

PLANO CITY COUNCIL
April 9, 2007

COUNCIL MEMBERS

Pat Evans, Mayor
Scott Johnson, Mayor Pro Tem
Sally Magnuson, Deputy Mayor Pro Tem
Shep Stahel
Jean Callison
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, April 9, 2007, at 7:02 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present.

The invocation was led by Payam Maveddat of the Bahai Faith of Plano.

The Pledge of Allegiance was led by Cub Scout Pack 295 of Mendenhall Elementary.

Mayor Evans read proclamations recognizing National Library Week – 2007; National Volunteer Month – April, 2007; the 20th Anniversary of 9-1-1 Service in the City of Plano and National Public Safety Telecommunications Week – April 8-14, 2007.

Mayor Evans administered an oath of office to James C. Kesterson for the Building Standards Commission.

COMMENTS OF PUBLIC INTEREST

Destiny Herndon-DeLaRosa stated concern regarding the content of a billboard at U.S. 75 and 15th Street. Mayor Evans advised that the Council may not discuss items brought forward in this portion of the meeting as they have not been posted on the agenda.

BOARD AND COMMISSION REPORT

Public Arts Committee Chair Robert B. Drotman spoke regarding the Public Art Program including the completion target date of September 2008 for the sculpture "Sacrifice" at Memorial Park, the status of the piece entitled "Natural Selections" at Oak Point Park and Nature Preserve, and preparations for the piece entitled "Landscape of Light" for the Tom Muehlenbeck Center. He spoke regarding the use of poems as inspiration for pieces at City libraries, meetings held regarding the Downtown Fire Station and plans for a piece at the animal shelter. Mr. Drotman spoke regarding the Sculpture Event Planning Committee and consideration of an event in the City.

CONSENT AGENDA

Council Member Dunlap advised that he would be stepping down on Regular Agenda Item "4" due to a possible conflict of interest.

Upon the request of Council Member Stahel, Consent Agenda Items "G," "H," "I," and "Q" were removed for individual consideration due to possible conflicts of interest.

Upon a motion made by Council Member LaRosiliere and seconded by Council Member Stahel, 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 20, 2007
March 26, 2007

Approval of Expenditures

Award/Rejection of Bid/Proposal: (Purchase of products/services through formal procurement process by this agency)

Bid No. 2007-56-C for EMS Pharmaceuticals to Sun Belt Medical/Emergi-Source in the amount of \$47,506. This will establish an annual fixed-price contract, with three optional one-year renewals. [Consent Agenda Item (B)] (See Exhibit "A")

Bid No. 2007-82-C for installation of Traffic Calming Devices to A & B Services, in the estimated annual amount of \$84,750. This will establish an annual fixed-price contract with three optional one-year renewals. [Consent Agenda Item (C)] (See Exhibit "B")

RFP No. 2007-70-C for an annual fixed price contract for Claims Administration to Merit Insurance Services, Inc. and Arthur J. Gallagher Risk Management Services, Inc. in the estimated annual amount of \$378,800. This will establish an annual contract with four City optional one-year renewals. [Consent Agenda Item (D)] (See Exhibit "C")

Bid No. 2007-94-C for an annual fixed-price contract for Neighborhood Park Litter Contract to Northstar Facility Services, Inc. in the estimated annual amount of \$56,792. This will establish a two-year contract with three City optional one-year renewals. [Consent Agenda Item (E)] (See Exhibit “D”)

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 approve the purchase of one (1) Chevrolet Police Tahoe in the amount of \$28,348 and one (1) Chevrolet Suburban in the amount of \$35,233 both from Caldwell Country Chevrolet through an existing contract/agreement with HGAC Cooperative Purchase Program, and authorizing the City Manager to execute all necessary documents. (#VE03-06) [Consent Agenda Item (F)]

To approve the purchase of wiring the Tom Muehlenbeck Recreation Center in the amount of \$58,305 from Henkel’s and McCoy, Inc. through an existing contract with the City of Plano, and authorizing the City Manager to execute all necessary documents. (2004-114-C) [Consent Agenda Item (J)]

To approve the purchase of material testing services for Parker Road from K Avenue to Raton Lane in the amount of \$55,938 from Terracon Consultants, Inc., through an existing contract authorizing the City Manager to execute all necessary documents (Contract No. 2006-243-D). This will provide for construction material testing for the paving project on Parker Road from K Avenue to Raton Lane. [Consent Agenda Item (K)]

