

**PLANO CITY COUNCIL**  
**July 25, 2005**

**COUNCIL MEMBERS**

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

**STAFF**

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

Mayor Evans convened the Council into the Regular Session on Monday, July 25, 2005 at 7:10 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present.

The invocation was led by Dr. Leon Aduddell of the First Baptist Church Plano.

The Pledge of Allegiance was led by Representatives of Boys & Girls Clubs of Collin County, Plano.

Mayor Evans recognized the Council's Volunteer of the Month – James Edwards and City Manager Muehlenbeck recognized Executive Director Glasscock for his fifteen years of service to the City.

Mayor Evans administered an oath of office to Council Member Harry LaRosiliere as a member of the Tax Increment Financing Reinvestment Zone No. 2 Board.

**GENERAL DISCUSSION**

Randy Jennings, citizen of the City, spoke in opposition to tolling S.H. 121, reviewed the concept of “leasing versus buying” and proposed a bond item to fund the City of Plano's portion.

## **BOARD/COMMISSION PRESENTATIONS**

### **Community Relations Commission**

Jane Stephenson, chair of the Community Relations Commission, spoke to the development of a new application which would assist in the evaluation of information and design of a standard format for applicants to use when submitting budget information. She spoke to considering combining the processes for Community Development Block Grants and Community Services Grants and spoke to the quality of support provided by Staff.

### **Cultural Affairs Commission**

Patricia Madigan, Chair of the Community Relations Commission, spoke to changes in applications to weigh different criteria and more heavily emphasize the fiscal and administrative responsibility of applicants. She spoke to a mandatory training workshop for all applicant organizations, revisions to small grant and special event guidelines and expressed appreciation for the work of Staff.

The Council resumed discussion of Board/Commission Reappointments.

### **Keep Plano Beautiful Commission**

Upon a motion made by Council Member Stahel and seconded by Council Member Callison, the Council voted 8-0 to reappoint C. Edwin Nalley.

## **CONSENT AGENDA**

Deputy Mayor Pro Tem Johnson requested that Consent Agenda Item "K" be removed for individual consideration due to a possible conflict of interest.

Upon a motion made by Deputy Mayor Pro Tem Johnson and seconded by Council Member Ellerbe, 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)]

June 27, 2005

### **Approval of Expenditures**

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

To approve Bid No. B144-05 for Portable Trommel Screen to Norton Environmental Equipment in the amount of \$307,549. [Consent Agenda Item (B)] (See Exhibit "A")

To approve Bid No. C183-05 for Linen Service for Plano Centre to Metro Linen, in the estimated annual amount of \$39,329. This will establish a one-year contract with two City optional one-year renewals. [Consent Agenda Item (C)] (See Exhibit “B”)

To approve Bid No. B197-05 for High Point Tennis Center Resurfacing to Courts-N-Stuff in the amount of \$97,468. [Consent Agenda Item (D)] (See Exhibit “C”)

To approve Bid No. C196-05 for Chevrolet Automotive & Light Truck OEM Parts to Bankston Chevrolet in the estimated annual amount of \$36,000. This will establish an annual fixed price contract with two 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 authorize the purchase of two (2) Ford One-Half Ton Extended Cab Pickups in the amount of \$38,917 from Philpott Motors, Inc., through H-GAC Cooperative Purchasing Program contract and authorizing the City Manager to execute any and all documents necessary to effectuate this purchase. (VE10-03) [Consent Agenda Item (F)]

To authorize the purchase of material testing services for the Ridgeview Drive Widening from Custer Road to Independence Parkway in the amount of \$32,330.00 from Engineering Consulting Services, Ltd. through a City of Plano contract, and authorizing the City Manager to execute all necessary documents. (DO21-05 Entity’s Contract Number). [Consent Agenda Item (G)]

To authorize the purchase of four (4) Ford One Ton Utility Cargo Vans in the amount of \$81,364 from Philpott Motors, Inc., through H-GAC Cooperative Purchasing Program contract and authorizing the City Manager to execute any and all documents necessary to effectuate this purchase (VE10-03) [Consent Agenda Item (H)]

