

PLANO CITY COUNCIL
February 25, 2008

COUNCIL MEMBERS

Pat Evans, Mayor
Sally Magnuson, Mayor Pro Tem
Jean Callison, Deputy Mayor Pro Tem
Shep Stahel
Scott Johnson
Loretta L. Ellerbe
Harry LaRosiliere
Lee Dunlap

STAFF

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

Mayor Evans convened the Council into the Regular Session on Monday, February 25, 2008, 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 Senior Pastor Al Krummenacher of Grace Presbyterian Church.

The Pledge of Allegiance was led by Girl Scout Troup 1332 from Bethany Elementary.

Mayor Evans presented Certificates of Appreciation to outgoing board members Jim Falk of the Global Advisory Committee and Mary Jane Ketcham of the Senior Citizens Advisory Board.

Mayor Evans administered oaths of office to incoming board members Mary Jane Ketcham of the Community Relations Commission and Pearl Garza Fracchia of the Library Advisory Board.

BOARD AND COMMISSION REPORT

Keep Plano Beautiful Commission Chair John Caldwell spoke regarding members of the Commission and their mission. He advised that Goal I is community involvement and awareness through expanded public relations and that this has been accomplished through the Environmental Community Awards and participation in City parades and the Balloon Festival. He advised that Goal II is to create a more beautiful and litter-free community through the Great American Cleanup, Adopt-A-Highway Program, HOA Beautification Grant Program, HOA Neighborhood Dumpster Program and Cigarette Litter Education Program. Mr. Caldwell spoke to Goal III to create business resource support and to other contributors and partnering with local businesses and community organizations to build a volunteer base. He responded to the Council regarding problems associated with plastic bags that cannot be recycled.

Keep Plano Beautiful Education Coordinator Eckert responded to Council Member Stahel regarding the Plain-O Helpers who assist with yard cleanups. She spoke to efforts to develop a partnership with the Plano Service League. Council Member Johnson spoke to recognition of the program by other communities.

COMMENTS OF PUBLIC INTEREST

No one appeared to speak.

CONSENT AGENDA

Upon a motion made by Council Member Stahel and seconded by Council Member Johnson, the Council voted 8-0 to approve and adopt all items on the Consent Agenda as recommended and as follows:

Approval of Minutes [Consent Agenda Item (A)]

February 11, 2008

Approval of Expenditures

Purchase from Existing Contract/Agreement: (Purchase of products/services through Cooperative Purchasing Interlocal Contract with another governmental/quasi-governmental agency or an additional purchase from current City of Plano annual purchase agreement).

To authorize the purchase of Rooftop Air-conditioning units at Harrington Library in the amount of \$119,334 from Trane U.S., Inc. through The Cooperative Purchasing Network (TCPN) contract, and authorizing the City Manager to execute all necessary documents. (TCPN Contract No. R4669) [Consent Agenda Item (B)]

To authorize the purchase of (3) Rooftop Air-conditioning units at Liberty Park Recreation Center in the amount of \$63,873 from Trane U.S., Inc. through The Cooperative Purchasing Network (TCPN) contract, and authorizing the City Manager to execute all necessary documents. (TCPN Contract No. R4669) [Consent Agenda Item (C)]

Approval of Contract

To approve an Engineering Services Contract by and between the City of Plano and Freese and Nichols, Inc., in the amount of \$96,907 for the Pond Study – Flood Control Structures and authorizing the City Manager to execute all necessary documents. Project No. 5849. [Consent Agenda Item (D)]

Approval of Change Order

To Hencie International, Inc., increasing the contract by \$150,661 for the 2006-2007 Arterial Concrete Pavement Rehabilitation Project, 15th Street-Coit Road to Central Expressway, Project No. 5802, Change Order No. 1, Bid No. 2007-121-B. [Consent Agenda Item (E)]

