

**PLANO CITY COUNCIL**  
**June 28, 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 immediately following the Preliminary Open Meeting on Monday, June 28, 2004, at 7:15 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 John McCracken Trinity Presbyterian Church

The Pledge of Allegiance was led by Girl Scouts from Service Unit 155.

Mayor Evans conferred special recognition on Torrence McDonald for his military service and recognized Miss Plano 2004 and Miss Teen Plano 2004. A presentation was made of the Plano Police Department Accreditation Certificate by TALON Police Accreditation Coalition and the PTN PIO TAMIO Award.

Mayor Evans presented a certificate of appreciation to Grady Searcy for his service on the International Relations Advisory Commission. John Darren Harris was unable to attend to receive his certificate.

City Manager Muehlenbeck recognized Director of Planning Jarrell for her twenty years of service to the City.

Mayor Evans administered an oath of office to Maycel Epps as a new member of the Keep Plano Beautiful Commission.

The Council resumed discussion of the Preliminary Open Meeting Agenda.

## **Comprehensive Monthly Financial Report**

Director of Finance McGrane stated that for the month of May 2004 revenues are better than expected with the Water and Sewer fund behind due to wet weather and average monthly billing. He stated that on the expenditure side, most funds are within budget with Water/Sewer being down. Mr. McGrane spoke to the good trend with regard to sales tax revenue.

### **GENERAL DISCUSSION**

Richard Simmons, citizen of the City, spoke in opposition to allowing realtors to place open house signs along right of ways stating concern that if restrictions are waived for one group the City may return to a proliferation of signs. He further spoke regarding inadequate enforcement of the current sign ordinance.

David Boyer with ATRS Corporation, spoke to the need for regulations addressing clothing donation bins in the City and requested a future agenda item.

### **CONSENT AGENDA**

Mayor Pro Tem Stahel advised that he would be stepping down on Consent Agenda Item "F" bid for the purchase of Cost Allocation and Activity Based Costing Consulting and Software due to a conflict of interest and on Consent Agenda Items "I," resolution certifying that the City is eligible to receive financial assistance under the Collin County Parks and Open Space Matching Grant Program related to permanent public arts and park uses; "J," resolution certifying that the City is eligible to receive financial assistance under the Collin County Parks and Open Space Matching Grant Program related to the Bluebonnet Trail Extension Project; and "K," resolution certifying that the City is eligible to receive financial assistance under the Collin County Parks and Open Space Matching Grant Program related to the Oak Point Park and Nature Preserve.

Council Member Stovall advised that he would be stepping down on Consent Agenda Item "F," bid for the purchase of Cost Allocation and Activity Based Costing Consulting and Software due to a conflict of interest.

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

### **Approval of Minutes**

June 14, 2004 [Consent Agenda Item "A"]

**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. C106-04** to establish an annual fixed-price contract for Breakaway Sign Posts and Accessories in the annual amount of \$36,092 for an annual contract with renewals. [Consent Agenda Item “B”] (See Exhibit “A”)

**Bid No. B103-04** for Evans Park Tree Planting and Irrigation (Project #5379) in the amount of \$95,484. [Consent Agenda Item “C”] (See Exhibit “B”)

**Bid No. P111-04** for the 2003-2004 Arterial Concrete Replacement Requirements Contract, Phase II within the City of Plano in the amount of \$1,534,278. [Consent Agenda Item “D”] (See Exhibit “C”)

**Bid No. C108-04** to establish a fixed-price agreement contract for Temporary Kennel Technicians Price Agreement in the estimated annual amount of \$30,000 for an annual contract with two optional one-year renewals. [Consent Agenda Item “E”] (See Exhibit “D”)

### **Adoption of Resolutions**

**Resolution No. 2004-6-12(R):** To affirm the appointment of a board member to serve on the Dallas Area Rapid Transit Authority (DART) Board of Directors as provided in Chapter 452 of the Texas Transportation Code and providing an effective date. [Consent Agenda Item “G”]

**Resolution No. 2004-6-13(R):** To affirm the appointment of a shared board member with the cities of Cockrell Hill, Dallas, and Glenn Heights to serve on the Dallas Area Rapid Transit Authority (DART) Board of Directors as provided in Chapter 452 of the Texas Transportation Code and providing an effective date. [Consent Agenda Item “H”]

### **Adoption of Ordinances**

**Ordinance No. 2004-6-14:** To amend the Plano Code of Ordinances, Chapter 12, Motor Vehicles and Traffic, Article V, Stopping, Standing, and Parking, Section 12-102(e) to include the prohibition of motor-vehicle-parking along the east side of Eagle Pass Drive from its intersection with Harvest Glen Drive north to the intersection of Lookout Trail within the City limits of the City of Plano on school days between the hours of 7:45 a.m. to 8:30 a.m., 10:45 a.m. to 12:45 p.m. and 2:45 p.m. to 3:30 p.m.; declaring the parking of motor vehicles in said section of Eagle Pass Drive within the defined time limits as unlawful and a misdemeanor; and providing a repealer clause, a severability clause, a penalty clause, and an effective date [Consent Agenda Item “L”]

**Ordinance No. 2004-6-15:** To amend the Plano Code of Ordinances, Chapter 12, Motor Vehicles and Traffic, Article V, Stopping, Standing, and Parking, Section 12-102(e) to include the prohibition of motor-vehicle-parking along the west side of Lookout Trail from its intersection with Eagle Pass Drive east to the intersection of Westgate Drive within the City limits of the City of Plano on school days between the hours of 7:45 a.m. to 8:30 a.m., 10:45 a.m. to 12:45 p.m., and 2:45 p.m. to 3:30 p.m.; declaring the parking of motor vehicles in said section of Lookout Trail within the defined time limits as unlawful and a misdemeanor; and providing a repealer clause, a severability clause, a penalty clause, and an effective date. [Consent Agenda Item “M”]

**Ordinance No. 2004-6-16:**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(e) of the City of Plano Code of Ordinances, to establish a school zone on Russell Creek Drive during the time periods of 7:15 a.m. through 8:45 a.m., 10:45 a.m. through 11:45 a.m., and 2:30 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 “N”]