To authorize the purchase of material testing services for Briarcreek Sanitary Sewer, Phase II in the amount of \$26,845 from Terracon Consultants, Inc. through a City of Plano contract, and authorizing the City Manager to execute all necessary documents. (DO21-05) [Consent Agenda Item (I)]

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

To approve the terms and conditions of a Landscape Architect Services Agreement contract by and between the City of Plano and Schrickel, Rollins and Associates, Inc., in the amount of \$327,000, for landscape architectural services in connection with Archgate Park – Phase II and authorizing the City Manager to execute all necessary documents. [Consent Agenda Item (J)]

### **Adoption of Resolutions**

**Resolution No. 2005-7-1(R):** To authorize the City of Plano to participate in and receive funding through the Texas Highway Traffic Safety Program for a STEP – Impaired Driving Mobilization (IDM 402) Project, to be conducted during Labor Day Holiday Period; authorizing the City Manager to execute any other documents necessary to effectuate the action taken; and providing an effective date. [Consent Agenda Item (L)]

**Resolution No. 2005-7-2(R):** To approve the terms and conditions of a Local Transportation Project advance Funding Agreement between the State of Texas and the City of Plano for replanking the crossing at Plano Parkway with the DART Railroad; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (M)]

**Resolution No. 2005-7-3(R):** To approve and authorize refunds of property tax overpayments; and providing an effective date. [Consent Agenda Item (N)]

### **Adoption of Ordinances**

**Ordinance No. 2005-7-4:** To amend Ordinance No. 2004-12-14, codified as Section 3-6 of Chapter 3, Alcoholic Beverages, of the Code of Ordinances, by removing language “on or adjacent to,” and correcting a spelling error; and providing repealing, severability and penalty clauses; providing an effective date. [Consent Agenda Item (O)]

**Ordinance No. 2005-7-5:** To establish linear and street crossing fees for licensed use of the City rights of way and providing an effective date. [Consent Agenda Item (P)]

**Ordinance No. 2005-7-6:** To deny the request of Atmos Energy Corp., Mid-Tex Division, for an annual Gas Reliability Infrastructure Program (GRIP) rate increase in this municipality, as a part of the company’s statewide gas utility distribution system; approving cooperation with other cities within the Atmos Energy Corp., Mid-Tex Division Distribution System as part of the Atmos Cities Steering Committee (ACSC); authorizing ACSC to hire legal and consulting services and to negotiate with the company and direct any necessary litigation; authorizing intervention as part of ACSC in any appeal of the City’s action to the Railroad Commission; approving costs incurred as reasonable and providing a requirement for prompt reimbursement of costs; finding that the meeting at which this ordinance is passed is open to the public as required by law; and providing for notice of this ordinance to Atmos Energy Corp., Mid-Tex Division; and providing an effective date. [Consent Agenda Item (Q)]

**Ordinance No. 2005-7-7:** To transfer the sum of \$117,549 from the Environmental Waste Services Fund Unappropriated Fund Balance to the Environmental Waste Services Fund Operating Appropriation for fiscal year 2004-05 for the purpose of additional funding for a trommel screen; amending the budget of the City and Ordinance 2004-9-15, as amended, to reflect the actions taken herein; declaring this action to be a case of public necessity; and providing an effective date. [Consent Agenda Item (R)]

**END OF CONSENT**

Due to a possible conflict of interest, Deputy Mayor Pro Tem Johnson stepped down from the bench on the following item.

**Change Order: (Change to current City of Plano contract allowable under State law)** To Mario Sinacola & Sons Excavating, Inc., increasing the contract by \$218,940 for Los Rios Boulevard Extension, Phase I, Change Order No. 6 (Original Bid #B096-04) [Consent Agenda Item (K)]

Upon a motion made by Mayor Pro Tem Lambert and seconded by Council Member Callison the Council voted 7-0 to approve a change order to Mario Sinacola & Sons Excavating, Inc., increasing the contract by \$218,940 for Los Rios Boulevard Extension, Phase I, Change Order No. 6

Deputy Mayor Pro Tem Johnson resumed his place on the bench.

