

PLANO CITY COUNCIL
March 28, 2005

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 into the Regular Session on Monday, March 28, 2005, at 7:32 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present.

The invocation was led by President Hal Kendrick of the Plano Texas Stake of the Church of Jesus Christ of Later Day Saints.

The Pledge of Allegiance was led by Junior Girl Scout Troop 1735.

Mayor Evans administered oaths of office to Vincent Bush as a new member of the Public Arts Committee and Robert G. Masengill as a new member of the Plano Transition and Revitalization Commission.

Mayor Evans presented the Keep Plano Beautiful – Great American Cleanup proclamation and event t-shirts were presented to the Council. Mayor Evans introduced and recognized visiting teachers from Plano Sister City – San Pedro, Mexico. Mayor Pro Tem Stahel recognized Mayor Evans being named Citizen of the Year by the Plano Chamber of Commerce.

The Council resumed discussion of the Preliminary Open Meeting.

Comprehensive Monthly Financial Report

Director of Finance McGrane presented the Comprehensive Monthly Financial Report for February 2005 advising the Council that General Fund revenues are down slightly from last fiscal year due to the lower level of fines and forfeitures. He spoke to the increase in sales tax revenue, decrease in water/sewer revenues, and an increase in the Civic Center fund due to increased costs. Mr. McGrane spoke to a change in the methodology of computing the unemployment rate, an increase in the hotel occupancy rate and stated that while the number of building permits is down on the residential side, it is up on the commercial side. He spoke to the City's portfolio being heavy in the short-term investment pool.

Council Items for Discussion/Action on Future Agendas

Mayor Pro Tem Stahel requested a report to address tightening up the ordinance related to solicitation door hangars and the Council concurred to schedule an item for the April 25, 2005 meeting.

Deputy Mayor Pro Tem Lambert requested a report regarding the rules for public access channels and providing information regarding their programming.

Consent and Regular Agenda

Mayor Pro Tem Stahel and Council Member Stovall advised that they will be stepping down on Consent Items "J" a renewal of an existing agreement with Computer Associates for maintenance on the Unicenter network management software and "R" an expenditure in an amount for the purchase of network infrastructure equipment from Internetwork Experts due to possible conflicts of interest.

Council Member Dyer advised that he will be stepping down on Consent Item "K" for professional services agreement between the City and Columbia Medical Center of Plano subsidiary for emergency medical advisory services due to possible conflicts of interest.

City Secretary Bealke advised that citizen Richard Simmons has requested that Consent Item "I" a resolution to repeal Resolution No. 2004-3-2(R); adopting new criteria and procedures for the Safe Streets Program (SSP) be removed for individual consideration.

Council Reports

Council Member Johnson reported that the Board and Commission Review Committee met with members of the boards which offered an opportunity to explore highlights and challenges for the year as well as look forward to the future. He thanked staff, advised that a report would be forthcoming and spoke to several discussions including having libraries on the Leadership Plano tour, creating a revolving fund for properties out of code compliance with later reimbursement and the different types of DSL connections.

GENERAL DISCUSSION

Shanna Thornhill, citizen of the City, spoke regarding problems in her neighborhood related to gathering of people, drinking, drugs, loud noises and car repair. She spoke to contacts made with the Police and Property Standards Departments and their unresponsiveness. She requested a sign be erected at 15th Street and G Avenue to prohibit parking within twenty feet of the stop sign and clear street lights be installed.

Pat Guess, of the Chicago Legacy Group, requested the opportunity to bid on “struck-off” properties in the Douglass Community and the City in general. She spoke regarding her company’s current active sales contracts and spoke to their product being appropriate for first-time homebuyers.

Dr. Patricia Templeton, citizen of the City, spoke regarding unregulated retail development in a maturing city producing less sales tax revenues rather than more and requested the Council consider the creation of a Retail Development Advisory Committee to include retail analysts, the Planning Staff, Budget Director and concerned citizens to research issues and bring forward more detail on the appropriateness of different types of development. She spoke to such a committee reducing the hostility between neighborhoods and developers as well as between the Council and those wanting to control development and to this issue being fundamental to the City’s success.

CONSENT AGENDA

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

Approval of Minutes [Consent Agenda Item (A)]

March 10, 2005

March 16, 2005

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. C082-05 for an annual fixed price contract with renewals for Bulk Fertilizer to be utilized by the Parks Department in the estimated annual amount of \$37,400. [Consent Agenda Item (B)] (See Exhibit “A”)

Bid No. G083-05 to purchase MSA-Millennium CBRN Masks, Canisters, Communication Devices and Chemical Detectors from Pre-2004 SHSP and 2004 SHSP Grants in the amount of \$132,350. [Consent Agenda Item (C)] (See Exhibit “B”)

Adoption of Resolutions

Resolution No. 2005-3-16(R): To adopt the North Texas Municipal Water District's Model Water Conservation Plan except for the Landscape Water Management Regulations contained in Section 8.4 and Appendix "E"; authorizing the City Manager to take any action required to implement the water conservation plan; and providing an effective date. [Consent Agenda Item (D)]

Resolution No. 2005-3-17(R): To approve the terms and conditions of an agreement by and between the Plano Heritage Association, Inc. and the City of Plano; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (E)]

Resolution No. 2005-3-18(R): To support the indexing of the Motor Fuel Tax; and providing an effective date. [Consent Agenda Item (F)]