To authorize the purchase and installation from existing contract/agreement of FitLinxx Intelligent Exercise Solutions (TXMAS #7-780-20) in the amount of \$37,804 at Oak Point Center through a Texas Building and Procurement Commission-Multiple Award Schedule Contract, and authorizing the City Manager to execute all necessary documents [Consent Agenda Item (L)]

To authorize the purchase and installation from existing contract/agreement of fitness equipment at Oak Point Center in the amount of \$68,215 from Cybex International Inc. (TXMAS #-6-78010) through a Texas Building and Procurement Commission-Multiple Award Schedule Contract, and authorizing the City Manager to execute all necessary documents. [Consent Agenda Item (M)]

Approval of Contract: (Purchase of products/Services exempt from State of Texas Competitive Bid Laws)

To approve the terms and conditions of the Funding Agreement between the City of Plano and the Plano Early Lions Club Charities, Inc. for production of the 2007 July 4th Parade in the total amount of \$8,610; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (N)]

Approval of an Agreement

To approve a Distribution Pole License Agreement by and between the City of Plano and TXU Electric Delivery Company, Inc. in an amount not to exceed \$500,000 to allow the City of Plano to mount Mesh Network devices on agreed to distribution poles for the purpose of Motorola's City Wide Build Out, and authorizing the City Manager to execute all necessary documents. (S0527271C) [Consent Agenda Item (O)]

Renewal of Contract

To approve renewal of Contract No. 2005-182-C for Risk Management Training/Tracking Service with TargetSafety.com in the estimated annual amount of \$150,000. The original proposal and resulting contract contains two (2) optional renewals. [Consent Agenda Item (P)]

Adoption of Resolutions

Resolution No. 2007-4-1(R): To approve the terms and conditions of Modified Agreements between the City of Plano, Texas, and various Heritage Preservation organizations which render services that are beneficial to the public and serve a valid public purpose in the total amount of \$601,301; authorizing the City Manager to execute such agreements with these organizations for the provision of support of heritage preservation; and providing an effective date. [Consent Agenda Item (R)]

Resolution No. 2007-4-2(R): To approve an Interlocal Agreement by and between the City of Plano and Collin County for the Collin County Emergency Communications Committee (CCECC) for the purchase, design, installation, operations, and maintenance of a Fiber Optic Wide Area Network and authorizing its execution by the City Manager and providing an effective date. [Consent Agenda Item (S)]

Resolution No. 2007-4-3(R): To approve the terms and conditions of a Real Estate Contract by and between the City of Plano, Texas, and Jerry Oliverie and Elizabeth Oliverie for the purchase of 1332.552 square foot of land for right of way and 251 square foot of temporary construction easement located at 900 East Parker Road, situated in the George W. Barnett Survey, Abstract No. 45, being part of Lot 4, Block 1, of Parker Square Addition, an addition in the City of Plano, Collin County, Texas; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (T)]

Resolution No. 2007-4-4(R): To approve and authorize the refunds of property tax overpayments; and providing an effective date. [Consent Agenda Item (U)]

ITEMS FOR INDIVIDUAL CONSIDERATION:

Due to possible conflicts of interest, Council Member Stahel stepped down from the bench on the following four items which were considered concurrently.

Purchase from Existing Contract/Agreement: To approve the purchase of the Communicator!NXT and GeoCastWeb critical notification service platforms for a period of three (3) years in the amount of \$27,900 for FY 07-08 (\$25,900 for FY 08-09 and \$25,900 for FY 09-10) from Dialogic Communications Corporation through an existing contract/agreement with the HGAC Cooperative Purchase Program, and authorizing the City Manager to execute all necessary documents. (Contract #EC07-05) [Consent Agenda Item (G)]

Purchase from Existing Contract/Agreement: To approve the purchase of maintenance and support for the network infrastructure servers in the amount of \$35,512 from IBM Corporation through an existing contract/agreement with the Department of Information Resources (DIR), and authorizing the City Manager to execute all necessary documents. (DIR-SDD-190). [Consent Agenda Item (H)]