**Discussion and direction** of funding options for SH 121 main lanes from Dallas North Toll Road to US 75. Public Hearings held 06-13-05 and 06-27-05 [Regular Agenda Item (1)]

City Engineer Upchurch spoke to the opposition to tolling expressed during Public Hearings and advised that since that time meetings have been held with other cities in Collin County to develop options so that if a decision were made to toll the roadway, stipulations would be included. He advised that consideration was given to city funding but that no municipalities came forward with a willingness to contribute funding to SH 121 as a freeway. Mr. Upchurch spoke to the highway department looking for a decision by August 15 to avoid delays in moving forward.

Mr. Upchurch responded to Mayor Pro Tem Lambert regarding limitations on toll facility designation advising that tolling SH 121 would result in more lanes being provided so that a September 1 deadline does not apply. He responded to Council Member Stahel regarding the roadway being 100% electronic tolls, stating that the feasibility analysis takes into account that there will be some non-payers and that cash payments would require extra lanes resulting in a change in the overall design of the roadway. Council Member Stahel spoke to problems that may be encountered with the implementation of 100% electronic tolls and to the possibility of having a cash booth at each end of the roadway. He spoke to addressing the issue before a vote is taken and Mr. Upchurch responded regarding discussion of this concern and spoke to an increase in toll facilities as the area continues to grow.

### **Discussion and direction of funding options for SH 121 (cont'd)**

Mr. Upchurch responded to Council Member Stahel and spoke regarding limiting excess revenues and determination of the distribution of possible funds. City Manager Muehlenbeck spoke to plans to limit excess revenue. Council Member Stahel spoke to the division of revenues and Mr. Upchurch responded regarding Collin County being a partner based on their contribution of funds. Mr. Stahel spoke to defining a formula for distribution or an approximation of how figures were determined prior to taking a vote. Deputy Mayor Pro Tem Johnson stated that in order to help create an independent authority, the county has offered to put their full faith and credit behind the bonds. He spoke to the establishment of a local authority to make decisions in the future regarding improvements and excess revenues.

Mr. Upchurch responded to Council Member Magnuson regarding a 100% electronic tollroad recently opened in Houston and spoke to the decrease in the level of non-compliance. Ms. Magnuson spoke to safety concerns and Mr. Upchurch advised that Staff could look for evidence of this issue.

Mr. Upchurch responded to Council Member LaRosiliere stating that the highway department has left the definition of "local projects" wide open and further that if a local entity were established they would make decisions as to how funds were utilized. He further stated that if the North Texas Tollway Authority were to operate and maintain the project there would not be a problem if toll rates were different than other roadways. Mr. Upchurch spoke the highway commission giving this asset to the county and local governments at no cost as being a major caveat. Deputy Mayor Pro Tem Johnson spoke to the state leveraging their assets and to there being a chance that the City would not have a say in the decision. Mr. Upchurch spoke to the proposed resolution including a provision that if there is deviation from the agreement, the City would not support the use of tolls for the project.

Mayor Pro Tem Lambert spoke to the possibility of the cities and county deciding not to support tolling and Deputy Mayor Pro Tem Johnson responded regarding the possibility tolling would still occur and that the roadway might be sold to another entity. City Manager Muehlenbeck spoke to the state's control of the biggest asset, the right of way. Mr. Upchurch spoke to the highway department looking at roadways as revenue sources.

Collin County Commissioner Hatchell spoke to the county putting \$60 million into the project and to the Regional Transportation Authority (RTC) being the association designated by federal law to determine whether or not to toll and to the possibility that a legal battle might ensue. He spoke to the RTC support of the local agreement and to convincing the highway commission to allow the use of right-of-way if a tollroad is proposed. Mr. Hatchell spoke to retaining an engineering firm to develop a cost estimate regarding the automated tolling and to possible payment of fees at a main plaza.

