicitation; providing a penalty clause, a severability clause, a repealing clause and a publication clause; and providing an effective date; and further to adopt Ordinance No. 2004-9-13.

Due to possible conflicts of interest, Mayor Pro Tem Stahel and Council Member Stovall stepped down from the bench on the following item.

**Approval of Expenditure** - To approve an expenditure with TriTech Incorporated for an annual software maintenance support agreement for the Jail Management System in an amount of \$26,612; and authorizing the City Manager to execute all documents necessary to effectuate the purchase. [Consent Agenda Item (CC)]

Upon a motion made by Deputy Mayor Pro Tem Lambert and seconded by Council Member Johnson, the Council voted 6-0 to approve an expenditure with TriTech Incorporated for an annual software maintenance support agreement for the Jail Management System in an amount of \$26,612; and authorizing the City Manager to execute all documents necessary to effectuate the purchase.

Mayor Pro Tem Stahel and Council Member Stovall resumed their places on the bench.

**Ordinance No. 2004-9-14** to approve and adopt the tax rate for the fiscal year beginning October 1, 2004, and terminating September 30, 2005, and providing an effective date. [Regular Agenda Item (1)]

City Manager Muehlenbeck advised that this item retains the current 45.35 tax rate which has been the same for fourteen years.

Upon a motion made by Council Member Johnson and seconded by Mayor Pro Tem Stahel, the Council voted 8-0 to approve and adopt the tax rate for the fiscal year beginning October 1, 2004, and terminating September 30, 2005, and providing an effective date; and further to adopt Ordinance No. 2004-9-14.

**Ordinance No. 2004-9-15** to approve and adopt the budget and setting the appropriations for the fiscal year beginning October 1, 2004, and terminating September 30, 2005; and providing an effective date. [Regular Agenda Item (2)]

Scott Kerr, representing the Plano Firefighter's Association, requested the Council consider funding requested battalion chief positions at mid-year and spoke regarding standards.

Deputy Mayor Pro Tem Lambert spoke regarding participation by Council Members in emergency drill exercises and in support of the request. City Manager Muehlenbeck spoke to the possible effect of an erosion of existing property values on the budget and to there being division chiefs in place. He spoke regarding review of the budget request and to the decision to add nine firefighters and two civilian positions and advised that Staff could review the situation during the last quarter of the fiscal year to assess property valuations and sales tax figures. Mr. Muehlenbeck spoke regarding the request adding \$426,126 to the budget for the full twelve months at this time. Council Member Dyer spoke to delivering public safety to the citizens and to non-essential items that could be reviewed.

Fire Chief Peterson responded to Council Member Stovall regarding the moving of personnel to cover the position when needed and stated that the request would reduce the burden and provide a third level of backup. He advised regarding dispatching, providing command functions and to backing up the first officer. Fire Chief Peterson responded to the Council that it would take three people to provide coverage in the position.

Deputy Mayor Pro Tem Lambert spoke to filling the position some time during the year and to the length of time necessary for hiring. Budget and Research Director Rhodes advised that this item represents the appropriations ordinance and spoke to the effect of adding \$426,000. Deputy Mayor Pro Tem Lambert spoke to adopting the budget as presented and to receiving information at a later time. City Manager Muehlenbeck advised that he would bring information back in three months for Council consideration.

Upon a motion made by Deputy Mayor Pro Tem Lambert and seconded by Council Member Magnuson, the Council voted 8-0 to approve and adopt the budget and setting the appropriations for the fiscal year beginning October 1, 2004, and terminating September 30, 2005; and providing an effective date; and further to adopt Ordinance No. 2004-9-15.

**Ordinance No. 2004-9-16** to approve and adopt the Community Investment Program and setting the appropriations for 2004-2005; and providing an effective date. [Regular Agenda Item (3)]

City Manager Muehlenbeck advised that this is a five-year program and that this item represents one year of funding.