Purchase from Existing Contract/Agreement: To approve the fifth year of a five-year Maintenance Agreement with eVerge Group of Texas, Ltd. in the amount of \$225,000, and authorizing the City Manager to execute all necessary documents. (B-041-01) [Consent Agenda Item (I)]

Resolution No. 2007-4-5(R): To approve Plano Public Library System to purchase the Polaris® Integrated Library System (ILS) through a Catalog Information Systems Vendor (CISV) contract from Polaris Library Systems, in an amount not to exceed \$405,000; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the purchase approved herein; and providing an effective date. VID# 1161667474000 [Consent Agenda Item (Q)]

Upon a motion made by Council Member Dunlap and seconded by Council Member Callison, the Council voted 7-0 to approve the purchase of the Communicator!NXT and GeoCastWeb critical notification service platforms for a period of three (3) years in the amount of \$27,900 for FY 07-08 (\$25,900 for FY 08-09 and \$25,900 for FY 09-10) from Dialogic Communications Corporation through an existing contract/agreement with the HGAC Cooperative Purchase Program; to approve the purchase of maintenance and support for the network infrastructure servers in the amount of \$35,512 from IBM Corporation through an existing contract/agreement with the Department of Information Resources (DIR); to approve the fifth year of a five-year Maintenance Agreement with eVerge Group of Texas, Ltd. in the amount of \$225,000; and to approve Plano Public Library System to purchase the Polaris® Integrated Library System (ILS) through a Catalog Information Systems Vendor (CISV) contract from Polaris Library Systems, in an amount not to exceed \$405,000; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the purchase approved herein; and providing an effective date; further adopting Resolution No. 2007-4-5(R).

Mr. Stahel resumed his place at the bench.

Public Hearing to solicit input from the public pertaining to the proposed smoking ordinance, which will replace the current ordinance. [Regular Agenda Item (1)]

Mayor Evans opened the Public Hearing. James Quaintance, citizen of the City, spoke to the current smoking ordinance doing its job, possible violation of personal rights and stated he smokes one cigar per month. Bob Trice, an insurance agent, was asked by the Smokefree Advisory Committee to illustrate the difference in cost between life insurance rates for smokers and non smokers. Peggy Venable, of Americans for Prosperity, spoke to the smoking ban violating private property rights, denying consumers the right to choose, and violating constitutional rights. She spoke to a free market, the effect of smoking bans and encouraged the Council not to pass the ban. John D. Norsworthy, spoke in opposition to the ordinance and regarding doing due diligence. He stated no opposition to the current ordinance and spoke regarding an item in the newspaper, the loss of revenues in other cities and flaws in reports. Jeff Kirkhart, citizen of the City, spoke to the proposed ordinance being an affront to personal rights. Mike Sherman, of Varsity Club, spoke to having a choice of restaurants/bars and to customers who will go to other cities. He requested tabling the request until consideration of an item in the state legislature.

Mike Brignole, encouraged the Council to reconsider the item, particularly the twenty-five foot distance requirement. He spoke to waiting for a decision from the state and responded to Mayor Evans that restrictions should not be in place outside of establishments. Mr. Brignole spoke regarding patios and enforcement. Greg Lott, owner of Varsity Club, spoke to the effect on businesses and the tax base, customers going to other cities, tabling the item until the state considers legislation, allowing smoking on patios and possible lawsuits. Barbara Krueger, citizen of City, spoke to Plano being forward-thinking, her part in passage of an ordinance in College Station, experience as a cancer survivor, cancer statistics, and in support of the item. Kay Kamm, Regional Director of Government Relations for the American Cancer Society in North Texas, urged the Council to support the ordinance, commended Staff for being progressive, and spoke to other communities thriving after passing similar restrictions. She spoke to looking at the situation as a public health issue and the right to breathe clean air. Robert Hall, stated opposition to adopting new a regulation.

Deborah Terrell, a local CPA, was asked to speak by a member of the Smokefree Committee and provided information regarding the depreciation and "write-off" of ventilation systems. Sara Cruz, citizen of the City, spoke regarding the rights of non-smokers being overlooked. Tim Kelly, of Kelly's Eastside, spoke to members of the Smokefree Committee being from the City of Dallas, independent operators who fight for business, the loss of business to other cities, and tabling the item until the state addresses legislation so that everyone would have the same rules. He responded to the Council regarding the number of customers who use his patio and plans for expansion of his business. George Elking, citizen of the City, spoke to the restaurateur's perspective regarding the 25-foot distance requirement, enforcement, and resolving issues prior to implementation. He spoke to customers going to other cities, the loss of tax benefits, watching action taken by the state and to the restaurant association making their case.