### **Discussion and direction of funding options for SH 121 (cont'd)**

Deputy Mayor Pro Tem Johnson reviewed the proposed resolution advising that if a decision were made to toll, it would be under these conditions and stated that the City would support funding the construction, maintenance and operation of SH 121 main lanes from the Collin/Denton County boundary to US 75, the interchange at the Dallas North Tollway/SH 121 and at US 75/SH121; that the project would be locally controlled including financial and operational decisions by Collin County and the cities of Allen, Frisco, McKinney and Plano ("Local Authority"); that the Local Authority will operate the project to NTTA standards and will contract to have NTTA initially operate and maintain the project; that the Local Authority will seek the best financing for issue bonds for the project which may include using the full faith and credit of Collin County; that the Local Authority will set tolls to pay debt service payments, maintenance and operation and decide how future excess revenues are used; and that any deviation by the state, TxDOT, RTC or any other entity having authority would result in opposition of tolls. He spoke to the favorable response to the resolution received from the County and stated that the Frisco City Manager requested a revision to state that the goal would be to have tolls no higher than those on the Dallas North Tollway (DNT) unless required for debt service, maintenance and operation and that when the project is complete and bonds are paid off the excess revenue would be shared equally or tolls set for maintenance/operation only. Mr. Johnson advised that no response has been received from the other cities.

Council Member Ellerbe spoke to retaining the freedom to use excess revenues to pay bonds off earlier and expressed a preference for the original document to which Council Member Magnuson concurred. Deputy Mayor Pro Tem Johnson stated his preference, that as bonds are paid off and expenses go down, tolls can follow. The Council discussed the revision referencing the rates on the DNT as a ceiling. Deputy Mayor Pro Tem Johnson spoke to it being restrictive and Council Member LaRosiliere questioned the relevance of using the DNT as a benchmark and to having a degree of flexibility. City Manager Muehlenbeck spoke to detailed analysis coming after agreement is reached.

Deputy Mayor Pro Tem Johnson stated his recommendation to move forward with the original version with no revision as it is straight forward, gives the greatest flexibility and puts trust in the local authority to be responsive to the needs of the people. Council Member Ellerbe and Council Member Magnuson stated agreement and Council Member LaRosiliere spoke to the possibility of conveying the intent of the revision while structuring the resolution to provide ample flexibility. Mr. Johnson advised that he would use the original resolution in discussion with the other entities and Council Member Callison stated agreement. Mayor Pro Tem Lambert stated support for the concept of a local authority, negotiating the best points with the other entities and striving to develop a unanimous agreement.

**Discussion and direction of funding options for SH 121 (cont'd)**

Sharon Overall, citizen of the City, spoke to the roadway between the DNT and Hillcrest already being paid for, opposition by citizens, the impact a tollroad would have on retail development, and stated that if tonight's proposal were passed, it would be best to have the cities do it together and when paid for it would be turned over to the state with no monies used on other roadways. Mayor Pro Tem Lambert spoke to the current TxDOT plans which currently include no money other than those for the environmental clearance. Mayor Evans spoke to the need for a decision at the August 8, 2005 Council Meeting.

**Discussion and adoption of Ordinance No. 2005-7-8** amending Chapter Three (Alcoholic Beverages) of the City of Plano Code of Ordinances, as has been previously amended, to add a new Section 3-7 (Late Hours Operation) providing extended operating hours for mixed beverage late hours permit holders and Section 3-8 (Late Hours Permit & Fees) setting forth permit and fee requirements; providing a penalty clause, repealer clause, savings clause, severability clause and an effective date. [Regular Agenda Item (2)]

Director of Planning Jarrell spoke to the current need for action should the Council desire to extend operating hours for mixed beverage permit holders and advised that in 2010 the county's population should exceed the required level where the City would qualify without the Council taking such action. She further stated that it would affect both old and new establishments.

Upon a motion made by Council Member Magnuson and seconded by Council Member Ellerbe, the Council voted 8-0 to amend Chapter Three (Alcoholic Beverages) of the City of Plano Code of Ordinances, as has been previously amended, to add a new Section 3-7 (Late Hours Operation) providing extended operating hours for mixed beverage late hours permit holders and Section 3-8 (Late Hours Permit & Fees) setting forth permit and fee requirements; providing a penalty clause, repealer clause, savings clause, severability clause and an effective date; and further to adopt Ordinance No. 2005-7-8.