Resolution No. 2005-3-19(R): To abate show-cause and accept settlement with TXU Electric Delivery; and providing an effective date. [Consent Agenda Item (G)]

Resolution No. 2005-3-20(R): To approve the sole source purchase of three AutoPulse Systems from Zoll Medical Corporation in the amount of \$44,730; authorizing the City Manager to take such action as is necessary to effectuate the purchase; and providing an effective date. [Consent Agenda Item (H)]

Award of Contract

To approve the terms and conditions of a Non-Exclusive Contract by and between the City of Plano and Labor Ready, for temporary laborers to be used in the collection of yard trimmings in the amount of \$98,000. [Consent Agenda Item (L)]

To approve the terms and conditions of a Non-Exclusive Contract by and between the City of Plano and Lone Star Temporary Services L.C., for temporary laborers to be used in the collection of yard trimmings in the amount of \$265,000. [Consent Agenda Item (M)]

Amendment of Contract

To approve a contract amendment with Brinkley Sargent Architects, for Professional Architectural Services in the amount of \$168,930 in connection with design of the Tom Muehlenbeck Recreation Center, and authorizing the City Manager to execute all necessary documents. [Consent Agenda Item (N)]

Purchase off Existing Contract

To authorize the purchase of six (6) Hybrid-Electric Half-Ton Pickups, in the amount of \$135,866 from Gunn Chevrolet through the Texas Association of School Board Purchasing Program (Buyboard) Contract No. #208-04 and authorizing the City Manager to execute any and all documents necessary to effectuate this purchase. [Consent Agenda Item (O)]

To authorize the purchase of one (1) Ford E-350 Cargo Van equipped with a Cues Mainline Camera System in the amount of \$114,385 through Texas Association of School Board Purchasing Program, Buyboard #207-04 awarded to Renfro Equipment & Supplies (d/b/a/Cues, Inc.) and Buyboard Contract #208-04 awarded to Columbus County Ford (Baby Jack Auto Group) and authorizing the City Manager to execute any and all documents necessary to effectuate this purchase. [Consent Agenda Item (P)]

To authorize the purchase of four (4) Horton Medium Duty Ambulances in the amount of \$732,516 through the Texas Association of School Board Cooperative Purchasing Buyboard Program Contract #203-04 awarded to Professional Ambulance and authorizing the City Manager to execute any and all documents necessary to effectuate this purchase. [Consent Agenda Item (Q)]

Approval of Change Order

To URETEK USA, Inc. increasing the contract by \$279,968 for the Residential and Arterial Pavement Undersealing Contract, Project No. 5444, Change Order No. 1, Bid No. P021-04. [Consent Agenda Item (S)]

To Piazza Construction, Ltd, increasing the contract by \$185,764 for the Expansions to Operations and Equipment Services Buildings, Change Order No. 2 (Bid No. B175-04) [Consent Agenda Item (T)]

Approval of an Expenditure

To approve an expenditure in an amount of \$36,989 for the purchase of cardiovascular equipment at Oak Point Center from Life Fitness through the State of Texas TXMAS Program; and authorizing the City Manager to execute all necessary documents to effectuate the purchase. (TXMAS-5-78040). [Consent Agenda Item (U)]

Reimbursement of Oversize Participation

To approve and authorize reimbursement to Daltex Mapleshade, Inc. for oversize paving participation on Mapleshade Road in the amount of \$41,675. [Consent Agenda Item (V)]

END OF CONSENT

Resolution No. 2005-3-21(R): To repeal Resolution No. 2004-3-2(R); adopting new criteria and procedures for the Safe Streets Program (SSP) including evaluation and installation of traffic management devices for collector and residential streets; establishing new criteria for removal of traffic management devices; and establishing a longer waiting period for reinstallation of previously removed devices. [Consent Agenda Item (I)]

Resolution No. 2005-3-21(R) (cont'd)

Transportation Engineering Manager Neal advised the Council that the request includes increasing the level of initial participation from ten to twenty percent, clarification to make the document easier to understand and increasing the level for removal participation.

Richard Simmons, citizen of the City, requested clarification of the length of time to reinstall a device that has been erroneously removed. Mr. Neal responded that revisions to increase the waiting period to two years when a device is removed apply in the case of a request and that they would be put right back if removed erroneously.

Upon a motion made by Council Member Dyer and seconded by Mayor Pro Tem Stahel, the Council voted 8-0 to repeal Resolution No. 2004-3-2(R); adopting new criteria and procedures for the Safe Streets Program (SSP) including evaluation and installation of traffic management devices for collector and residential streets; establishing new criteria for removal of traffic management devices; and establishing a longer waiting period for reinstallation of previously removed devices; and further to adopt Resolution No. 2005-3-21(R).