Randi Boucher, citizen of the City, spoke to protecting the personal rights of smokers and non-smokers, allowing smoking in a designated area defined by the property owner or establishment, government overstepping and to protecting existing laws that are working. Andy Essary, citizen of the City, spoke to stopping those who decide to smoke from harming other people, stated that the item does not preclude anyone from smoking on private property and to indications from the Texas Restaurant Association stating that other cities did not suffer following passage of similar laws.

Mike Waddell, of End Zone, spoke to passage in El Paso and the lack of towns in proximity, the restaurant association supporting state-wide legislation, and tabling the item. He spoke to the effect of similar restrictions on restaurants in Dallas and to businesses wanting a level playing field. Mr. Kelly spoke to a non-smoking establishment in Plano that has closed. Mr. Norsworthy spoke regarding the reports and studies utilized.

Director of Health Collins spoke to development of the ordinance including meetings, discussions, debates and public hearings. He spoke to public health science serving as the premise, consideration of public health, the percentage of adult Texans who do not smoke, those who die from smoking and the effects of second-hand smoke. Mr. Collins spoke to health care costs and government expenses and to the item addressing a public health issue. He responded to the Council stating that the committee considered a range when determining the distance requirement and to individuals walking through smoke when entering an establishment. Mr. Collins spoke to the effect on employees working on patios and to the ordinance effectively eliminating patios. No one else spoke either for or against the request. The Public Hearing was closed.

Ordinance No. 2007-4-6: To repeal Sections 14-66 through 14-72 of Article IV, Smoking, of Chapter 14, Offenses – Miscellaneous of the Code of Ordinances of the City of Plano and adopting new regulations to be designated as Sections 14-66 through 14-71 of Article IV, Smoking of Chapter 14, Offenses – Miscellaneous to revise the smoking regulations making the City of Plano a smokefree environment; providing a penalty clause, a savings clause, a severability clause, a repealing clause, a publication clause, and an effective date. [Regular Agenda Item (2)]

Director of Health Collins responded to the Council stating that he has no figures regarding the number of restaurants that currently have patios and that the ordinance would effectively ban smoking where there are employees with the exception of up to 10% of hotel/motel rooms. City Attorney Wetherbee spoke regarding issues related to hotel/motel rooms. Deputy Mayor Pro Tem Magnuson spoke to input received from citizens, those raising property issues and the right to a healthy environment. She spoke to regulations currently in place for the health and safety of patrons, employees, and owners and to considering this as a public safety issue. Ms. Magnuson spoke to filtration systems that do not operate effectively, food sales regulations in place, there not being “bars” in the City, and in support of the ordinance.

Ordinance No. 2007-4-6 (cont'd0

Council Member Ellerbe spoke to the ordinance being a public health issue and stated concern regarding those who work in restaurants. She spoke to problems with ventilation systems and referenced an article indicating that the lung functions of employees improve within the first several months following implementation of a smoking ban. Ms. Ellerbe stated support for the ordinance as written. Council Member LaRosiliere spoke to the right of employees to work in a safe and clean environment, those who work in restaurants, the effect of the state on the Council's decisions, and in support of the ordinance. Council Member Dunlap commended Staff on formation of the committee, public hearings, research and consideration of the item. He spoke to support from the health-care community, other regulations monitored by the Health Department, and to second-hand smoke not being a personal choice. Mr. Dunlap spoke to similarities with other laws, the cost of health care and stated support for the ordinance.

Mayor Evans spoke regarding knowledge of the effects of smoking and not ignoring the facts. She spoke to protecting the health, safety and welfare of the people of Plano and in support of the ordinance.

Upon a motion made by Deputy Mayor Pro Tem Magnuson and seconded by Council Member Dunlap, the Council voted 8-0 to repeal Sections 14-66 through 14-72 of Article IV, Smoking, of Chapter 14, Offenses – Miscellaneous of the Code of Ordinances of the City of Plano and adopting new regulations to be designated as Sections 14-66 through 14-71 of Article IV, Smoking of Chapter 14, Offenses – Miscellaneous to revise the smoking regulations making the City of Plano a smokefree environment; providing a penalty clause, a savings clause, a severability clause, a repealing clause, a publication clause, and an effective date; and further to adopt Ordinance No. 2007-4-6.