**Ordinance No. 2004-6-17:**To amend the Plano Code of Ordinances, Chapter 12, Motor Vehicles and Traffic, Article V, Stopping, Standing, and Parking, Section 12-101, prohibited on certain streets at all times, Sub-section Old Orchard Drive, establishing a No Stopping, Standing, or Parking zone along the east side of Old Orchard Drive from its intersection with Turtle Point Drive to its intersection with W. Spring Creek Parkway; authorizing and directing the Traffic Engineer for the City of Plano to cause placement of traffic control devices to give notice of the restriction; and providing a repealer clause, a severability clause, a penalty clause, a savings clause, and an effective date. [Consent Agenda Item “O”]

**Ordinance No. 2004-6-18:**To abandon all right, title and interest of the City, in and to a portion of those certain slope easements recorded in Collin County Clerks File Numbers 93-0009110 and 93-0012138 and Drainage Easement recorded in Collin County Clerks File Number 93-0009112 and being located west of Custer Road and north of Kathryn Lane within the City limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such easements to the abutting property owner, EAC Real Estate, L.L.C., to the extent of its interest; authorizing the City Manager to execute any documents deemed necessary; and providing an effective date. [Consent Agenda Item “P”]

**Ordinance No. 2004-6-19:**To adopt and enact Supplement Number 65 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 “Q”]

### **Award of Contract**

To approve and authorize for the selection of Malcolm Pirnie, Inc. to provide professional engineering services for an amount not to exceed \$78,295 in connection with the design of Legacy Business District Water Line and authorizing the City Manager to execute all necessary documents to effectuate this contract. [Consent Agenda Item “R”]

To approve and authorize a professional services contract with GME Consulting Services, Inc. to provide construction materials testing services in connection with construction of Los Rios Boulevard – Phase I (Jupiter Road to Parker Road) in the amount of \$70,213 and authorizing the City Manager to execute all necessary documents. [Consent Agenda Item “S”]

To approve and authorize a contract with LaTerra Studio, Inc. to provide landscape architectural services in conjunction with the design of park system trail repairs in an amount not to exceed \$90,150; and authorizing the City Manager to execute any and all documents necessary to effectuate the contract. [Consent Agenda Item “T”]

To approve and authorize a contract with Doyle Engineering Group to provide engineering services in conjunction with improvements for Park Erosion Control Projects 2005 in an amount not to exceed \$70,703 and authorizing the City Manager to execute any and all documents necessary to effectuate the contract. [Consent Agenda Item "U"]

To approve and authorize a contract with Carter & Burgess, Inc. to provide landscape architectural services in conjunction with improvements to Oak Point Park and Nature Preserve, Phase 3 in an amount not to exceed \$431,120; and authorizing the City Manager to execute any and all documents necessary to effectuate the contract. [Consent Agenda Item "V"]

### **Approval of Amendment to Contract**

To approve a contract amendment with H.G. Doyle, d/b/a Doyle Engineering Group, for Professional Engineering Services in the amount of \$1,150 in connection with the design of Erosion Control – Oakwood Glen, and authorizing the City Manager to execute all necessary documents. [Consent Agenda Item "W"]

### **Approval of Other Items**

Consideration of rescheduling the August 23, 2004 Council meeting to August 17, 2004. [Consent Agenda Item "X"]

### **END OF CONSENT**

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

**Bid No. B075-04** for the purchase of Cost Allocation and Activity Based Costing Consulting and Software from Integrated Cost Management Systems, Inc. to be utilized by the Accounting Department in the amount of \$47,895. [Consent Agenda Item "F"] (See Exhibit "E")

Upon a motion made by Council Member Magnuson and seconded by Council Member Dyer, the Council voted 6-0 to approve Bid No. B075-04 for the purchase of Cost Allocation and Activity Based Costing Consulting and Software from Integrated Cost Management Systems, Inc. to be utilized by the Accounting Department in the amount of \$47,895.

Council Member Stovall resumed his place on the bench.

The following three items were considered concurrently.

**Resolution No. 2004-6-20(R):** To certify that the City is eligible to receive financial assistance under the Collin County Parks and Open Space Matching Grant Program as provided by the Collin County Commissioners Court; certifying that the City's matching share is readily available; designating the Director of Parks and Recreation as being responsible for acting for, and on behalf of the City of Plano in dealing with the Collin County Commissioners Court for the purpose of participating in the Collin County Parks and Open Space Matching Grant Program; certifying that the site has been dedicated for permanent public arts and park uses; and providing an effective date. This grant request is for funding to purchase a performing arts center and park site in Collin County. [Consent Agenda Item "I"]

**Resolution No. 2004-6-21(R):** To certify that the City is eligible to receive financial assistance under the Collin County Parks and Open Space Matching Grant Program as provided by the Collin County Commissioners Court; certifying that the City has been awarded matching grants for the White Rock Creek Greenbelt acquisition (Legacy Trail) and Tennyson/Archgate Athletic Site (Archgate Park) projects; designating the Director of Parks and Recreation as being responsible for acting for and on behalf of the City of Plano in dealing with the Collin County Commissioners Court for the purpose of reallocating all of these funds to the Bluebonnet Trail Extension Project; certifying that the Bluebonnet Trail Extension will be dedicated for public park and recreation uses; and providing an effective date. [Consent Agenda Item "J"]

**Resolution No. 2004-6-22(R):** To certify that the City is eligible to receive financial assistance under the Collin County Parks and Open Space Matching Grant Program as provided by the Collin County Commissioners Court; certifying that the City's matching share is readily available; designating the Director of Parks and Recreation as being responsible for acting for, and on behalf of the City of Plano in dealing with the Collin County Commissioners Court for the purpose of participating in the Collin County Parks and Open Space Matching Grant Program; certifying that the Oak Point Park and Nature Preserve has been dedicated for public park and recreational uses; and providing an effective date. [Consent Agenda Item "K"]

Upon a motion made by Council Member Dyer and seconded by Council Member Stovall, the Council voted 7-0 to certify that the City is eligible to receive financial assistance under the Collin County Parks and Open Space Matching Grant Program as provided by the Collin County Commissioners Court; certifying that the City's matching share is readily available; designating the Director of Parks and Recreation as being responsible for acting for, and on behalf of the City of Plano in dealing with the Collin County Commissioners Court for the purpose of participating in the Collin County Parks and Open Space Matching Grant Program; certifying that the site has been dedicated for permanent public arts and park uses; and providing an effective date; and further to adopt Resolution No. 2004-6-20(R); to certify that the City is eligible to receive financial assistance under the Collin County Parks and Open Space Matching Grant Program as provided by the Collin County Commissioners Court; certifying that the City has been awarded matching grants for the White Rock Creek Greenbelt acquisition (Legacy Trail) and Tennyson/Archgate Athletic Site (Archgate Park) projects; designating the Director of Parks and Recreation as being responsible for acting for and on behalf of the City of Plano in dealing with the Collin County Commissioners Court for the purpose of reallocating all of these funds to the Bluebonnet Trail Extension Project; certifying that the Bluebonnet Trail