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

Renewal of Contract - To request Council approval of a renewal of an existing agreement with Computer Associates for maintenance on the Unicenter network management software in an amount of \$68,116 for this year and \$68,116 for the third and final year subject to FY 2005-06 availability and appropriation of funds; and authorizing the City Manager to execute all documents necessary to effectuate the purchase. CSP #B120-02 [Consent Agenda Item (J)]

Approval of State Contract - To request approval of expenditure in an amount of \$28,695 for the purchase of network infrastructure equipment from Internetwork Experts through the Department of Information Resources (DIR); and authorizing the City Manager to execute all necessary documents to effectuate the purchase. (DIR#BUSOP-012) [Consent Agenda Item (R)]

Upon a motion made by Deputy Mayor Pro Tem Lambert and seconded by Council Member Magnuson, the Council voted 6-0 to approve a renewal of an existing agreement with Computer Associates for maintenance on the Unicenter network management software in an amount of \$68,116 for this year and \$68,116 for the third and final year subject to FY 2005-06 availability and appropriation of funds; and authorizing the City Manager to execute all documents necessary to effectuate the purchase; and to approve an expenditure in an amount of \$28,695 for the purchase of network infrastructure equipment from Internetwork Experts through the Department of Information Resources (DIR); and authorizing the City Manager to execute all necessary documents to effectuate the purchase.

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

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

Approval of Contract - To approve a professional services agreement between the City and Columbia Medical Center of Plano subsidiary for emergency medical advisory services with such services to be provided for a five-year period in the amount of \$30,000 for the remainder of 2004-05 and a total cost for the remainder of the contract is anticipated to be \$390,000 and will be subject to the appropriation of funds each year; and authorizing the City Manager to execute all necessary documents. The contract is a result of RFQ #C065-05. [Consent Agenda Item (K)]

Upon a motion made by Council Member Magnuson and seconded by Council Member Stovall, the Council voted 7-0 to approve a professional services agreement between the City and Columbia Medical Center of Plano subsidiary for emergency medical advisory services with such services to be provided for a five-year period in the amount of \$30,000 for the remainder of 2004-05 and a total cost for the remainder of the contract is anticipated to be \$390,000 and will be subject to the appropriation of funds each year; and authorizing the City Manager to execute all necessary documents.

Council Member Dyer resumed his place on the bench

Five-Year Budget Forecast Presentation [Regular Agenda Item (1)]

Director of Budget and Research Rhodes advised that the Five-Year Forecast serves as the foundation for the Fiscal Year 2005-06 budget and that the 2004-05 status report for the General Fund indicates that sales tax collections are relatively flat and that the reestimate included in the forecast is a 1.9% increase over the original 2004-05 budget. She stated that due to milder than normal weather, electric and gas franchise fees are projected to be down approximately \$472,000 or 2.4% with Building and Development related revenues up 10.8% as compared to the original budget. Ms. Rhodes stated that due to wet weather over the last three years the Water & Sewer and the Municipal Golf Course Funds are projected to end in deficit positions in 2004-05 and that various options are being evaluated to offset the shortfalls. She spoke to preliminary information received regarding assessed property values indicating an estimated increase of 1.5% on existing property values and new growth of approximately \$370 million. Ms. Rhodes spoke to the stabilization of the sales tax rate, to keeping projections flat for five years and projected declines in Building and Development revenues.

Five-Year Budget Forecast Presentation (cont'd)

Ms. Rhodes spoke to expenditure assumptions including salaries projected at a 3% increase, attrition at the rate of 3.5% for the General Fund and 1.0% for all other funds, a 10% increase in health insurance with a proposed shifting of the burden not only to the City but to employees and retirees as well, inclusion of \$1 million to offset retiree payments, increased operation and maintenance expenditures at the inflation rate of 2.5%, Capital Outlay of \$800,000 only for library books, a transfer to the Capital Reserve Fund based on Council policy of providing 75% of annual depreciation costs and Community Investment Projects (CIP) projected to be absorbed within the existing tax rate. She advised that of 93 new full-time positions preliminarily requested, 59 are related to Public Safety and further advised that none are included in the forecast nor are any program enhancements related to mandated increases, growth, increased services, information services requests, or other discretionary items which will be reviewed on their individual merit with the City Manager. Ms. Rhodes reviewed key dates on the budget calendar.

Ms. Rhodes responded to Mayor Pro Tem Stahel stating that financial projections regarding attrition include those employees who are leaving and who are newly hired. City Manager Muehlenbeck responded to Deputy Mayor Pro Tem Lambert stating that with regard to the Building Inspection Department as well as the Planning Department, the workforce has been adjusted as less permits have been issued and spoke regarding the increase in commercial permits which require a higher level of inspection. Mr. Muehlenbeck spoke regarding the work done by department directors to address shortfalls.

Discussion and adoption of Ordinance No. 2005-3-22 to amend Sections 21-135, 21-136 and 21-147, of Article IV, Service Charges Generally, of Chapter 21, Utilities, of the Code of Ordinances of the City of Plano; adopting new Sections 21-135, 21-136, and 21-147; providing an amended and increased fee schedule for water and sewer services; and providing a repealer clause, a severability clause, a savings clause and an effective date. [Regular Agenda Item (2)]

Director of Budget and Research Rhodes advised the Council that should the City maintain the current financial structure, the Water & Sewer Fund will end with a \$455,000 deficit in FY 2004-05 and an \$11 million deficit in FY 2005-06. She advised that the contributing factors include three excessively wet years, the "Take or Pay" contract with the North Texas Municipal Water District (NTMWD), a reduction in sewer rates, implementation of Winter Quarter Averaging, depletion of the Reserve Fund used to offset rates for the last four years and the infiltration system not being included in the rate structure.