Adoption of Resolutions

Resolution No. 2008-2-19(R): To approve the terms and conditions of an Economic Development Incentive Agreement by and between the City of Plano, Texas and Adams Golf, Inc.; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (F)]

Resolution No. 2008-2-20(R): To establish a Section 115 Trust to comply with the requirements of Governmental Accounting Standard Board Statement No. 45; appointing Wells Fargo Bank, N.A. as Institutional Trustee and the Frost National Bank, N.A. as Investment Manager for the trust; approving the Section 115 Trust Agreement and Investment Management Agreement; authorizing the City Manager and City Risk Pool Trustees to take any action as necessary to effectuate the operation of the trust and providing an effective date. [Consent Agenda Item (G)]

Resolution No. 2008-2-21(R): To approve the settlement of the lawsuit styled City of Plano, Texas v. Turner Heritage Investments, Cause No. 004-2322-06, Collin County Court at Law No. 4, in the amount of \$3,400,000; authorizing the City Manager to execute any and all documents necessary to settle such lawsuit; and providing an effective date. [Consent Agenda Item (H)]

Adoption of Ordinances

Ordinance No. 2008-2-22: To adopt and enact Supplement Number 81 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 (I)]

END OF CONSENT:

Public Hearing regarding a tax exempt financing by the Riesel Cultural Facilities Corporation for the benefit of Collin Intervention to Youth, Inc. in a principal amount not to exceed \$2,250,000. [Regular Agenda Item (1)]

City Attorney Wetherbee advised that the City has been approached to assist City House in obtaining tax-exempt financing and spoke to the criteria necessary for receipt of the funds. She advised that the item includes no obligation to the City to back or fund financing and that this part of the process is required by the Internal Revenue Service. Ms. Wetherbee further advised that passage does not exempt any development or zoning requirements related to the property. She responded to Council Member Johnson, stating that she would approach representatives to include a statement confirming that the City has no obligation and that Staff would review documents.

Public Hearing regarding a tax exempt financing by the Riesel Cultural Facilities Corporation (cont'd)

Mayor Evans opened the Public Hearing. Kirk Banfield representing City House, thanked the Council for consideration and spoke to the facility offering assistance to children from newborn to nine years old. He spoke to transition homes for youth who need assistance in attaining self sufficiency and clarified that the City is not liable for this funding request. Mr. Banfield responded to City Manager Muehlenbeck that City House offers services in its Plano locations for citizens from other cities. No one else spoke either for or against the request. The Public Hearing was closed.

Resolution No. 2008-2-23(R): To approve a Tax Exempt Financing by the Riesel Cultural Facilities Corporation for the Benefit of Collin Intervention To Youth, Inc. regarding certain facilities to be located in the City of Plano, Texas; and providing an effective date. [Regular Agenda Item (2)]

Upon a motion made by Council Member Dunlap and seconded by Council Member LaRosiliere, the Council voted 8-0 to approve a Tax Exempt Financing by the Riesel Cultural Facilities Corporation for the Benefit of Collin Intervention To Youth, Inc. regarding certain facilities to be located in the City of Plano, Texas; and providing an effective date; and further to adopt Resolution No. 2008-2-23(R).

Public Hearing and adoption of Ordinance No. 2008-2-24 as requested in Zoning Case 2007-83 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 593 so as to allow the additional use of Truck/Bus Leasing on one lot on 1.7± acres of land located at the southwest corner of U.S. Highway 75 and Chase Oaks Boulevard in the City of Plano, Collin County, Texas, presently zoned Corridor Commercial; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: Capps Van & Truck. [Regular Agenda Item (3)]

Director of Planning Jarrell advised the Council that this request is for expansion of an existing automobile leasing and renting business and that the leasing of trucks would require a specific use permit in Corridor Commercial zoning. She stated that the Planning and Zoning Commission recommended approval as submitted.