**Resolution No. 2004-6-22(R) (cont'd)**

Extension will be dedicated for public park and recreation uses; and providing an effective date; and further to adopt Resolution No. 2004-6-21(R); and to certify that the City is eligible to receive financial assistance under the Collin County Parks and Open Space Matching Grant Program as provided by the Collin County Commissioners Court; certifying that the City's matching share is readily available; designating the Director of Parks and Recreation as being responsible for acting for, and on behalf of the City of Plano in dealing with the Collin County Commissioners Court for the purpose of participating in the Collin County Parks and Open Space Matching Grant Program; certifying that the Oak Point Park and Nature Preserve has been dedicated for public park and recreational uses; and providing an effective date; and further to adopt Resolution No. 2004-6-22(R).

Mayor Pro Tem Stahel resumed his place on the bench

**Resolution No. 2004-6-23(R):** To review and approve the City's written Public Funds Investment Policy; and providing an effective date. [Regular Agenda Item "1"]

Director of Finance McGrane advised that this item is a review of the City's written policy in accordance with State law requirements and that Staff has no recommended changes.

Upon a motion made by Deputy Mayor Pro Tem Lambert and seconded by Council Member Johnson, the Council voted 8-0 to approve the City's written Public Funds Investment Policy; and providing an effective date; and further to adopt Resolution No. 2004-6-23(R).

**Public Hearing and adoption of Ordinance No. 2004-6-24** to request to establish and designate a certain area within the City of Plano as Reinvestment Zone No. 82 for retail/wholesale tax abatement consisting of a 5.1573-acre tract of land located at 600 Data 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 "2"]

Director of Finance McGrane advised that this item relates to a tax abatement agreement with Software Spectrum, Inc. He advised that the proposed business personal property tax abatement will begin on January 1, 2005, and continue through the year 2015 and be equal to fifty percent for ten years with 380 anticipated full time jobs.

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 Stahel and seconded by Council Member Stovall, the Council voted 8-0 to establish and designate a certain area within the City of Plano as Reinvestment Zone No. 82 for retail/wholesale tax abatement consisting of a 5.1573-acre tract of land located at 600 Data 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. 2004-6-24.

**Resolution No. 2004-6-25(R):** Approving 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 Software Spectrum, Inc., and providing for a personal property retail/wholesale tax abatement, and authorizing its execution by the City Manager; and providing an effective date. [Regular Agenda Item “3”]

Upon a motion made by Mayor Pro Tem Stahel and seconded by Council Member Stovall, 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 Software Spectrum, Inc., and providing for a personal property retail/wholesale tax abatement, and authorizing its execution by the City Manager; and providing an effective date; and further adopting Resolution No. 2004-6-25(R).

**Public Hearing and adoption of Resolution No. 2004-6-26(R)** adopting the Haggard Neighborhood Action Plan as proposed by the Haggard Neighborhood Planning Team and approving its use by the appropriate personnel and departments of the City of Plano for the purpose of guiding future development and provision of City services within the Haggard Neighborhood; and providing an effective date. [Regular Agenda Item “4”]

Larry Weseman, spoke on behalf of the Haggard neighborhood residents, spoke to the goal of creating a positive community image and instilling community pride by maintaining the quality of existing residential properties through the encouragement of rehabilitation and code compliance. He spoke to enforcement of existing codes with regard to excessive vehicles parked on the streets and requested that no new thoroughfares be constructed through the neighborhood. Mr. Weseman spoke to the goals of preserving neighborhood trees, monitoring for stray animals, and continuing maintenance of Haggard Park.

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 Stahel and seconded by Council Member Magnuson, the Council voted 8-0 to adopt the Haggard Neighborhood Action Plan as proposed by the Haggard Neighborhood Planning Team and approve its use by the appropriate personnel and departments of the City of Plano for the purpose of guiding future development and provision of City services within the Haggard Neighborhood; and providing an effective date; and further to adopt Resolution No. 2004-6-26(R).

**A Public Hearing** for the City Council of the City of Plano, Texas, pursuant to Chapter 26 of the Texas Parks and Wildlife Code pertaining to use or taking of a portion of City of Plano Park, known as Preston Ridge Trail Linear Park north of Carpenter Park; Carpenter Park; and Preston Ridge Trail Linear Park south of Carpenter Park; for electric transmission line easements. Tabled 06-14-04 [Regular Agenda Item “5”]

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

Oncor Area Manager Steve Matthews advised that the objective of the project is to upgrade the transmission infrastructure and capacity serving the region and spoke to rebuilding the existing line which runs north/south through Plano. He spoke to a review of plans with residents and Public Utility Commission approval and the need for upgrade with 40% of commercial land still to be developed. Mr. Matthews reviewed the areas of the City dependent on the reliability of the network and stated that south of Carpenter Recreation Center, the line would be replaced with a monopole providing two circuits and that north of the recreation center, the line will move thirteen feet west of the existing "H-frame" structures leaving the east side available for a future transmission line. He spoke to the height varying from structure to structure.

Bob Dean, Consulting Engineer-Transmission Regulatory Compliance, representing Oncor advised the Council that the corridor currently has one circuit and the proposal is four circuits north of Carpenter Park and two south of the park. He advised that options are to rebuild the Collin-Renner line with a single, double-circuit line that is off-set to allow for an additional pole in the future; replace the existing "H-frame" structure with a steel 4-circuit structure; or install the future two circuits in another north-south corridor in west Plano. Mr. Dean spoke regarding a new high-temperature conductor which would move more power through the system with minimal infrastructure improvements and may defer the required installation of two additional circuits for several years. He spoke to issues which include capacity and the possible need for upgrade of equipment and/or lines.

Council Member Stovall spoke to the "new wave" of technology and new items in the future to aid with distribution. He spoke regarding distribution falling short in the DFW area and stated that power generating plants are no longer in the area.