City Manager Muehlenbeck spoke regarding excessive rainfall resulting in less consumption by residents and less revenue and the "Take or Pay" contract resulting in funding of \$3.5 million without received revenues. He spoke to use of the cash reserve to offset rates while they were kept down and to the heavy rains resulting in infiltration into the sewer lines which is metered. Ms. Rhodes reviewed the City's rate model history and the effect of rate increases by NTMWD.

Five-Year Budget Forecast Presentation (cont'd)

Ms. Rhodes advised that beginning May 1 there will be an increase of 5% in water rates and 10% in sewer rates, stated that a consultant has been retained to review and update the water and sewer rate model and spoke to the need to establish a water and sewer reserve policy and reduce operating expenditures. She provided information regarding the impact to residential/commercial customers and a comparison to other area cities. Ms. Rhodes advised regarding the proposed financial structure with implementation and stated that weather patterns during the summer will determine if an additional rate increase is necessary for Fiscal Year 2005-06.

Mayor Pro Tem Stahel spoke to having an account to serve as a buffer, to the excellent service being provided by the NTMWD and to reviewing the rate model

Upon a motion made by Mayor Pro Tem Stahel and seconded by Deputy Mayor Pro Tem Lambert the Council voted 8-0 to amend Sections 21-135, 21-136 and 21-147, of Article IV, Service Charges Generally, of Chapter 21, Utilities, of the Code of Ordinances of the City of Plano; adopting new Sections 21-135, 21-136, and 21-147; providing an amended and increased fee schedule for water and sewer services; and providing a repealer clause, a severability clause, a savings clause and an effective date; and further to adopt Ordinance No. 2005-3-22.

An ordinance to repeal Ordinance No. 2004-7-12 and adopt a new ordinance relating to the policies and procedures for funding public art; providing definitions; allowable uses of public art funds; responsibilities of the Public Art Committee; administration of the Public Art Program; and maintenance of public art; providing a severability clause, a repealer clause and an effective date. [Regular Agenda Item (3)]

Creative Arts Manager Wear advised regarding adoption of a funding ordinance in July of 2004 and later discussion regarding the need for greater flexibility in providing public art funds on or within new and existing City facilities and property and questions related to limiting the potential funding sources to bonds. He spoke to the Council's concern regarding the amount of flexibility and control they might have in the public art process under the July 2004 ordinance and their determination not to include public art in the May 2005 bond referendum but to allocate an amount and to use short-term debt instruments to fund selected projects. Mr. Wear spoke to Council's direction to have Staff prepare a new ordinance that would revise the July 2004 ordinance; establish clearly the authority of the Council to determine which projects would include public art improvements and change at the Council's discretion the budgets for these projects; clarify that public art improvements might be added to existing facilities in addition to new construction/renovation; and provide flexibility in funding public art projects from a variety of sources. He stated that the Public Arts Committee recommended approval of the ordinance as proposed.

Mayor Pro Tem Stahel spoke to inclusion of verbiage referring to items on the bond referenda and stated that items will be budgeted to include a 2% allocation applying to projects in bond referenda after June, 2005 implying that there is an expectation on future bond programs which was contrary to his understanding. Public Arts Committee Chair Coleman advised the "issue" language was left in the ordinance to provide the option for future Council, but stated that it does not necessarily restrict them and Mr. Stahel spoke to removing the verbiage and stated that if Council decides to put items in a bond program in the future at 2% they may do so. Deputy Mayor Pro Tem Lambert spoke to language indicating that a project would be automatically included in a bond unless there is a conscious decision to take it out and spoke to the decision that public art funding be provided by a means other than bond issues. He requested that the notation be reworked. Council Member Johnson spoke to the verbiage identifying which projects would be eligible or identified for public art and not specifically the funding. Mr. Coleman advised that the intent of the committee was to provide future Councils with a choice and that the 2% could be funded by any mechanism and Mr. Lambert spoke to clarifying that public art is not automatically included in bond issuances.

City Attorney Wetherbee stated that verbiage related to the bond process could be removed and Mayor Evans spoke to leaving bond funds as an option, but not an automatic. Deputy Mayor Pro Tem Lambert spoke to the Council's right to include items in a bond issue and to the policy for qualifying facilities wherein up to 2% of the cost of the facility will be spent on public art. He spoke to review of projects by the Public Arts Committee and their recommendations coming to the Council for its decision on funding.

Mayor Pro Tem Stahel and Council Member Stovall made a recommendation that the item be returned to the committee who would bring it back in two to four weeks.

The Council stated concurrence to include reference of "up to a maximum of 2%" of Community Investment Projects for non-excluded projects. Mayor Pro Tem Stahel spoke to making the intent as clear as possible. Mr. Wear stated that the Public Art Plan would be developed by Staff and the committee, then come forward for approval by the Council.

Mr. Wear stated that verbiage regarding placing items on a bond referenda would be reworked and clarified along with reference to the maximum 2% allocation for Public Art applying to only those projects approved in bond referenda after June, 2005.

Upon a motion made by Mayor Pro Tem Stahel and seconded by Council Member Stovall, the Council voted 8-0 to table an ordinance to repeal Ordinance No. 2004-7-12 and adopt a new ordinance relating to the policies and procedures for funding public art; providing definitions; allowable uses of public art funds; responsibilities of the Public Art Committee; administration of the Public Art Program; and maintenance of public art; providing a severability clause, a repealer clause and an effective date until the April 11, 2005 Council meeting.