Mayor Evans opened the Public Hearing. Mike Bramett with Capps Van and Truck advised that those with a standard driver's license may operate medium-duty trucks offered at this location. He spoke to customer requests for this product, the work of location managers, the rotation of vehicles and their upkeep. William B. Whitty of Capps Van and Truck thanked Council Member Stahel for his compliments on the facility. No one else spoke either for or against the request. The Public Hearing was closed.

Ordinance No. 2008-2-24 (cont'd)

Upon a motion made by Council Member Stahel and seconded by Council Member LaRosiliere, the Council voted 8-0 amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 593 so as to allow the additional use of Truck/Bus Leasing on one lot on 1.7± acres of land located at the southwest corner of U.S. Highway 75 and Chase Oaks Boulevard in the City of Plano, Collin County, Texas, presently zoned Corridor Commercial as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2007-83; 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. 2008-2-24.

Public Hearing and Consideration of Ordinances as Requested in Zoning Cases 2007-75 – 2007-82 all of which are limited to the repeal of certain Specific Use Permits for Private Clubs. The following ordinances are proposed to be repealed which, if approved, will result in the rescission of the Specific Use Permit for an additional use of a Private Club and the applicant is the City of Plano. All of the locations are located within the City of Plano, Collin County, Texas, and the repeal of each ordinance will amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, to reflect such action; 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.

Ordinance No. 2008-2-25 - Zoning Case 2007-75 – To rescind Specific Use Permit No. 309 for Private Club on one lot on 0.1± acre located 100± feet north of Plano Parkway, 550± feet west of Preston Road. Zoned Planned Development-457 Retail/General Office. [Regular Agenda Item (4a)]

Ordinance No. 2008-2-26 - Zoning Case 2007-76 – To rescind Specific Use Permit No. 331 for Private Club on one lot on 2.0± acres located on the east side of U.S. Highway 75, 800± feet north of Parker Road. Zoned Corridor Commercial. [Regular Agenda Item (4b)]

Ordinance No. 2008-2-27 - Zoning Case 2007-77 – To rescind Specific Use Permit No. 334 for Private Club on one lot on 0.1± acre located 1,050± feet north of Plano Parkway and 800± feet east of Alma Drive. Zoned Corridor Commercial. [Regular Agenda Item (4c)]

Ordinance No. 2008-2-28 - Zoning Case 2007-78 – To rescind Specific Use Permit No. 349 for Private Club on one lot on 0.1± acre located 75± feet north of Park Boulevard, 600± feet west of Ohio Drive. Zoned Retail. [Regular Agenda Item (4d)]

Ordinance No. 2008-2-29 - Zoning Case 2007-79 – To rescind Specific Use Permit No. 356 for Private Club on one lot on 0.1± acre located 85± feet north of Park Boulevard, 410± feet west of Coit Road. Zoned Retail. [Regular Agenda Item (4e)]

Ordinance No. 2008-2-30 - Zoning Case 2007-80 – To rescind Specific Use Permit #362 for Private Club on one lot on 1.7± acres located on the east side of Dallas North Tollway, 1,150± feet south of Parker Road. Zoned Regional Employment. [Regular Agenda Item (4f)]

Ordinance No. 2008-2-31 - Zoning Case 2007-81 – To rescind Specific Use Permit No. 364 for Private Club on one lot on 1.5± acres located on the south side of State Highway 121, 260± feet east of Preston Road. Zoned Regional Commercial. [Regular Agenda Item (4g)]

Ordinance No. 2008-2-32 - Zoning Case 2007-82 – To rescind Specific Use Permit #365 for Private Club on one lot on 1.9± acres located on the east side of Dallas North Tollway, 1,230± feet south of Windhaven Parkway. Zoned Regional Employment. [Regular Agenda Item (4h)]

Director of Planning Jarrell advised that all locations are now operated under mixed-use permits and no longer require a specific use permit and further that the Planning and Zoning Commission has recommended approval as submitted.