Mr. Matthews responded to Council Member Dyer that clearance at the line's sag level will dictate the height of poles which will range from 85-100 feet. Mr. Dean advised that pole height is a function of the area crossed and the length of span, a minimum clearance must be maintained, and allowance should be made for ice on the line.

Mayor Evans opened the Public Hearing. Richard Bogdon, citizen of the City, requested the lines be buried to limit the visual impact, health risks and monetary damage to the community. He spoke to some poles being located within thirty feet of homes, recent outages, rate increases, the need for solutions and requested the Council vote "No." John Campbell, president of the Preston Meadow North Homeowners Association, spoke regarding neighborhood concern related to visual impact, perceived health risks and decreased property values. He requested the Council stop the power line expansion and look for alternatives. Venkat Kolli, resident of the City, spoke to preserving the beauty of Plano and burying cables.

Ed Kettler, member of the Fairfax Hills Homeowners Association, spoke to the number of homes whose values would be impacted, the benefits to be derived from the City of Frisco and commercial developments and alternatives including utilizing the Preston Road or Dallas North Tollway corridors. He spoke regarding a survey conducted among homeowners that indicates support for use of new technology to reduce impact, restricting the power lines through the neighborhood to a single set, requiring additional power line expansion to occur through commercial property rather than neighborhoods and maintaining the current easement separation distances.

Gerry Walsh, Citizens Against the Power Extension Line (CAPE) President, spoke regarding sag characteristics of new cable, the line's proximity to homes and the height of the poles. He requested the structures be in the center line rather than allowing two sets. Brad Hopson, citizen of the City, stated concern that there will be additional poles, the evaluation of new cable technologies and the possibility of a single line rather than a double one. He requested the item be delayed to allow time for review of all possible alternatives. Robert Holdaway, citizen of the City, spoke regarding the shutting down of the Collin Steam Electric Station, the possibility for underground, concrete-encased power and communications lines, the visual effect of the poles, and use of the Hillcrest Road corridor as an alternative. Jorge Morales, citizen of the City, stated concern regarding the plans for additional lines and that TXU has not explored the alternatives. He spoke to the easement not being wide enough, the damage to property values, and consideration of the safety of lives and property. Courtney Ilfrey, citizen of the City, spoke to a study done in 1989 measuring the changes of the body as a result of exposure to power lines. No one else spoke either for or against the request. The Public Hearing was closed.

Mr. Dean responded to Council Member Dyer stating that the only places where burying lines is economically feasible are those areas where there is no alternative such as airport runways or central business districts. He spoke to the expenses related to providing underground lines and stated that the cost runs between six and ten times that of overhead lines and responded that there is adequate right of way, but that the cost is prohibitive.

Mr. Dean spoke regarding the need for four circuits at high temperature and high capacity in the next 20 years. Mayor Evans spoke to changes in technology and stated that a second line of poles may not be needed in the future. Mr. Dean stated that if no upgrade were done an outage would affect all areas served by the Custer Road Substation, described the route of the line and stated that there was not any other route that would not impact the people who are not now impacted. He spoke regarding the consequences of not building, stated that the line is primarily to serve the citizens of Plano, and advised that if monopoles were placed in the center line it would provide three times the current capacity and last until the end of the decade when a move could be made to high-capacity cable.

**Ordinance No. 2004-6-27:** To approve a project for electric transmission line easements to Oncor Electric Delivery Company, requiring the use or taking of a portion of City of Plano public park land, known as Preston Ridge Trail Linear Park north of Carpenter Park, Carpenter Park; and Preston Ridge Trail Linear Park south of Carpenter Park, providing for a determination that there is no feasible and prudent alternative to the proposed use or taking of the park land; and that the proposed project includes all reasonable planning to minimize harm to the land and the park and recreation area resulting from the use; and providing an effective date Tabled 06-14-04 [Regular Agenda Item “6”]

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

Upon a motion made by Deputy Mayor Pro Tem Lambert and seconded by Mayor Pro Tem Stahel, the Council voted 8-0 to approve a project for electric transmission line easements to Oncor Electric Delivery Company, requiring the use or taking of a portion of City of Plano public park land, known as Preston Ridge Trail Linear Park north of Carpenter Park, Carpenter Park; and Preston Ridge Trail Linear Park south of Carpenter Park with revision reflecting *a single pole structures being located in the centerline of the existing facilities in the easement*; providing for a determination that there is no feasible and prudent alternative to the proposed use or taking of the park land; and that the proposed project includes all reasonable planning to minimize harm to the land and the park and recreation area resulting from the use; and providing an effective date; and further to adopt Ordinance No. 2004-6-27 as revised.

**Resolution No. 2004-6-28(R):** To approve the granting of Electric Transmission Line Easements being in the John Wheeler Survey, Abstract No. 1029, H.B. Hanna Survey, Abstract No. 383, Jesse Stiff Survey, Abstract No. 153, Mary & Catherine Owens Survey, Abstract No. 672, B.M. Craig Survey, Abstract No. 176, T.J. Cotton Survey, Abstract No. 202 and Martha McBride Survey, Abstract No. 553, City of Plano, Collin County, Texas, across a portion of City of Plano park known as Carpenter Park and as Preston Ridge Trail Linear Park north and south of Carpenter Park, and authorizing the execution of the Easements by the City Manager; and providing an effective date. Tabled 06-14-04 [Regular Agenda Item “7”]

Upon a motion made by Mayor Pro Tem Stahel and seconded by Deputy Mayor Pro Tem Lambert, the Council voted 8-0 to

Upon a motion made by Council Member Stovall and seconded by Mayor Pro Tem Stahel, the Council 8-0 to approve the granting of Electric Transmission Line Easements being in the John Wheeler Survey, Abstract No. 1029, H.B. Hanna Survey, Abstract No. 383, Jesse Stiff Survey, Abstract No. 153, Mary & Catherine Owens Survey, Abstract No. 672, B.M. Craig Survey, Abstract No. 176, T.J. Cotton Survey, Abstract No. 202 and Martha McBride Survey, Abstract No. 553, City of Plano, Collin County, Texas, across a portion of City of Plano park known as Carpenter Park and as Preston Ridge Trail Linear Park north and south of Carpenter Park with revision reflecting *a single pole structures being located in the centerline of the existing facilities in the easement*; and authorizing the execution of the Easements by the City Manager; and providing an effective date; and further to adopt Resolution No. 2004-6-28(R) as revised.