Public Hearing and adoption of Ordinance No. 2005-3-23 to amend the “Housing Element” of the Comprehensive Plan as originally adopted by Resolution No. 86-11-22(R) providing procedures approving the utilization of said chapter 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. Applicant: City of Plano [Regular Agenda Item (4)]

Senior Planner Sims provided general background regarding the Housing Element and spoke to the change of focus in the City from large subdivision development to more of an infill/refill development. He spoke to changing demographics, different housing options, and to having the format of this element match the new format of the Comprehensive Plan. Mr. Sims spoke to the three major themes of the plan including a livable City, a City of organized development and a City in transition. He spoke to the policy statement limiting the concentration of multi-family development in one area not applying to retirement facilities as they do not place the same demands on City services nor urban centers as density is a requirement to ensure their success. Mr. Sims advised that the Planning and Zoning Commission recommended approval of the request subject to the following text edits:

- 1) Modification of statements in regards to minimal acreage of Alternative Neighborhood Formats.
- 2) Modification to statements in regards to parks/schools required in Alternative Neighborhood Formats.
- 3) Modification of characteristics of urban centers.

Council Member Stovall spoke to conducting a more in-depth examination of the definition of retirement housing and issues that may arise when it is lumped into the heading of multi-family. Director of Planning Jarrell advised neither the Comprehensive Plan nor the Zoning Ordinance put limitations on the variety of housing that could be developed targeted towards the elderly and spoke to recent development of assisted living facilities. She spoke to condominium quadplexes for the elderly, not putting limitations on housing options and regarding the City’s history of being supportive of retirement housing.

Ms. Jarrell spoke to land prices driving higher density development resulting in more independent living apartments than single-family detached. Mr. Stahel spoke to working through the process so that all infill projects do not result in “retirement apartments” and the City having fifty percent apartment dwellers. Mr. Sims spoke to the drop in the number of multi-family units to a projected percentage of 31.5% and some areas originally zoned for multi-family being developed as townhomes/patio homes. Ms. Jarrell spoke to the different requirements for senior housing including elevators, special fixtures and a higher level of service and Mr. Sims spoke to retirement housing not requiring the same level of parking.

Ordinance No. 2005-3-23 (cont'd)

Ms. Jarrell advised that the Zoning Ordinance does not specifically address building code issues, but that those coming into the City would want to provide special features to new residents. Mr. Stovall spoke to the changing needs of the elderly and the transition from independent to assisted living facilities.

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

Council Member Stovall spoke to people staying where they are if possible, and Development Review Manager Elgin spoke to the different requirements for different facilities and situations where one phase is duplex or quadplex with the second phase being assisted living so that spouses can be in close proximity. Mr. Stahel stated that retirement facilities may have some different requirements, but that they could be used as apartments and further that the distinction would be extra rooms (dining and nursing) provided for retirement facilities. He recommended that when convenient, the Planning and Zoning Commission and Staff take a look at further defining "Retirement Community" and bring any proposed changes back for Council consideration.

Council Member Dyer spoke to being cautious in standardization, citing new types of housing and niches of developers and stated that the Council should not allow conversion from senior housing to apartments should a development prove unsuccessful.

Upon a motion made by Mayor Pro Tem Stahel and seconded by Council Member Stovall, the Council voted 8-0 to amend the "Housing Element" of the Comprehensive Plan as originally adopted by Resolution No. 86-11-22(R) providing procedures approving the utilization of said chapter 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 as recommended by the Planning and Zoning Commission; and providing an effective date; and further to adopt Ordinance No. 2005-3-23.

Public Hearing and adoption of Ordinance No. 2005-3-24 as requested in Zoning Case 2005-03 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, granting Specific Use Permit No. 561 so as to allow the additional use of New Car Dealer on 9.2± acres of land located on the south side of Plano Parkway and 260± feet east of Dallas North Tollway in the City of Plano, Collin County, Texas, presently zoned Planned Development-211-Light Commercial; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Neighborhood #53. Applicant: Boardwalk Motor Cars [Regular Agenda Item (5)]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission recommended approval of the request as submitted and further spoke to support expressed by an area homeowner's group. She stated that Staff has not yet seen the elevations for this phase.

Ordinance No. 2005-3-24 (cont'd)

Upon a motion made by Council Member Stovall and seconded by Council Member Magnuson, the Council voted 8-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, granting Specific Use Permit No. 561 so as to allow the additional use of New Car Dealer on 9.2± acres of land located on the south side of Plano Parkway and 260± feet east of Dallas North Tollway in the City of Plano, Collin County, Texas, presently zoned Planned Development-211-Light Commercial as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2005-03; 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 2005-3-24.

Public Hearing and adoption of Ordinance No. 2005-3-25 to amend the Subdivision Ordinance of the City of Plano adopted by Ordinance No. 2004-9-37, and as heretofore amended, by deleting Subsection b (Criteria for Variances From Development Exactions) of Section 1.11 (Variances) of the Subdivision Ordinance; creating a new Section 1.12 (Waivers from Development Exactions) of Article I (General Provisions) of the Subdivision Ordinance and renumbering the existing sections and subsections accordingly; providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: City of Plano [Regular Agenda Item (6)]

Director of Planning Jarrell advised the Council that this amendment would update and standardize procedures for handling requests for waivers of subdivision exactions including time frames, requirements for a study that the developer would need to submit supporting the request taking into account the capacity requested/proposed based on the capacity being provided by the public improvements. She advised that it would set forth actions the Planning and Zoning Commission may take in considering waivers and includes an appeal process to the Council. Ms. Jarrell stated that the commission recommended the request for approval as follows: (Additions are indicated in underlined text; deletions are indicated in strikethrough text.)