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

Upon a motion made by Council Member LaRosiliere and seconded by Deputy Mayor Pro Tem Callison, Council voted 8-0 to adopt all the ordinances listed below as recommended by the Planning and Zoning Commission and as designated by their zoning case number. The repeal of each will amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, to reflect such action; 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 2007-75 – To rescind Specific Use Permit No. 309 for Private Club on one lot on 0.1± acre located 100± feet north of Plano Parkway, 550± feet west of Preston Road; and further to adopt Ordinance No. 2008-2-25.

Zoning Case 2007-76 – To rescind Specific Use Permit No. 331 for Private Club on one lot on 2.0± acres located on the east side of U.S. Highway 75, 800± feet north of Parker Road; and further to adopt Ordinance No. 2008-2-26.

Zoning Case 2007-77 – To rescind Specific Use Permit No. 334 for Private Club on one lot on 0.1± acre located 1,050± feet north of Plano Parkway and 800± feet east of Alma Drive; and further to adopt Ordinance No. 2008-2-27.

Zoning Case 2007-78 – To rescind Specific Use Permit No. 349 for Private Club on one lot on 0.1± acre located 75± feet north of Park Boulevard, 600± feet west of Ohio Drive; and further to adopt Ordinance No. 2008-2-28.

Zoning Case 2007-79 – To rescind Specific Use Permit No. 356 for Private Club on one lot on 0.1± acre located 85± feet north of Park Boulevard, 410± feet west of Coit Road; and further to adopt Ordinance No. 2008-2-29.

Zoning Case 2007-80 – To rescind Specific Use Permit #362 for Private Club on one lot on 1.7± acres located on the east side of Dallas North Tollway, 1,150± feet south of Parker Road; and further to adopt Ordinance No. 2008-2-30.

Zoning Case 2007-81 – To rescind Specific Use Permit No. 364 for Private Club on one lot on 1.5± acres located on the south side of State Highway 121, 260± feet east of Preston Road; and further to adopt Ordinance No. 2008-2-31.

Zoning Case 2007-82 – To rescind Specific Use Permit #365 for Private Club on one lot on 1.9± acres located on the east side of Dallas North Tollway, 1,230± feet south of Windhaven Parkway; and further to adopt Ordinance No. 2008-2-32.

Due to a possible conflict of interest on the following item, Council Member LaRosiliere stepped down from the bench at 7:52 and did not return.

Public Hearing and Consideration of Zoning Case 2007-74 – To rezone 121.7± acres located on the south side of 14th Street, north side of the Cottonbelt Railroad, 978± feet east of Los Rios Boulevard, and 1,270± feet west of Park Vista Road from Research/Technology Center to Light Commercial and discussion and direction on the availability of restaurants and retail in the portion of the Research Technology Center District adjacent to Renner Road and State Highway 190. Applicant: City of Plano. [Regular Agenda Item (5)]

Senior Planner Perry advised the Council that this request involves two issues in the Research/Technology District (R/T) including the appropriateness of the district boundaries and consideration of restaurants/retail in the area. She advised that rezoning a portion of the district was denied by the Planning and Zoning Commission. Council Member Ellerbe spoke to the need for information the location of the request, property owners and lots that may be empty or occupied.

Director of Planning Jarrell spoke to previous discussion regarding the appropriateness of restaurant/retail uses in the area of the district near Renner Road and S.H. 190 and to discussion of rezoning for the eastern portion of the district, east of Los Rios Boulevard, south of 14th Street and north of the railroad tracks. She spoke to the isolation of this area from the rest of the district, its topography and the variety of property owners. Ms. Jarrell spoke regarding consideration by the Commission and their denial of Light Commercial (LC) zoning. Ms. Perry described the boundaries and current uses on properties located in the area covered under Zoning Case 2007-74. She advised regarding Staff's recommendation of LC zoning and recognition of the unique challenges including small lot size, topography, and noise issues. Ms. Jarrell responded to Council Member Ellerbe that the property had been zoned Agricultural and Light Industrial prior to R/T.