The Council took a brief recess at 9:30 p.m. and resumed at 9:45 p.m.

Mayor Evans advised that Regular Agenda Item No. 12 would be considered at this time.

**Consideration of an Appeal of the Planning and Zoning Commission's Approval** of a Preliminary Site Plan for Wal-Mart DNT Addition – A retail superstore on one lot on 23.1± acres located on the west side of Parkwood Boulevard, 580± feet south of Park Boulevard. Zoned Regional Commercial. Neighborhood #53. Tabled 05-10-04. Continued 06-14-04 [Regular Agenda Item “12”]

Mayor Evans spoke regarding the Council's receipt of public comment on the appeal at two previous meetings. She stated that although a Public Hearing is not required, the Council understood the sensitivity of the many neighborhoods and the community to the preliminary site plan and whether it complied with applicable regulations. Mayor Evans stated that in order to accommodate these concerns and address relevant issues, the Council has allowed the opportunity for public comment and that it has been extensive. She spoke regarding the multiple issues addressed, changes voluntarily offered by the applicant's representatives and stated that procedurally public comment was closed and the item limited to Council discussion before the request was continued at the June 14 meeting. Mayor Evans stated that while it is not required, given the continued public interest the Council would permit further input on issues raised.

Director of Planning Jarrell spoke to the Council's discussion of issues at the June 14 meeting and the additions and alterations made to the preliminary site plan. She reviewed the modifications including indication of a storm ceptor device, trash grates, an 8-foot tall screening wall along Parkwood Boulevard, a 50-foot wide landscaped edge along Parkwood Boulevard, preservation of 30-40 existing trees with 12 planted in the median of Parkwood Boulevard, wet lands mitigation area subject to Corps of Engineer's approval, increased storage and transition links for driveways, speed tables along the cruiser lane, an increase in the height of the truck dock screening wall from 10 feet to 12 feet and additionally a Council request for a cross access easement to the south along with full median access onto Parkwood Boulevard for the main drive aisle. Ms. Jarrell stated that additional information has been included by the applicant's consultants concerning the transportation impact analysis reflecting information for a Saks' store addition and trip generation rates based on “discount stores” rather than “shopping centers.”

James Hall of Kimley-Horn and Associates, representing the applicant, spoke regarding the direction given by the Council at the June 14 meeting. He reviewed the items addressed on the preliminary site plan which include: a storm ceptor device installed to intercept run-off from the garden center, the paved area east of the store and the two depressed truck dock wells; two trash grates to be installed in the creek (one near the existing culvert under Parkwood Boulevard and the other near the downstream end of the proposed mitigation area); a 50-foot wide landscaped edge and 8-foot tall masonry screening wall to match the building material is shown and described in the plan along with description of how the berms will be placed and an earthen slope that berms up from the street grade to the base of the wall; 12 transplanted trees placed in

### **Appeal of the Planning and Zoning Commission's Approval (cont'd)**

the median of Parkwood Boulevard with appropriate irrigation system; a creek mitigation area including oil booms, settling ponds, storm ceptor and aquatic and other plantings as submitted to the Corps. of Engineers; three speed tables across the cruiser lane in front of the store; increased transition and storage lengths at deceleration and left-turn lanes entering the site; an update to the site data table to include the area of the garden center along with the bale and pallet storage and the parking requirements; the height of the truck dock screening increased from 10-12 feet; 30-40 of the existing live oak trees transplanted with 12 of these in the Parkwood Boulevard median as referenced above; revision of the plan's date to June 17, 2004; a 24-foot wide cross access easement added to the adjacent property to the south; full median access to Parkwood Boulevard; and a decorative metal fence along the rear of the building. Mr. Hall spoke to items representing a response to future neighbors and stated that Kimley-Horn has submitted a letter providing additional analysis of traffic questions.

Matt Hutchins, representing the Good Neighbor Coalition, stated the Coalition's belief that the Dallas North Tollway Design Guidelines (Resolution No. 98-7-12(R) adopted July 13, 1998) are an official policy, binding and enforceable in the City. He spoke to the Zoning Ordinance requiring review for compliance with ordinances, codes and official policies of the City. Mr. Hutchins spoke to the guidelines being designed to supplement and support the Tollway Commercial and Tollway Employment Zoning Ordinances and the City's Comprehensive Plan and stated that while they do not express absolute numerical values or absolute defined limits, the criteria set forth are mandatory and must be applied to their entirety in the evaluation and approval of site plans by the Planning and Zoning Commission and City Council. He stated that the objectives of the guidelines with respect to this development are specific and include creating a human-scaled environment for pedestrians by creating inviting gathering places such as courtyards and gardens and providing safe and attractive pedestrian connections between buildings. Mr. Hutchins questioned whether the cruiser lane is a safe environment for pedestrians coming through the parking lot as well as the northern thruway. He spoke to the objective to balance access and circulation in order to manage traffic flow and address street capabilities, specifically the design to limit through access routes in commercial development in order to reduce speed and cut-through traffic and further offset vehicular access from residential streets. Mr. Hutchins stated concern that the cruiser lane would force traffic through the property to residential neighborhoods east of the site. He spoke to analysis by the consultants concluding that there are some unique physical conditions existing within the study area including the subject property and the need for special focused development. Mr. Hutchins spoke to the narrowness of the parcel, its length and the issues regarding access and circulation, whether or not the Wal-Mart development complies with the overall goals and standards of the guidelines, and to consideration of the development as a "big box village" rather than a "big box corner."

### **Appeal of the Planning and Zoning Commission's Approval (cont'd)**

Mr. Hutchins spoke to the "arbitrary and capricious" decision-making which could be challenged if the Council were to ignore official policy and approve a site plan that does not comply with guidelines. He stated that failure to enforce all applicable guidelines in the past is not grounds for enforcement in this case and that this failure would render the guidelines meaningless and potentially unenforceable. Mr. Hutchins spoke to the differences between this request and a car dealership to be developed at Dallas North Tollway/Spring Creek Parkway.

Mr. Hutchins spoke to enforcement of the guidelines in their entirety and regarding the guidelines established as official policy by the Transportation Security Administration. He spoke to the adverse impact that would occur should they be ignored or selectively enforced and stated it is the primary obligation of the City Council to look out for the health, safety and welfare of its citizens.