**Ordinance No. 2004-9-16 (cont'd)**

Upon a motion made by Council Member Stovall and seconded by Council Member Johnson, the Council voted 8-0 to approve and adopt the Community Investment Program and setting the appropriations for 2004-2005; and providing an effective date; and further to adopt Ordinance No. 2004-9-16.

**Review of Community Development Block Grant (CDBG) Annual Report for 2003-04**  
[Regular Agenda Item (4)]

Neighborhood Services Manager Buffington advised the Council that this item reviews the \$8,967,031 in federal funding received by both the City and the Plano Housing Authority and stated that funds were used to provide assistance to 9,952 individuals in the area of CDBG and 1,285 through the Plano Housing Authority which represents a 10% increase over last year. He responded to the Council that Plano is the only Collin County city participating and spoke regarding upcoming forums to receive input regarding Housing and Community Development goals for the next five years.

Upon a motion made by Deputy Mayor Pro Tem Lambert and seconded by Mayor Pro Tem Stahel, the Council voted 8-0 to receive the Community Development Block Grant Annual Report for 2003-04.

**Public Hearing and Ordinance No. 2004-9-17 as requested in Zoning Case 2004-26** – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, granting Specific Use Permit No. 547 so as to allow the additional use of a Private Club and Specific Use Permit No. 548 for an Arcade on 0.3± acre of land located 320± feet north of Spring Creek Parkway and 350± feet west of Coit Road in the City of Plano, Collin County, Texas, presently zoned Retail; 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 #17 Applicant: Tabani Group, Inc. [Regular Agenda Item (5)]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission recommended approval of the request subject to waiving the 1,000-foot distance requirement from a public park for a private club use and responded to the Council that the distance is measured “as the crow flies.” She advised that should an arcade use be approved, the entire square footage could technically be used as such and further advised regarding possible limitations to include identifying the machines and/or square footage for the arcade. Ms. Jarrell stated that another private club in the area has received a waiver.

Mayor Evans opened the Public Hearing. Paul Vernon, representing the applicant, reviewed the concept of the restaurant, spoke to other private clubs in the area and advised that the applicant would be willing to limit the square footage for the arcade. He responded to the Council, stating that 70 activities are anticipated and Ms. Jarrell clarified that games involving skill or competition would qualify as arcades.

**Ordinance No. 2004-9-17 (cont'd)**

Ms. Jarrell spoke to the applicant following the same process for modification of the specific use permit at a later time should they decide to revise the number of machines. No one else 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 Callison, 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. 547 so as to allow the additional use of a Private Club and Specific Use Permit No. 548 for an Arcade on 0.3± acre of land located 320± feet north of Spring Creek Parkway and 350± feet west of Coit Road in the City of Plano, Collin County, Texas, presently zoned Retail as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2004-26 with additional stipulations below:

- 1) The maximum allowable floor area for arcade use shall be 3,200 square feet.
- 2) The maximum number of arcade machines shall be 75.

The Council further directed a change accordingly in the official zoning map of the City; providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date; and further adopted Ordinance No. 2004-9-17 as revised.

**Public Hearing and Ordinance No. 2004-9-18 as requested in Zoning Case 2004-15** – To amend Section 1-600 (Definitions) of Article 1 (General Regulations) and Subsection 2-502 (Schedule of Permitted Uses) of Section 2-500 (Permitted Uses) of Article 2 (Zoning Districts and Uses) of the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, regarding Household Care Facility and Household Care Institution Uses; 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 (6)]

Director of Planning Jarrell advised the Council that the request has been reviewed by the Plano Homeowners Council and that it would bring the City's regulations for household care facilities in line with state statutes and that the Planning and Zoning Commission recommended approval subject to:

Approved as follows: (Additions are indicated in underlined text; deletions are indicated in strikethrough text.)

1. Amend the definition for Household Care Facility in Sub-section 1-600 (Definitions) of Article 1 (General Regulations) to read as follows:

**Ordinance No. 2004-9-18 (cont'd)**

“Household Care Facility - A dwelling unit ~~which that~~ provides residence and care to not more than ~~nine~~ six persons, regardless of legal relationship, who are elderly; disabled; orphaned, abandoned or neglected children; victims of domestic violence; or rendered temporarily homeless due to fire, natural disaster or financial setbacks, living together with not more than two ~~supervisory personnel~~ caregivers as a single housekeeping unit. Where applicable, a household care facility shall have appropriate licensing and/ or registration by the State of Texas.”