Public Hearing and adoption of Ordinance No. 2007-4-7 as requested in Zoning Case 2007-01 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to amend 5.7± acres located at the northeast corner of Preston Road and Old Shepard Place in the City of Plano, Collin County, Texas, from Planned Development-189-Retail/General Office to Planned Development-186-Retail/General Office; 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: Old Shepard Place II, Ltd. Tabled 03-20-07 [Regular Agenda Item (3)]

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

Ordinance No. 2007-4-7 (cont'd)

Director of Planning Jarrell advised the Council that the applicant is requesting to rezone in order to create a planned development district allowing for a pharmacy with a drive-through. She spoke to the property being part of an overall planned development district which is limited in uses and advised that the item includes addressing land use to allow retail uses in this portion and to establish some stipulations that mirror those already applied to the overall district. Ms. Jarrell advised that the Future Land Use Plan recommends major corridor development for this area that reflects the unique nature of Preston Road. She advised that the Planning and Zoning Commission recommended approval as Planned Development-Retail/General Office (PD-R/O-2) zoning with the following stipulations:

- 1) Area, Yard and Bulk Requirements
 - a. Maximum Lot Coverage - 30% (excluding parking structures).
 - b. Maximum Floor Area Ratio - 0.8:1 (excluding parking structures).
 - c. Maximum Building Height - Parking structures shall be not more than four levels at or above grade.
- 2) Building materials: The sides of all buildings, except parking garages, shall have a consistent facade design and roof line configuration. All mechanical equipment serving the structures and trash receptacles shall be screened from all public streets.

Ms. Jarrell spoke to Staff's denial being related to concerns regarding additional retail and responded to the Council regarding the district allowing retail essentially at the Preston/Park Shopping Center with the remainder restricted to office uses. She spoke to restaurants in the area having specific use permits.

Ms. Jarrell responded to the Council stating that the Zoning Ordinance has always considered restaurants as being a compatible use in office districts and regarding Staff's concerns related to the amount of retail zoning in the Preston Road Corridor and singling out a parcel on which to allow retail development. She responded to the Council advising that there is not a provision in retail zoning to allow a pharmacy by right and to considering zoning being appropriate for all uses in a district.

Mayor Evans opened the Public Hearing. Kirk R. Williams, representing the applicant, spoke to a review by Staff determining that the pharmacy was not an allowed use late in the process, concerns regarding underperforming and vacant retail and to the location not being good for a restaurant. He spoke to positive input received from other property owners in the planned development and communities in the area.

Ordinance No. 2007-4-7 (cont'd)

Mr. Williams spoke to creating a separate planned development and to a retirement community in the area in support of the item with restrictions on the hours of operation and there being no sale of alcoholic beverages or adult magazines to which the pharmacy agrees. He spoke to the concept plan calling for a 15,000 square foot, single story building, the proximity of health care facilities, requested the Council follow the recommendation of the Planning and Zoning Commission and responded to Mayor Evans regarding the color scheme. Elaine Manwarren, resident of the area spoke in support of the request and development of the pharmacy being an improvement. No one else spoke either for or against the request. The Public Hearing was closed.

Upon a motion made by Council Member LaRosiliere and seconded by Mayor Pro Tem Johnson, the Council voted 8-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to amend 5.7± acres located at the northeast corner of Preston Road and Old Shepard Place in the City of Plano, Collin County, Texas, from Planned Development-189-Retail/General Office to Planned Development-186-Retail/General Office as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2007-01; 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. 2007-4-7.