Mr. Hutchins spoke to other cities' rejection of big box retail developments even when sites were zoned for commercial and retail uses and stated that in these cases: traffic impact could not be mitigated; the use was over intensive for the site; there was incompatibility with adjoining residential neighborhoods; specific environmental impacts including building on an aquifer, destroying indigenous mature trees, unacceptable storm water runoff or development in an area already in violation of clean air standards; incompatibility with existing City and county master development plans or guidelines; and the economic impact of existing retailers. He stated there were three reasons to deny this preliminary site plan including: the over intensity of the particular land use; significant health, safety and welfare issues; and traffic hazards and risks. He concluded by stating the position of the Good Neighbor Coalition and numerous homeowners' associations is that if the project were built, it would be a travesty and permanent blight on the City as it is too intense a use, does not comply with guidelines, will increase traffic problems, exacerbate unacceptable air quality conditions and ruin the aesthetics of a gateway to the City and further requested the Council deny approval.

Dr. Patricia Templeton of the Good Neighbor Coalition thanked the Council for her speaking time and stated that the Council should only accept a traffic impact analysis (TIA) based on counts from local Wal-Mart Super centers. She stated that by accepting Kimley-Horn's TIA's the Council is forfeiting the City's right to control development because of the importance of utilizing the right numbers in the software and the TIA code that the developer may be required to reduce the project's density when levels of service reach "E" or "F." Dr. Templeton stated that Kimley-Horn has produced a new appendix which along with TIA's is inaccurate but that she is in agreement that the Wal-Mart Super center is not a shopping center but rather a free-standing discount super center and that the data for this category is flawed in that you cannot forecast trips from information that does not include the proper store size and further that local information should be collected when the independent variable falls outside the range. She stated that Kimley-Horn misused the data range and seemed to use it rather than the standard deviation.

### **Appeal of the Planning and Zoning Commission's Approval (cont'd)**

Charles Sartain an attorney with Looper, Reed & McGraw, spoke on behalf of the Good Neighbor Coalition and regarding the Council's potential liability. He urged the Council to consider the Tollway Design Guidelines and spoke to these being utilized by developers, Staff, City Council and others as a guideline and recommendation for matters concerning public and private development of the Dallas North Tollway Corridor and further stated that as adopted by resolution they are established as the official policy of the City. Mr. Sartain stated that the guidelines establish rights regarding design, construction and approval of site plans along the corridor. He advised that while as a matter of law, the Council does not have to interpret the guidelines in any one way or another the policy speaks to their consideration and that not doing so would be an "arbitrary and capricious" act. Mr. Sartain referred to a Dallas case in which approval was denied even though the use was permitted under the zoning ordinance. He referred to legislative and judicial actions that a Council takes giving them absolute immunity, administrative actions qualified immunity and ministerial functions having no immunity and stated that because of the City of Plano's resolution, the Council must use discretion in evaluation of the request and apply the guidelines. Mr. Sartain spoke to the resolution establishing rights, creating an expectation that certain factors will be taken into account during consideration and that to do otherwise would be to act "capriciously and arbitrarily" which would "deprive Council members who vote in favor of such a plan from the qualified immunity that the law gives you if you follow the guidelines which are your established policies."

Mr. Sartain spoke to the guidelines supplementing the zoning ordinances of the City and being an integral part of the Master Plan and that each application should stand on its own merits. He stated that whether or not a Wal-Mart big box is an acceptable use for the site is not the question, but that it's whether or not the site plan complies with the guidelines and that this requires deliberation on the Council's part and the exercise of their discretion. Mr. Sartain stated that Council members "are inviting the removal of official immunities and increasing your own exposure to litigation if you ignore your own written and established policy and fail to consider the guidelines."

Judye Glick, citizen of the City, spoke to her frustration and that of neighbors and friends when the Council does not acknowledge or be guided by the long-term detrimental effects of this Wal-Mart's "invasion of our community." She spoke to the Council having concerns that Wal-Mart will not live up to their promises for architectural reasons and regarding the potential proliferation of trash, other pollution and crime. Ms. Glick spoke to concerns regarding area traffic, businesses leaving the Park Boulevard/Preston Road area and to the Council endorsing the blight that typically accompanies these super centers and destroys surrounding property values. She spoke to the employment provided by Wal-Mart and tax revenue but stated that their customers will travel to wherever they are located and that she "deplores" the tactics of the company. Ms. Glick spoke to putting the issue to a citizen vote if the Council is unable to make a decision.

### **Appeal of the Planning and Zoning Commission's Approval (cont'd)**

Marian Lokey, citizen of the City, spoke in opposition to another Wal-Mart Super center coming into Plano, reasons they are being turned down in other cities, the moral obligation of the City to protect the welfare of its businesses and citizens from the "monopolistic and disdainful" operating practices of Wal-Mart and urged the Council to vote in opposition.

Myron Dornic of Jackson Walker LLP, speaking on behalf of Wal-Mart, stated that the record includes evidence that the guidelines have been considered including an extensive memorandum by Staff regarding their consideration. He spoke to the guidelines encouraging alternatives and Staff and the Planning and Zoning Commission's decisions that the project complies, possibly in the manner of an alternative. Mr. Dornic spoke to Wal-Mart's request that the standards be applied fairly and consistently and to the Council upholding the Commission's decision. He spoke to the appeal process requiring a concise and clear statement and that in this case the statement did not include a description of compliance with the guidelines. Mr. Dornic spoke to the basis of the appeal including questions about traffic impact analysis and on-site circulation including cross access, review of environmental issues concerning the creek and drainage and a general review of the site plan for compliance with codes. He stated that the guidelines are not a part of the City's codes and that issues related to the guidelines were not addressed by members of the public at the first hearing. Mr. Dornic stated that the plan does comply with the design guidelines, that extra measures have been taken to meet their objectives and intent and that it would be reasonable for the Council to uphold the decisions made by Staff and the Commission.

Mr. Hall stated that additional information regarding traffic is not meant to replace the previous information and that after public input was received, data was run using the "free-standing discount superstore" designation using the highest single data point and including the garden center along with Saks' traffic and a five percent growth rate all of which indicated that no study intersections fell below an acceptable level of service. He stated that the sensitivity analysis indicates that 2.2 projects could be built on the site before the worst intersection would fall below an acceptable level of service.