Mayor Evans opened the Public Hearing. Katherine Brewer spoke to success in the R/T district with occupancy rates on an upswing. She spoke to a change in zoning sending a negative message and short circuiting the momentum and to a principle in the 10 Big Ideas to address vacant big boxes and strip centers. Ms. Brewer spoke to 14th Street not having traffic counts to support full service restaurants and retail uses and requested the Council deny LC in this area.

Zoning Case 2007-74 (cont'd)

Alan Smith, representing Creekside, Stoney Hollow and Los Rios Homeowner Associations requested Council deny the change in R/T zoning. He spoke to R/T bringing in good jobs and stated concern if LC is approved. Hal Warnick, property owner in the area, stated that he understood the objections to a "blanket" LC zoning and spoke in support of a planned development district that may limit some uses such as outside storage, automobile lots or automobile repairs. He advised that his property has been for sale for many years and that he has received no offers subject to a rezoning of the land.

Dale Burton, owner of property in the area, spoke in favor of a zoning change to LC and stated he was open to some modifications. He spoke to R/T being the incorrect zoning for this area and to the difficulties in marketing his property. Rick Fambro, representing property owners in the area, stated that the area should not have been a part of the R/T zoning and spoke to the individual property owners, terrain issues and to development that has already occurred. He spoke to the lack of interest from buyers and requested approval of the case or some compromise. Mr. Fambro responded to Council Member Stahel, stating that he has not received offers contingent on rezoning and nor has he marketed the property in that way. Stephen Thompson, employee of a property owner, spoke to problems in selling land and issues related to uses under R/T. Mike McCartan, representing a property owner, spoke to problems in marketing and advised that his client was in support of a change to LC. No one else spoke either for or against the request. The Public Hearing was closed.

Ms. Jarrell responded to Council Member Ellerbe, stating that the area has been considered several times by the Commission and spoke to issues and concerns which include the question of restaurant/retail uses and whether or not R/T is appropriate for this area. She further advised that several lots were combined for the mosque but aside from that, no parcels have been assembled and spoke to a planned development district as an option. Ms. Ellerbe stated concern related to simple LC zoning.

Ms. Jarrell responded to Mayor Evans regarding items included on zoning district use charts and to including uses appropriate in the City to provide services to citizens. City Attorney Wetherbee spoke regarding consideration of lawful uses and restrictions such as screening that can be put in place.

Council Member Stahel spoke to vacancies that occurred in the R/T district in 2001 based on "spec" building and to the comeback of the area. He stated concern that helping a few could result in a lack of confidence in the stability of zoning. Mr. Stahel made a motion to deny the request in accordance with the denial of the Planning and Zoning Commission (No second was made or vote cast at this time).

Zoning Case 2007-74 (cont'd)

Mayor Evans spoke to this action not representing an attack on R/T and to being an adjustment to the mistake of including this property in the original zoning. She spoke to adjustments made to strengthen the district, to delineation of the property along the railroad tracks and to recognizing the differences between this land and the rest of the R/T district.

Mayor Evans spoke to current non-R/T uses, the irregular topography and floodplain, the difficulty in assembling parcels for development and the area being unsuitable for typical R/T development. She spoke to the problems encountered when marketing properties and the Council depriving people of reasonable use and disposal of land by keeping it in an inappropriate district where it has no future use. Mayor Evans spoke to the area not being adaptable to the same uses planned and protected in the district. Mayor Pro Tem Magnuson stated agreement, but stated concern regarding the uses allowed under regular LC and recommended the use of a planned development.

Council Member Stahel spoke to denying the request of LC zoning and directing the Commission to review a planned development as a separate issue. Mayor Evans spoke to providing specific direction. Council Member Ellerbe stated concern regarding a line-by-line review at this meeting and Mayor Evans stated concern regarding permitted uses including wrecking yards, batching plants, heavy manufacturing and salvage.