2. Amend the definition for Household Care Institution in Sub-section 1-600 (Definitions) of Article 1 (General Regulations) to read as follows:

Household Care Institution - A facility ~~which that~~ provides residence and care to more than ~~ten~~ six regardless of legal relationship, who are elderly; disabled; orphaned, abandoned or neglected children; victims of domestic violence; convalescing from illness; or rendered temporarily homeless due to fire, natural disaster or financial setback. Where applicable, a household care institution shall have appropriate licensing and/ or registration by the State of Texas.

3. Amend the use charts in Subsection 2-502 (Schedule of Permitted Uses) of Section 2-500 (Permitted Uses) of Article 2 (Zoning Districts) so that Household Care Institution use is not permissible in the General Residential (GR) zoning district.

4. Amend the use charts in Subsection 2-502 (Schedule of Permitted Uses) of Section 2-500 (Permitted Uses) of Article 2 (Zoning Districts) so that Household Care Institution use is permitted with approval of a Specific Use Permit in the Corridor Commercial (CC), Light Commercial (LC) and Retail (R) zoning districts.

5. Amend the use charts in Subsection 2-502 (Schedule of Permitted Uses) of Section 2-500 (Permitted Uses) of Article 2 (Zoning Districts) to permit Household Care Facility use by right in Estate Development (ED), General Residential (GR), Multi-Family Residence-1(MF-1), Multi-Family Residence-2 (MF-2), Multi-Family Residence-3 (MF-3), Mobile Home (MH), Patio Home (PH), Single-Family Residence Attached (SF-A), Single-Family Residence-6 (SF-6), Single-Family Residence-7 (F-7), Single-Family Residence-9 (SF-9), Single-Family Residence-20 (SF-20), Two-Family Residence (2F), and Urban Residential (UR) zoning districts.

Ms. Jarrell advised that household care institutions would be allowed by right in the Multi-Family-3, Office-1 and Downtown Business Government districts. She spoke to the use not being a typical residential one and to opening up the Corridor Commercial districts as some “fringe” areas may be appropriate. Council Member Stovall spoke to providing buffering.

**Ordinance No. 2004-9-18 (cont'd)**

Ms. Jarrell responded to Mayor Pro Tem Stahel, stating that multi-family and household care institutions are typically separate uses rather than coexisting in one building and spoke regarding requirements for state licensing. Mayor Pro Tem Stahel spoke to adding a specific use permit for Multi-Family-3 zoning.

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

Ms. Jarrell responded to the Council, stating that there are separate regulations for rehabilitation care in the areas of drugs, alcohol or for half-way houses or parolees.

A motion was made by Mayor Pro Tem Stahel and seconded by Deputy Mayor Pro Tem Lambert, to include requiring a specific use permit for household care institutions located in Multi-Family-3 districts. No vote was taken at this time. The Council discussed requiring a specific use permit for Downtown Business Government and Neighborhood Office districts as well. Mayor Pro Tem Stahel withdrew his motion and Deputy Mayor Pro Tem Lambert his second.

Upon a motion made by Mayor Pro Tem Stahel and seconded by Council Member Dyer, the Council voted 8-0 to amend Section 1-600 (Definitions) of Article 1 (General Regulations) and Subsection 2-502 (Schedule of Permitted Uses) of Section 2-500 (Permitted Uses) of Article 2 (Zoning Districts and Uses) of the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, regarding Household Care Facility and Household Care Institution Uses as requested in Zoning Case 2004-15 and as recommended by the Planning and Zoning Commission with the following revision; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date.