Mr. Hall stated that the tollway design guidelines are not an ordinance, were developed with input from Staff, Council and neighborhoods in the area and that the base zoning has been in place for a long time. He spoke to Staff's recommendation of approval including reference to a review of the guidelines, the base zoning of Regional Commercial which allows for a super center and stated that while specific use permits are required for stores 80,000 square feet or larger in other areas, such is not the case in Regional Commercial. Mr. Hall spoke to making the project fit with the community and concessions offered and the guidelines being a planning tool and not an ordinance. He cited the guideline's purpose and the application and stated that the guidelines do not specify a maximum building size, the number of buildings comprising a "village" versus a "corner" development, whether buildings can be combined into one structure or what the density needs to be and that these items are left to the base zoning with which the request complies.

### **Appeal of the Planning and Zoning Commission's Approval (cont'd)**

Mr. Hall reviewed the study objectives to minimize the impact of the building facing the residential neighborhoods and stated that Wal-Mart did provide generous landscape treatments with particular concern for surface parking areas and perimeter edges, that a 200-foot building setback is being provided where 50 feet is required, and that high-quality building materials with proper and consistent color combinations are being provided. He spoke to providing an attractive "front door" image from all adjacent streets, stating that Wal-Mart is extending the same design and materials to all building facades exposed to public streets; locating the service and loading areas as interior as possible and screening them to the best of their abilities; screening and integrating the bale and pallet storage area, the compressor houses, trash compactors, truck docks as suggested; preserving trees across the rear of the site; and providing a 50-foot buffer and 8-foot wall along Parkwood Boulevard. He stated that in the area of creating a human-scaled environment for pedestrians in private developments Wal-Mart is providing a grocery store, general merchandise store, pharmacy, restaurant, bank, and other tenant spaces in one air-conditioned building; that a portico will be provided between the two vestibules, awnings on the front of the building, a gathering area represented by a café, and a drive-thru pharmacy representing a porte cochere. Mr. Hall spoke to the guidelines containing "fuzzy" planning words and stated that Wal-Mart has complied with them to the best of their abilities. In the area of providing safe and attractive pedestrian connections between buildings, he advised that there will be one primary building and perimeter sidewalks to the development to the north. Mr. Hall spoke to balancing access and circulation to manage traffic flow and address street capabilities and advised that Wal-Mart has provided clear and identifiable access points from thoroughfares, limited through access routes in commercial development to reduce speed and cut-through traffic by having offsets in the driveway, speed tables and cross walks in the cruiser lane. He further spoke to the nearest neighborhood street being 2,200 feet away and advised that cross access connections are provided to the north and the south. Mr. Hall spoke to improving the visual image of the Dallas North Tollway corridor through landscape/streetscape treatments and stated that Wal-Mart will provide a green landscaped street environment through the planting of quality street trees, include transplanted trees and provide individual entry accents through the use of small ornamental trees, shrub beds and flower beds.

Mr. Hall spoke to discussion of whether the development is a "big box village" or retail "big box corner" and stated that the "corner" designation does not specify what type of corner is to be considered, that the development meets all of the planning concepts described in the "big box corner" designation most of which are echoed in the "village" concept. He requested the Council consider the guidelines in their entirety, recognizing they are a useful tool but that they have self-imposed limitations. Mr. Hall stated that the requested Wal-Mart development is very similar to the existing SuperTarget on the Dallas North Tollway but that the Wal-Mart truck docks will have better screening, the greater setbacks, transplanted trees, meandering driveways to dissuade cut-through traffic, and a landscape buffer and masonry wall along Parkwood Boulevard will be provided. He spoke to the City's reputation for applying rules and to receiving credit for items included that go "above and beyond" requirements.

### **Appeal of the Planning and Zoning Commission's Approval (cont'd)**

Deputy Mayor Pro Tem Lambert spoke to the guidelines being a policy that the City Council established and regarding the examples not including an indication of straight, cut-through traffic, the "big box corner" indicating other retail shops around it, and that SuperTarget provided a pedestrian-friendly village concept along with a "Main Street." He spoke to there being no comparison between the SuperTarget and Wal-Mart developments, a cut-through lane at SuperTarget having an offset and a free-standing, single tenant 23,000 square foot building not being envisioned for the Tollway, and stated that he could not support approval of the site plan.

Council Member Johnson spoke regarding consideration of the development of the Cinemark theater, questioned the development of Costco on the Tollway and regarding the lack of restrictions on this "gateway." He spoke to the requirement for a specific use permit for retailers over 80,000 feet in other areas of the City and the exemption along the Tollway and the Tollway Design Guidelines being seen as "guidelines" rather than "requirements," the applicant meeting many of the guidelines, his preference that Wal-Mart remain at their current location, Wal-Mart's business model to sell groceries and expand their business and their inevitable relocation from Park Boulevard/Preston Road. Mr. Johnson spoke to the need for the City to address empty retail space, particularly big boxes, and to being more consistent in considering the effect of vacant space in all areas of the City.

Deputy Mayor Pro Tem Lambert spoke to this being Wal-Mart's third location in west Plano over approximately 15 years, the current lack of traffic at the first site, the "good neighbor" promises made at the second site, concerns that this will leave another empty "box," and stated that Wal-Mart will most likely move again in the future. He spoke to the Cinemark being planned during the early stages of the Tollway zoning and stated that the City "backed off" a moratorium. Mr. Lambert spoke to his request that the Costco site be included in the Tollway Guidelines but stated that it was not, and referenced the amount of retail zoned land remaining in the corridor being enough to service 300,000 people. He referred to Staff's interpretation of the plan, the Council making the final determination, the lack of support for the project and the threats of a lawsuit from an attorney representing Wal-Mart.

Council Member Magnuson spoke regarding those that are in favor of the development, the emotional level of the issue and the site at Park Boulevard/Preston Road not affecting property values or the quality of life in the area. She spoke to that location being a viable one, to the Council and citizens obeying the laws that apply and this item not representing a zoning case, Wal-Mart's work with neighborhood groups when another developer may not, the value of the land and recognizing that the location will be developed commercially. She spoke to the guidelines being "guidelines" and stated that Wal-Mart has met most of them, the inability to use the TIA as a means to deny the request, Wal-Mart complies with existing zoning and other regulations set down by the City and the Council as a legal entity and elected officials need to support the laws and ordinances that apply to the City of Plano.