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

Public Hearing and consideration of an appeal of the Planning and Zoning Commission's Denial of Zoning Case 2006-36 – Request to rezone 7.1± acres located at the southeast corner of Park Boulevard and Alma Drive from Corridor Commercial to Planned Development-Corridor Commercial. Zoned Corridor Commercial. Neighborhood #58. Applicant: Litwin & Company [Regular Agenda Item (4)]

Director of Planning Jarrell advised that the applicant is appealing the Planning and Zoning Commission's denial of the request and stated that approval of the Council would require a three-quarter vote. She stated that the request is to rezone the property to create a planned development allowing mini warehouses and advised that the property is zoned Corridor Commercial. Ms. Jarrell spoke regarding Spring Creekwalk and the Council's strategy to develop a plan for Chisholm Trail to provide a walkable, mixed-use development oriented along a central pathway. She spoke to the Future Land Use Plan designation of the area and consideration by the Commission whether or not the use was complimentary to the vision of Spring Creekwalk. Ms. Jarrell spoke to the stipulations requested by the applicant to address concerns regarding the appearance of the mini warehouses, how they might relate to the creek, the hike/bike trail and creek walk. She stated that one stipulation concerns the dedication of a hike and bike trail easement which should not be included should the Council feel approval is appropriate.

**Appeal of the Planning and Zoning Commission's Denial of Zoning Case 2006-36
(cont'd)**

Ms. Jarrell responded to Council Member Ellerbe, stating that the Commission considered the broad range of development that would be allowed under current zoning. Ms. Ellerbe stated concern regarding how far from U.S. 75 the zoning extends. Ms. Jarrell provided information to the Council regarding the boundaries of the Corridor Commercial zoning and reviewed some of the uses allowed in the district.

Ms. Jarrell responded to Mayor Evans regarding a possible overlay for the area and Collin Creek or to determining the appropriateness of base zoning. She spoke to consideration of Chisholm Trail by the Parks Department and forthcoming information which may result in further discussion of the Spring Creekwalk concept. Council Member Stahel spoke to the area not developing as conceived, to possible future development and to the mini warehouses as a step forward in restricting other less favorable uses. Deputy Mayor Pro Tem Magnuson spoke to access for properties at the corner of Alma Road and Park Boulevard.

Mayor Evans spoke to the time coming for the Spring Creekwalk, the focus on the Collin Creek area and the natural tie-in. She stated concern regarding the request and spoke to planning for things to happen and not preventing plans.

Mayor Evans opened the Public Hearing. Cheryl Williams, representing the applicant, spoke to the mini warehouses eliminating other uses and to the imposition of design standards. She spoke to the request supporting the Spring Creekwalk vision expressed in the Comprehensive Plan, providing for the amenities outlined in the Urban Design Element and moving the City closer to accomplishing its goals. Ms. Williams compared the proposal to the current zoning, advising that it would prohibit outside storage of goods or materials and limit buildings along the creek to a single story. She spoke regarding access to the hike and bike trail and to enhanced landscaping along Spring Creek as well as masonry materials on the elevations fronting the creek. Ms. Williams spoke to the use of two distinct building materials, articulation and design features on the facades facing the creek. She spoke to Staff concerns that the building arrangement and screening walls isolate the site and advised that the proposal would ensure an attractive and inviting view from future Spring Creekwalk. Ms. Williams spoke to the limited visibility of the site from the roadway due to its depth, the low traffic counts along Alma Drive and current zoning that does not address orientation of establishments.

Ms. Williams responded to the Council regarding the distance from the creek to the property line. Brian Parks of the Parks Group, spoke regarding the team in place to bring forward the best possible development including general contractors, design engineers and those in place for management and operation of the property. He spoke to having a good quality project due to its proximity to Spring Creekwalk, to considerations of the self-storage business, the location being close to U.S. 75 and residential areas, and to every view being blocked so units will not be visible from the roadway.

Appeal of the Planning and Zoning Commission's Denial of Zoning Case 2006-36 (cont'd)

Mr. Parks spoke to flexibility of design and appearance and to the commitment to Spring Creekwalk. Ms. Williams advised that a speaker in opposition at the Planning and Zoning Commission is now in support of the request. Bennett Litwin, of Litwin & Company, spoke to the hike and bike trail as an amenity, clarified that the development will be at least 115 feet from the creek, and spoke to support from other businesses and landowners in the area. No one else spoke either for or against the request. The Public Hearing was closed.

Ms. Jarrell advised Mayor Pro Tem Johnson regarding required parking for the facility and stated that there is no allowance for recreational vehicle or boat storage. Ms. Williams responded to Deputy Mayor Pro Tem Magnuson regarding the location of trash receptacles on the interior of the development. Mr. Parks responded to Council Member Callison, stating that the number of units is currently undetermined.