City Manager Muehlenbeck spoke to a review by the Commission to be brought back to the Council. Ms. Jarrell spoke to the Commission determining planned development district uses based on the Council's recommendations with LC zoning as the base platform and whether or not some uses may need to be reviewed. Council Members Ellerbe and Stahel spoke to property owners working with the Commission to develop a planned development district. Mr. Stahel spoke to additional consideration of zoning for the far eastern property south of the railroad tracks. Council Member Stahel restated his motion to deny the LC zoning and Council Member Ellerbe seconded. (No vote was cast at this time.)

Council Member Dunlap spoke to the Commission determining a planned development district or making changes to the uses included under Light Commercial. He spoke to the possibility of creating another version of either the Research/Technology or Light Commercial districts, the potential for a DART rail station in this area, consideration of a noise ordinance to protect occupants from sound around them and the effect of current uses on residential properties. Ms. Jarrell spoke to the number of zoning districts currently in the City and to consideration of whether or not details would be applicable to other areas.

Council Member Ellerbe spoke to denying and remanding the item to the Commission. City Attorney Wetherbee clarified that this would be a denial without prejudice. Upon a motion made by Council Member Stahel and seconded by Council Member Ellerbe the Council voted 7-0 to deny Zoning Case 2007-74 – to rezone 121.7± acres located on the south side of 14th Street, north side of the Cottonbelt Railroad, 978± feet east of Los Rios Boulevard, and 1,270± feet west of Park Vista Road from Research/Technology Center to Light Commercial and remand the item to the Planning and Zoning Commission.

Council Member Ellerbe made a further motion directing the Planning and Zoning Commission to review the property, speak to land owners and determine zoning less intense than simple Light Commercial. Mayor Evans spoke to changing the zoning from R/T. Council Member Dunlap seconded the motion (No vote was cast at this time). Council Member Johnson spoke to considering the property south of the request and Ms. Jarrell spoke to issues in that area and whether or not the City is prepared to provide services for residential uses. Council Members Stahel and Callison also spoke in support of reviewing property to the south.

Upon a motion made by Council Member Ellerbe and seconded by Council Member Dunlap, the Council voted 7-0 to return consideration of zoning for 121.7± acres located on the south side of 14th Street, north side of the Cottonbelt Railroad, 978± feet east of Los Rios Boulevard, and 1,270± feet west of Park Vista Road to the Planning and Zoning Commission to review the area, speak to property owners and develop something less intense than Light Commercial, possibly through a planned development district. The Council, as a separate request, further directed the Planning and Zoning Commission to consider zoning on approximately 100 acres south of Cottonbelt Railroad and east of Bradshaw Drive.

Ms. Perry spoke to the consideration of the Retail/Technology district adjacent to SH 190 and/or Renner Road as being appropriate for restaurant or retail uses and subsequent notification that an application is eminent. Ms. Jarrell advised regarding Commission concerns that these uses may not be successful if located in the center of the R/T district and what effect they may have on property owners with facilities in the district. Council Member Stahel spoke to prior discussion of restaurants and retail along Renner Road and S.H. 190 to receive “spin off” from other businesses in the area. Council Member Dunlap spoke regarding access to the location.

David Hicks, representing a property owner in the area, spoke to development of the area including successful hotel facilities, a church, office building and to work towards converting the area to a mixed-use to take advantage of growth and serve the need for restaurant and retail uses. He spoke to bringing forward a request for a planned development to include office, medical office, residential, restaurants, retail and hotel in April and detailed the location being considered. Council Member Stahel encouraged Mr. Hicks to contact area property owners regarding the development. Director of Planning Jarrell advised the Council that this portion of the item was included for information purposes. Mr. Stahel spoke to possibly using variations of R/T zoning.

There being no further discussion, Mayor Evans adjourned the meeting at 9:32 p.m.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, City Secretary