Council Member Callison spoke in agreement with Deputy Mayor Pro Tem Lambert, regarding consideration of the guidelines and stated that Wal-Mart has not met them.

### **Appeal of the Planning and Zoning Commission's Approval (cont'd)**

A motion was made by Council Member Magnuson and seconded by Mayor Evans to approve the Preliminary Site Plan for a retail superstore on one lot on 23.1± acres located on the west side of Parkwood Boulevard, 580± feet south of Park Boulevard as modified with the conditions presented during this meeting. The Council voted 6-2 with Deputy Mayor Pro Tem Lambert and Council Member Callison voting in opposition. The motion carried.

**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. [Regular Agenda Item "8"]

Senior Planner Adams advised the Council that Staff has received a request to table consideration of this item.

Upon a motion made by Council Member Stovall and seconded by Deputy Mayor Pro Tem Lambert, the Council voted 8-0 to table the 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 until July 26, 2004.

**Public Hearing and adoption of Ordinance No. 2004-6-29 as requested in Zoning Case 2004-19** - To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, granting Specific Use Permit No. 540 so as to allow the additional use of a Commercial Antenna Support Structure on 0.01± acre of land located 500± feet west of Alma Road and 320± feet north of Parker Road in the City of Plano, Collin County, Texas, presently zoned Planned Development-36-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 #35. Applicant: PS Texas Holdings, Ltd., and T-Mobile [Regular Agenda Item "9"]

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. John Rooney, representing the applicant, advised that he would be available to answer any questions. No one else spoke either for or against the request. The Public Hearing was closed.

**Ordinance No. 2004-6-29 (cont'd)**

Upon a motion made by Mayor Pro Tem Stahel and seconded by 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, granting Specific Use Permit No. 540 so as to allow the additional use of a Commercial Antenna Support Structure on 0.01± acre of land located 500± feet west of Alma Road and 320± feet north of Parker Road in the City of Plano, Collin County, Texas, presently zoned Planned Development-36-Retail as requested in Zoning Case 2004-19 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. 2004-6-29.

**Public Hearing and adoption of Ordinance No. 2004-6-30 as requested in Zoning Case 2004-20** – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, granting Specific Use Permit No. 541 so as to allow the additional use of a Commercial Antenna Support Structure on 0.01± acre of land located 642± feet west of Independence Road and 277± feet south of Parker 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 #44. Applicant: Parker Lancers Square, LLC and T-Mobile [Regular Agenda Item “10”]

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. John Rooney, representing the applicant, responded to Council regarding the proposed antenna location. No one spoke either for or against the request. The Public Hearing was closed.

Upon a motion made by Council Member Magnuson and seconded by 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, granting Specific Use Permit No. 541 so as to allow the additional use of a Commercial Antenna Support Structure on 0.01± acre of land located 642± feet west of Independence Road and 277± feet south of Parker Road in the City of Plano, Collin County, Texas, presently zoned Retail as requested in Zoning Case 2004-20 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. 2004-6-30.

**Public Hearing and Ordinance No. 2004-6-31 as requested in Zoning Case 2004-22** – To amend SubSection 3-203 (Carports) Of Section 3-200 (Accessory Building Regulations) of Article 3 (Supplement Regulations) and related sections pertaining to carports and porch and patio covers of the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, to establish nonconforming status for certain carports and/or porch or patio covers that were erected prior to April 12, 2004; 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 “11”]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission recommended approval subject to the following stipulations: (additions are indicated in underlined text; deletions are indicated in strikethrough text.)

1. Amend Subsection 3-203 (Carports) of Section 3-200 (Accessory Building Regulations) to read as follows:
  - “1. In single-family and two-family developments, a carport shall shelter not more than three vehicles and shall not exceed twenty-four feet on its longest dimension.
  2. Carports must meet all height and yard setback requirements in Section 3-204 below, and are prohibited within the front yard setback. However, carports erected in the front yard setback of single-family dwellings before April 12, 2004, are considered to be existing nonconforming structures subject to Section 2-700 of this ordinance. These carports may not be replaced if they are removed for any reason, destroyed or become dilapidated.”
2. Amend Subsection 3-503 of Section 3-500 (Front Yard Regulations) to read as follows:

“Except as herein provided, the front yard shall be open and unobstructed from a point 40 inches above the general ground level of the graded lot to the sky. Eaves and roof extensions or a porch without posts or columns may project into the required front yard for a distance not to exceed four feet and subsurface structures, platforms or slabs may not project into the front yard to a height greater than 40 inches above the average grade of the yard (see Appendix Illustration 6). However, porch and patio covers that extend greater than 4 feet, with or without posts or columns, that were erected in the front yard setback of single-family dwellings before April 12, 2004, are considered to be existing nonconforming structures subject to Section 2-700 of this ordinance. For non-residential or multi-family developments, screening walls or fences required

**Ordinance No. 2004-6-31 (cont'd)**

under the provisions of Section 3-1001 shall be constructed to the full six- to eight-foot height along the entire property line except where visibility triangles or easements are needed. For public and parochial schools, private primary and secondary schools, and day care centers, fences and berms may be a combined maximum height of 60 inches above grade provided that the fence material is wrought iron or chain link.”

Ms. Jarrell stated that the Building Inspection Department has notified property owners who will be able to receive a permit after the passage of the amendment as well as those who removed carports as a result of enforcement efforts. Deputy Mayor Pro Tem Lambert requested an exhibit be attached indicating the locations eligible for permits. Building Official Mower advised that most of the carports are on the east side of the City.

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 amend SubSection 3-203 (Carports) Of Section 3-200 (Accessory Building Regulations) of Article 3 (Supplement Regulations) and related sections pertaining to carports and porch and patio covers of the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, to establish nonconforming status for certain carports and/or porch or patio covers that were erected prior to April 12, 2004 as requested in Zoning Case 2004-6-31, 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 to adopt Ordinance 2004-6-31 *and that a copy of the list of know eligible properties be filed with the City Secretary's records of this ordinance.*

There being no further discussion, Mayor Evans adjourned the meeting at 11:20 p.m.

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Pat Evans, **MAYOR**

ATTEST:

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Elaine Bealke, City Secretary