A motion was made by Council Member Stahel and seconded by Council Member LaRosiliere to approve the request as proposed in Zoning Case 2006-36 to rezone 7.1± acres located at the southeast corner of Park Boulevard and Alma Drive from Corridor Commercial to Planned Development-Corridor Commercial with the exception of Design Standard 2B which requires a fifteen-foot hike and bike trail easement be provided along the eastern boundary of Lot 3R. The Council voted 6-1 with Mayor Evans voting in opposition.

Council Member Dunlap resumed his place at the bench.

Public Hearing and adoption of Ordinance No. 2007-4-8 as requested in Zoning Case 2006-31 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, amending Specific Use Permit No. 571 for Service Contractor with Storage Yard so as to expand the area of the Specific Use Permit to include 2.7± acres of land located on the south side of Rigsbee Drive, 565± feet west of 14th Street in the City of Plano, Collin County, Texas, presently zoned Light Commercial with Specific Use Permit No. 571 for Service Contractor with Storage Yard; 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: Joe and Susana Hernandez [Regular Agenda Item (5)]

Director of Planning Jarrell advised the Council that the applicant is requesting to enlarge an existing specific use permit and that screening will be provided as required by the Zoning Ordinance. She stated that the Planning and Zoning Commission recommended approval as submitted. Ms. Jarrell responded to Council Member Stahel, stating that one commissioner was concerned regarding screening not being installed in 2005 and the applicant advising that they were waiting to install landscaping until after expansion. Mayor Evans opened the Public Hearing. No one spoke either for or against the request. The Public Hearing was closed.

Ordinance No. 2007-4-8 (cont'd)

Upon a motion made by Council Member Stahel and seconded by Council Member Callison, the Council voted 6-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, amending Specific Use Permit No. 571 for Service Contractor with Storage Yard so as to expand the area of the Specific Use Permit to include 2.7± acres of land located on the south side of Rigsbee Drive, 565± feet west of 14th Street in the City of Plano, Collin County, Texas, presently zoned Light Commercial with Specific Use Permit No. 571 for Service Contractor with Storage Yard as requested in Zoning Case 2006-31 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. 2007-4-8. (Deputy Mayor Pro Tem Magnuson and Council Member Callison were away from the bench.)

Public Hearing and adoption of Ordinance No. 2007-4-9 as requested in Zoning Case 2007-02 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 581 so as to allow the additional use of Day Care Center on 0.1± acre of land located at the northwest corner of Silverglen Drive and Mapleshade Lane in the City of Plano, Collin County, Texas, presently zoned Light Industrial-1; 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: J.H.A. Mapleshade, L.P. [Regular Agenda Item (6)]

Director of Planning Jarrell advised that this item is a request for a specific use permit in a multi-occupant building. She spoke to direct access to the exterior and outdoor playspace, and to meeting the City's requirements in terms of the size of playspace. She advised that the site has appropriate parking and loading/unloading areas and the Planning and Zoning Commission recommends approval of the request as submitted.

Mayor Evans opened the Public Hearing. No one spoke either for or against the request. The Public Hearing was closed. Development Review Manager Elgin responded to Council Member Dunlap, advising that if not in place, the fire lane would need to be built with this addition and that a dumpster to the north serves this lot but that the center could utilize their own waste disposal service.

Upon a motion made by Mayor Pro Tem Johnson and seconded by Council Member Stahel, the Council voted 8-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 581 so as to allow the additional use of Day Care Center on 0.1± acre of land located at the northwest corner of Silverglen Drive and Mapleshade Lane in the City of Plano, Collin County, Texas, presently zoned Light Industrial-1; directing a change accordingly in the official zoning map of the City; as requested in Zoning Case 2007-02 and 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 further to adopt Ordinance No. 2007-4-9.

Resolution No. 2007-4-10(R): To affirm the appointment of a board member to serve the remainder of a current term 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. [Regular Agenda Item (7)]

Upon a motion made by Deputy Mayor Pro Tem Magnuson and seconded by Council Member Dunlap, the Council voted 8-0 to affirm the appointment of Melinda S. Paulk as a board member to serve the remainder of a current term 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; and further to adopt Resolution No. 2007-4-10(R).

There being no further discussion, Mayor Evans adjourned the meeting at 9:33 p.m.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, City Secretary