Amend the Subdivision Ordinance, creating a new subsection and renumbering existing subsections accordingly:

———“1.11 Variances

———~~b. Criteria for Variances From Development Exactions Where the Commission finds that that imposition of any development exaction pursuant to these regulations exceeds reasonable benefit to the property owner or is so excessive as to constitute confiscation of the tract to be platted, it may approve variances to such requirements, so as to prevent such excess.~~

“1.12 Waivers from Development Exactions

Ordinance No. 2005-3-25 (cont'd)

The property owner or applicant for preliminary plat approval may file a petition for relief from a dedication or construction requirement that is applied or imposed as a condition of approval of a Phase II land study, conveyance plat, preliminary plat or final plat. Waiver requests shall be considered in accordance with the following procedures:

- a. Petition for Relief - The property owner or applicant must submit a written petition for relief to the Planning Department at least 10 days prior to the Planning & Zoning Commission's consideration of a Phase II land study, conveyance plat, preliminary plat, or final plat. The petition shall set forth the reasons for the waiver request and must indicate the dedication and/or construction requirements for which relief is being requested. An applicant may also submit a petition for relief from conditions of plat approval added by the Commission in its consideration of a Phase II land study, conveyance plat, preliminary plat or final plat. This petition must be submitted no later than 10 days following the Commission's action.
- b. Consideration of Plat - After receipt of a petition for relief, the Planning Department shall schedule consideration of the plat only, within the 30 day time frame required by state law. The Planning & Zoning Commission shall approve the plat subject to future consideration of the applicant's petition for relief from a dedication or construction requirement, or disapprove the plat.
- c. Study Required - The petitioner shall provide a study in support of the petition for relief within 14 days of filing the petition for relief. The Director of Planning may extend the time for submitting the study for an additional 14 days upon the request of the applicant. The study shall include the following information:
 1. Total capacity of the city's public infrastructure system or improvements to be dedicated to the city to be utilized by the proposed subdivision, employing standard measures of capacity and equivalency tables that relate the type of development proposed to the quantity of system capacity. In no case shall the calculation of the capacity used by a proposed commercial or multifamily development be based on development intensities less than the mid-point of intensity allowed by the particular zoning for the property. If the proposed subdivision is to be developed in phases, such information shall be provided for the entire development, including any phases already developed.
 2. Total capacity to be supplied to the city's public infrastructure system by the proposed dedication of an interest in land or construction of capital improvements. If the development application is part of a phased development, the information shall include any capacity supplied by prior dedications or construction of capital improvements.

Ordinance No. 2005-3-25 (cont'd)

3. Comparison of the capacity of the city's public facilities system to be consumed by the proposed subdivision with the capacity to be supplied by the proposed dedication of an interest in land or construction of capital improvements. In making this comparison, the impacts on the city's public facilities system from the entire development shall be considered.
4. The effect of any city participation in the costs of oversizing the capital improvements to be constructed in accordance with the city's requirements.
- d. Processing of Petition - The City Engineer shall evaluate the petition and supporting study and make a recommendation to the Planning & Zoning Commission based upon the petitioner's study and his own analysis. The City Engineer may utilize any reasonable methodology and information in evaluating the petitioner's study.
- e. Consideration of Petition for Relief - The petition for relief will be considered by the Planning & Zoning Commission no later than 30 days after receipt of a complete supporting study. Based upon the application, supporting study and the City Engineer's report, the Commission shall determine whether the application of the regulations for dedication or public improvements is roughly proportional to the nature and impact created by the development. The Planning & Zoning Commission shall take one of the following actions in considering the petition for relief:
 1. Deny the petition for relief, and impose the standard or condition requiring dedication or construction of capital improvements in accordance with the regulations contained within this ordinance;
 2. Grant the petition for relief, and waive in whole or in part any dedication or construction requirement necessary to meet the criteria for approval.
 3. Accept alternative designs for the public infrastructure system or improvements to be dedicated to the city.
 4. Delay the imposition of the requirement until a future phase of development. If a delay is granted, the future phase of development must be clearly defined.
 5. Reduce the applicant's cost of the dedication or construction requirement.

Ordinance No. 2005-3-25 (cont'd)

- f. Criteria for Approval - The Planning & Zoning Commission shall determine whether the application of the regulations requiring dedication of an interest in land for public improvements or construction of capital improvements is roughly proportional to the nature and extent of the impacts created by the proposed development on such water, wastewater, roadway, or drainage system, and reasonably benefits the development. The Commission shall take into account the evidence submitted by the petitioner and the City Engineer's report and recommendation.
- g. Appeals - The decision of the Planning & Zoning Commission on a petition for relief may be appealed in accordance with Article III, Section 3.9 of this ordinance. An appeal constitutes authorization for the plat to also be placed on the City Council's agenda for consideration and action.
- h. Lapse of Plat Approval - If relief is granted to the petitioner, it shall remain in effect for the time period specified in Article III for each type of plat, and shall end upon expiration of the plat. Plat approvals may be extended as provided in Article III.
- i. Plat Modification - If a plat for which relief was granted is modified to increase the number of residential units or the intensity of nonresidential uses, the City Engineer may require a new study to validate the relief. The petition for relief and new study shall be submitted and processed according to the procedures outlined in Sections 1-5 above."