6. Amend the use charts in Subsection 2-502 (Schedule of Permitted Uses) of Section 2-500 (Permitted Uses) of Article 2 (Zoning Districts) so that Household Care Institution use is permitted with approval of a Specific Use Permit in the Corridor Commercial (CC), Light Commercial (LC), Retail (R), Multi-Family-3 (MF-3), Downtown Business/Government (BG) and Neighborhood Office-1 (O-1) zoning districts.

The Council further adopted Ordinance No. 2004-9-18 as revised.

**Consideration of an appeal of Planning & Zoning Commission's denial** of a request for variances to the Subdivision Ordinance in conjunction with the Conveyance Plat for Daltex Mapleshade Addition. The applicant requested partial compensation for the value of the land for right-of-way dedication and partial compensation for construction of required roadway improvements. Applicant: Daltex Coit Road, Inc. [Regular Agenda Item (7)]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission reviewed a conveyance plat and two variance requests to the City's subdivision ordinance for right-of-way dedication and for construction of Mapleshade Lane. She advised that the Commission approved the conveyance plat, but denied the variance requests resulting in an appeal. Ms. Jarrell spoke to subdivision ordinance requirements for both the developer and the City and stated that a portion of Mapleshade Lane is adjacent to the North Texas Turnpike Authority's (NTTA) tollbooth and stated that with the City's standard participation policy and the NTTA segment, the City has assumed responsibility for over forty percent of the roadway. Ms. Jarrell advised that in this case, the burden is on the City to prove that an exaction for public improvement is roughly proportional to the benefit received by the property. She stated that the applicant's analysis indicates they should be responsible for twenty-five percent of the value of the land for the right-of-way and twenty-five percent of the cost for construction of two, twenty-five foot pavement sections while the analysis of the City differs in the floor-area ratio used to calculate the intensity of the development and in its consideration of the impact of traffic generated by the site on roadways other than Mapleshade Lane.

Edmund Haas of Parsons Transportation Group, advised that exactions by a city must be roughly proportional to the traffic impact created, that his analysis indicates this and further that the participant's analysis does not truly reflect the impact of traffic on the adjacent roadway. He spoke regarding the system-wide implications new development has on traffic generation and advised regarding the process of analysis and use of information from the North Central Texas Council of Governments and the Institute of Traffic Engineer's Trip Generation Manual. Mr. Haas advised that the demand of the proposed site would exceed the capacity and that the exaction is proportional and justified.

Art Anderson, representing Winstead Sechrest & Minick, spoke to the extension of Mapleshade Lane benefiting the public and the City of Plano, regarding traffic from the development to the north funneling through his property to Mapleshade Lane while not paying for construction costs and differences in the floor-area ratio numbers. Mr. Anderson spoke to the property owner's willingness to consider an alternative cost-sharing arrangement and stated that his recommendation of twenty-five percent is supported by traffic analysis and further that it appears the proposed cost-sharing arrangement conflicts with the Texas Impact Fee Act. He responded to Deputy Mayor Pro Tem Lambert that he is not aware of any requests for reimbursement from other property owners and to Council Member Johnson that the property has been owned for a considerable period of time. Mr. Anderson spoke to this site being required to handle traffic from other developments and to the question of what the appropriate cost-sharing arrangement should be.

City Attorney Wetherbee spoke to laboring under a new principle and the obligation of the City to ensure that whatever methodology is deemed appropriate, the burden placed on the client is roughly proportionate to the impact the development will have on the roadway system. Ms. Jarrell advised the Council that she believes the methodology used was appropriate for this type of analysis as it looks at impacts outside this particular portion of Mapleshade Lane in order to adequately judge the proposed impact of the development.

A motion was made by Council Member Dyer and seconded by Council Member Stovall to deny the request for variances to the Subdivision Ordinance in conjunction with the Conveyance Plat for Daltex Mapleshade Addition and to find that the exaction was roughly proportional to the development. The Council voted 7-1 with Council Member Callison voting in opposition. The motion carried.

There being no further discussion, Mayor Evans adjourned the meeting at 9:30 p.m.

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**Pat Evans, MAYOR**

ATTEST:

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Elaine Bealke, City Secretary