**Public Hearing and an ordinance as requested in Zoning Case 2005-09** – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, amending Specific Use Permit No. 137 so as to expand the Day Care Center on 1.8+ acres of land located on one lot at the southwest corner of Hedgcoxe Road and Georgetown Drive in the City of Plano, Collin County, Texas, presently zoned Single-Family Residence-7/Planned Residential Development-2 with Specific Use Permit No. 137 for Day Care Center; 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 #12. Applicant: Montessori Children's House Tabled 05-09-05 and 06-13-05 [Regular Agenda Item (3)]

### **Zoning Case 2005-09 (cont'd)**

Upon a motion made by Council Member Stahel and seconded by Council Member Magnuson the Council voted 7-0 to remove the item from the table. (Council Member LaRosiliere was away from the bench.)

Director of Planning Jarrell spoke to meetings held with the applicant and homeowners and receipt of opposing letters from more than 20% of the land area within the 200-foot notice boundary which would trigger the requirement for a three-quarter vote by the Council. She spoke to the issue of parking the addition of a new lot on the southern end, redesign to eliminate one space, reorientation to have head-in spaces facing north towards the building, and spoke to the City's parking requirement. Ms. Jarrell advised that homeowners request a further reduction in parking. She spoke to plans for landscaping on Georgetown Drive and the homeowners' request for a minimum six-foot living screen and different types of plantings. Ms. Jarrell spoke to the applicant's agreement to limit the height of light standards to 15 feet and the use of wall-mounted lights. She spoke to their agreement to replace playground equipment with apparatus of more muted, earthtone colors and to placing signs directing parents not to park on Chatham Court.

Ms. Jarrell reviewed the stipulations as follows:

- The zoning exhibit shall be adopted as part of the ordinance;
- The day care center enrollment shall be capped at 245 children, based on the number of available parking spaces;
- A landscaped screen shall be installed, subject to visibility requirements, next to the playground fence along Georgetown Drive. The shrubs shall reach a height of 4 feet within 2 years of initial planting;
- A landscaped screen shall be installed, subject to visibility requirements, along the southern and western sides of the new parking area. The shrubs shall reach a height of 6 feet within 2 years of initial planting;
- Light standards in the new parking area shall be limited to 15 feet in height, and shall have shields to reduce light overspill.

Ms. Jarrell advised that the Planning and Zoning Commission recommended approval without the stipulations listed above and that at the Council's direction, Staff would add the stipulations and bring the ordinance back for consideration at a future meeting. She spoke to occasions when landscaping screening has exceeded 40 inches in height and to compliance with visibility requirements.

### **Zoning Case 2005-09 (cont'd)**

Mayor Evans opened the Public Hearing. Shirley Walker, citizen of the City, stated concern regarding the large size of the facility, spoke to opposition expressed by area residents and to the need for a zoning ordinance requirement that day cares within residentially zoned areas have visual and acoustical barriers along with a "lights out" curfew. Dean Walker, citizen of the City, stated concerns related to traffic on Georgetown Drive, signage and the effect of increased enrollment. He stated concern about the future if there are no enforceable stipulations and possible ownership changes.

Peggy C. Scott, citizen of the City and parent of a child at the center, spoke in support of the expansion and to parents respecting the request not to park on Chatham Court. She spoke to traffic not being an issue. Lisa Carroll, citizen of the City, spoke in opposition to the request and to preservation of the property in its natural state. David Cotton, citizen of the City, spoke to the need for visual and acoustical barriers. Audra Forcht, citizen of the City, spoke in support of the request, to the beauty of the building, parking/traffic not being issues and to the center being an asset to the community. Kristianne Slayton, citizen of the City, spoke in support of the request, the staggering of drop-off/pickup times and stated that over time landscaping will grow and develop barriers.

Michael Gavaghan, citizen of the City, spoke regarding burdens that will be placed on area homeowners and stated opposition to the zoning change. Nancy Anderson, citizen of the City, spoke to the definition of single family zoning, homeowners researching zoning before purchasing property, those in support not living in the neighborhood, and requested the Council retain the current zoning and vote against the SUP. Diane Glaser, citizen of the City, spoke to her consideration when purchasing her home, the peace and tranquility of the area and the unfairness of changing the zoning. Martin Carroll, citizen of the City, stated that while not against the school or services, he believes an expansion magnifies the disruptive aspects of the current facility and destroys the tranquility of the neighborhood. He spoke to homeowners being aware of the current zoning when making their purchases.