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 Dyer, the Council voted 8-0 to amend the Subdivision Ordinance of the City of Plano adopted by Ordinance No. 2004-9-37, and as hertetofore amended, by deleting Subsection b (Criteria for Variances From Development Exactions) of Section 1.11 (Variances) of the Subdivision Ordinance; creating a new Section 1.12 (Waivers from Development Exactions) of Article I (General Provisions) of the Subdivision Ordinance and renumbering the existing sections and subsections accordingly as recommended by the Planning and Zoning Commission; providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date; and further to adopt Ordinance No. 2005-3-25.

Ordinance No. 2005-3-26 of the City of Plano amending Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses) and Subsection 3.113 (Superstores) of Section 3.100 (Supplementary Regulations for Principal Permitted Uses and Specific Uses) of Article 3 (Supplementary Regulations) and related sections of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, regarding superstore use; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Zoning Case 2004-54. Applicant: City of Plano. Tabled 01/24/05, 2/22/05 and 3/16/05 [Regular Agenda Item (7)]

Upon a motion made by Council Member Magnuson and seconded by Council Member Dyer, the Council voted 8-0 to remove the item from the table

Director of Planning Jarrell spoke regarding the Council's direction to Staff to prepare an ordinance addressing superstore regulations that would not require specific use permits (SUPs) in the major corridors but would continue to require them in the Retail zoning district and add the requirement in the Light Industrial-1 (LI-1) and Light Industrial-2 (LI-2) districts. She stated that as proposed, it would extend to all locations the supplemental regulations for façade design, building materials and landscaping that already apply to superstores in the Retail District and further that it would require a 30-foot landscaped edge between superstores and any residential district unless the two were separated by a Type C or six-lane divided thoroughfare.

Deputy Mayor Pro Tem Lambert spoke to an area on east Plano Parkway which would require an SUP even though it is at least one-half mile from the nearest home and stated that along the Dallas North Tollway, U.S. Highway 75 and S.H. 121, where in some cases property is immediately adjacent, superstores would be allowed by right.

Council Member Magnuson made a motion to approve the request with a change to remove reference to separation by a thoroughfare and still require the 30-foot landscaped edge. No second was made or vote was taken at this time.

Mayor Pro Tem Stahel spoke to consideration of several locations where there is no roadway separation and to establishing a distance greater than the proposed 54 feet between homes and superstores. He recommended a setback of 100-110 feet and spoke to side and back yard setbacks defined for the LI-1 and LI-2 and Ms. Jarrell spoke to additional consideration where structures exceed two stories when in most cases a superstore will be one-story. Ms. Jarrell spoke to the Council including a stipulation that a superstore must be set back a minimum of 100 feet from any residential district boundary line and to the maintaining of uniformity among light industrial districts by requiring an SUP.

Ordinance No. 2005-3-26 (cont'd)

Mayor Evans spoke to revising the motion to include language offering protection to neighborhoods abutting streets of any width so that any big box would have a landscaped edge around it and to require a minimum 30-foot wide landscape edge on frontages with exception along U.S. Highway 75. She spoke regarding conformance with overlay districts and requested inclusion of Mr. Stahel's recommendation of a 100-foot setback requirement to which Council Member Magnuson concurred. Mayor Evans seconded the revised motion, however no vote was taken at this time.

Council Member Dyer stated that should the distance requirement be included, he would be agreeable to removing the SUP requirement for LI-1 and LI-2 properties to which Mayor Pro Tem Stahel and Council Member Magnuson concurred. Deputy Mayor Pro Tem Lambert requested clarification on where the distance requirements would be in place and Mayor Pro Tem Stahel responded that they would provide for 100 feet from a residential property line whether or not the location is directly adjacent or across a street.

Deputy Mayor Pro Tem Lambert spoke to the proposed Wal-Mart on the Dallas North Tollway including a 50-foot landscape edge which still did not mitigate the circumstances and to a 100-foot distance requirement not offering any real protection. He spoke in support for an SUP to consider each case individually and give Council legislative authority. Ms. Jarrell spoke to the 100-foot setback having a greater effect on rear and side yards where development would immediately abut residential development. Council Member Magnuson spoke to developers working with neighborhoods to try and mitigate objections and Council Member Johnson spoke to the distance requirement adding another level of protection.

Mayor Pro Tem Stahel stated concern for areas along S.H. 121 where homes may be built followed by a big box development and Council Member Johnson stated that homebuyers should check into the zoning near their homes.

Council Member Johnson stated concern regarding removal of the SUP requirement in LI-1 and LI-2 districts and Council Member Magnuson advised that removal would not be included in the motion. Ms. Magnuson spoke to having superstore structures set back a minimum of 100 feet from residentially zoned district boundary lines, to having a 30-foot wide landscape edge in addition to screening requirements when a property immediately abuts a residentially zoned district, to providing a minimum 30-foot wide landscape edge along street frontages and to conformance with overlay district requirements.

Mayor Pro Tem Stahel stated concern regarding the inclusion of overlay district requirements where there may be reduced landscape edge requirements and Council Member Magnuson and Mayor Evans agreed to utilize whichever requirement would be greater.

Ordinance No. 2005-3-26 (cont'd)

Deputy Mayor Pro Tem Lambert stated he could not support the motion since the proposed ordinance allows for development along corridors, yet requires an extra process for east Plano. Mayor Evans spoke to the ease of the SUP process for those locations not adjoining residential properties and Council Member Stovall spoke to the need to have restrictions be uniform for LI-1 and LI-2 areas throughout the City. Council Member Dyer spoke to the proposal protecting the residents of east Plano and Mr. Lambert spoke to a continued double standard.

Upon a motion made by Council Member Magnuson and seconded by Mayor Evans, the Council voted 6-2 to amend Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses) and Subsection 3.113 (Superstores) of Section 3.100 (Supplementary Regulations for Principal Permitted Uses and Specific Uses) of Article 3 (Supplementary Regulations) and related sections of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, regarding superstore use as requested in Zoning Case 2004-54 ; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date; and further to adopt Ordinance No. 2005-3-26 with amendments as stated below. Deputy Mayor Pro Tem Lambert and Council Member Callison voted in opposition. The motion carried.

1. Amend standard (1) of Subsection 3.113 (Superstores) of Section 3.100 (Supplementary Regulations for Principal and Permitted Uses and Specific Uses) of Article 3 (Supplementary Regulations) to read as follows:

“(1) These criteria shall apply to new superstore construction in any zoning district. These criteria shall not apply to the use, reuse, modification, or consolidation of existing retail space developed on or before March 24, 2005, or to the expansion of existing retail space existing on or before March 24, 2005, by no greater than ten percent of the existing ground floor area.”

2. Amend standard (7) of Subsection 3.113 (Superstores) of Section 3.100 (Supplementary Regulations for Principal and Permitted Uses and Specific Uses) of Article 3 (Supplementary Regulations) to read as follows:

“(7) Where the property immediately abuts a residential zoning district, a minimum 30 foot wide landscape edge must be installed in addition to the screening required by Section 3.1000. A minimum 30 foot wide landscape edge is also required along all street frontages, with the exception of U.S. Highway 75 (Central Expressway). The CB-1 zoning district is also exempt from this requirement. The landscape edge must include a combination of berms, evergreen shrubs, and a mix of evergreen and deciduous overstory (shade) trees (minimum four inch caliper) placed a minimum 25 feet on center. Plantings may be grouped.”

Ordinance No. 2005-3-26 (cont'd)

3. Amend Subsection 2.502 (Schedule of Permitted Uses of Section 2-500 (Permitted Uses) of Article 2 (Zoning Districts and Uses) of the Comprehensive Zoning Ordinance No. 2004-9-37, as the same has been heretofore amended, is hereby further amended regarding superstore use to read as follows:

“Superstore use is allowed by right in the Light Commercial (LC), Commercial Employment (CE), Central Business-1 (CB-1), Regional Commercial (RC), and Corridor Commercial (CC) zoning districts. Superstore use is allowed with approval of a Specific Use Permit (SUP) in the Retail (R), Light Industrial-1 (LI-1) and Light Industrial-2 zoning districts.”

4. Subsection 3.113 (Superstores) of Section 3.100 (Supplementary Regulations for Principal Permitted Uses and Specific Uses) of Article 3 (Supplementary Regulations) of the Comprehensive Zoning Ordinance No. 2004-9-37, as the same has been heretofore amended, to add a new standard (10) to read as follows:

“(10) Primary and accessory superstore structures shall be set back a minimum distance of 100 feet measured from the residential zoning district boundary line to the nearest face or edge of the structure.”

City Council Action to Consider Zoning Case 2005-01, which is a Request for a Specific Use Permit for Contract Construction on 1.0± acres located on the northeast corner of K Avenue and Pecan Lane, on April 11, 2005 and overriding the action taken on March 16, 2005 to table the case for 90 days. [Regular Agenda Item (8)]

Mayor Pro Tem Stahel spoke to the applicant's indication at the last meeting that he would only be using the property for an office and to tabling the item and requesting the Planning and Zoning Commission consider removing the requirement for a specific use permit (SUP) for a Contract Construction office only. Council Member Stovall stated that the applicant has advised that he would eventually have trucks on the property and wishes to move forward with the specific use permit. Deputy Mayor Pro Tem Lambert spoke to the presentations made which stated that there would be no outside storage.

Director of Planning Jarrell advised that the Planning and Zoning Commission has discussed the issue and appears to be heading in the general direction of allowing office use only without an SUP as it relates to Contract Construction. She spoke to receiving final direction at the April 4, 2005 meeting and then bringing the item back through the zoning amendment process.

A motion was made by Council Member Stovall and seconded by Council Member Magnuson, to remove the item from the table and bring it back on April 11, 2005 at the request of the applicant. The Council voted 7-1 with Deputy Mayor Pro Tem Lambert voting in opposition. The motion carried.

There being no further discussion, Mayor Evans adjourned the meeting at 10:45 p.m.

Pat Evans, MAYOR

ATTEST:

Elaine Bealke, City Secretary