James Cooper, representing the board of the Oakwood Glen Estates Neighborhood Association, spoke to the homeowner's association opposition to the request and asked that homeowner's recommendations be included if the item is approved. Peggy Green-Ernst, citizen of the City, spoke in support of the request and reviewed what would result should the property develop as a neighborhood park including the lack of visual privacy, parking along the street, and facilities open 24 hours a day. She spoke to the existing density of trees across the creek helping to screen the facility. Martha Watts, speaking on behalf of the Estates of Oakwood Glen Homeowners Association, spoke to the quietness and added value a greenbelt provides to homes. Ted Peters, citizen of the City, spoke to the quality of the facility, lack of traffic in the area, a school being superior to "box" houses, and to following the recommendations of the Planning and Zoning Commission.

**Zoning Case 2005-09 (cont'd)**

Paul Lee, citizen of the City, spoke to the benefits of the school, the building increasing home values, the facility attracting families with young children, maintenance of the landscaping and stated that there is no excess traffic or parked cars in the area. Azar Kesh, citizen of the City, spoke in support of the request and regarding the safety of lighting provided. She spoke positively regarding the design of the building and landscaping. Ray Zadeh, citizen of the City, spoke to the presence of schools increasing property values.

John Roach, Jr., spoke on behalf of the applicant and stated that some homeowners have withdrawn their opposition after meeting with the applicant. He spoke to the SUP for a Day Care Center being in place since 1983 before homes were built and the conversion of park land in 1994. Mr. Roach spoke to meetings held with homeowners, stated that enrollment is capped by City ordinances and spoke to revisions in the parking plan, the hike/bike trail, playground equipment and lighting. Phillip Morse, of Edifice Architecture spoke regarding the Heard Museum "wildlife option" calling for a natural hedge and advised regarding pavement being relocated to reduce the possibility that trees may be removed for a hike/bike trail. Mr. Roach spoke to installing permanent signage discouraging parents from parking on Chatham Court, addressing homeowner concerns and looking at the highest and best use of the property.

Nancy Zentner, citizen of the City, stated that all schools are located within neighborhoods and to homeowners planting trees on their property to shield light. No one else spoke either for or against the request. The Public Hearing was closed.

Mr. Roach responded to Council Member LaRosiliere regarding letters recently received in support of the request and Mayor Pro Tem Lambert spoke to some homes being rental property.

Mayor Pro Tem Lambert spoke to the opposition being expressed by homeowners in the area, concern related to changing the zoning from single family and advised of his opposition to the request. Council Member Stahel spoke to the quality of the facility, but spoke to the issue of the request being a significant expansion of a commercial use in a residential neighborhood. He spoke to giving greater weight to the opinions of area homeowners and stated his opposition to the request.

Council Member LaRosiliere spoke regarding land usage, the recommendation of the Heard Museum and to concessions made by the applicant and stated his support for the request including the five stipulations as outlined. Council Member Magnuson spoke to the analysis by the Heard Museum, plans for a living screen, adjustments made to minimize the impact on the bike trail, and stated her support. Council Members Ellerbe and Callison stated their support of the item with stipulations.

**Zoning Case 2005-09 (cont'd)**

A motion was made by Council Member Magnuson and seconded by Council Member LaRosiliere, to approve the request and direct Staff to bring back an ordinance to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, amending Specific Use Permit No. 137 so as to expand the Day Care Center on 1.8+ acres of land located on one lot at the southwest corner of Hedgcoxe Road and Georgetown Drive in the City of Plano, Collin County, Texas, presently zoned Single-Family Residence-7/Planned Residential Development-2 with Specific Use Permit No. 137 for Day Care Center; directing a change accordingly in the official zoning map of the City as requested in Zoning Case 2005-09; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date with the following stipulations:

1. The zoning exhibit shall be adopted as part of the ordinance.
2. The day care center enrollment shall be capped at 245 children, based on the number of available parking spaces.
3. New site landscaping is required as follows:
  - a. Within the existing playground along the Georgetown Drive frontage, a living screen shall be installed that consists of four-foot tall shrubs interspersed with two eight-foot tall shrubs at the northern and southern corners of the playground fence and three six-foot tall shrubs between the fence corners.
  - b. A combination of deciduous and evergreen canopy trees, understory trees, and shrubs, using native species, shall be planted along the southern and western perimeter of the new parking area. This visual screen will not form a solid barrier, but will minimize headlight overspill and visual clutter of the parking lot.
  - c. All plant heights specified within this section are mature plant heights. Plant materials shall be sized at the time of installation to reach the mature height within two years. Plant locations are subject to visibility requirements of the City of Plano development regulations.
4. Light standards in the new parking area shall be limited to 15 feet in height, and shall have shields to reduce light overspill.

The Council voted 6-2 with Mayor Pro Tem Lambert and Council Member Stahel voting in opposition. The motion passed.

**Public Hearing and adoption of Ordinance No. 2005-7-9 as requested in Zoning Case 2005-22** – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, granting Specific Use Permit No. 559 so as to allow the additional use of Household Care Institution on one lot on 1.7± acres of land located on the west side of Independence Parkway, 117± feet south of Crickett Drive in the City of Plano, Collin County, Texas, presently zoned Neighborhood 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: Collin Intervention to Youth, Inc. [Regular Agenda Item (4)]

Director of Planning Jarrell advised the Council that the applicant's proposal is to develop the property as emergency housing for children from newborn to nine years of age and the requirement for the installation of a screening wall or living screen along the western and northern edges of the property where it abuts residential zoning. She advised regarding access to the property, stated that the Planning and Zoning Commission recommended approval as submitted and that letters in opposition have been received by more than 20% of the property owners within the 200-foot boundary which would require a three-quarter vote of approval by the Council. Ms. Jarrell advised that no screening wall would be required to the south as the properties share the same zoning and that the applicant would probably install some type of fencing for an outdoor play area.

Mayor Evans opened the Public Hearing. Leslie Hayes, Director of Development for City House, spoke to the services that will be provided by the development, the need in the community, plans for the property and stated that visitations will not occur at the site. She responded to the Council, stating that currently there are only 120 foster families available in Collin County. Mayor Pro Tem Lambert spoke to the possibility of an age limit and to addressing concerns regarding other possible uses since the specific use permit goes with the land. Ms. Hayes spoke to the facility being tailored for younger residents and to the efforts made to identify this location. Director of Planning Jarrell spoke to Council's consideration of the land use and whether or not it is appropriate as defined.

Michael Martin, representing the Independence Estates Homeowners Association, stated support for the goals and services that the home will provide, however expressed concerns regarding changes that might occur once the SUP is granted including the age of occupants and size of the facility. He spoke to working with the applicant to address concerns. M. Nathan Barbera, representing the board of City House, spoke to services provided to the community and the board's commitment to the project advising that it will not "fall through." Christene Krupa, Treasurer of the City House Board of Directors, advised that financing has been secured, funds are set aside for construction and spoke to future fundraising efforts. Pete Schoemann, representing the Forest Creek Homeowners Association, spoke to the association's support of the proposal. Janet Stovall, citizen of the City, spoke to efforts to identify an appropriate property, the support received from the Planning and Zoning Commission and stated that compared to office and medical development this would be a less intrusive use.

**Ordinance No. 2005-7-9 (cont'd)**

Pam Hatcher, citizen of the City, spoke positively as a neighbor of the current City House facility. Janetta Michaels, of the Collin County Advocacy Center, spoke to their support, the number of children in foster care, their ages and addressed those that are sent out of Collin County for care. Craig Perry, representing the City House Advisory Council requested approval of the item. T. W. Bailey, Sr., of the Homebuilders' Association of Greater Dallas, spoke to the project being carried through to fruition and regarding the reduction in vehicle trips per day that will occur if the property is developed in this manner rather than as an office or assisted living facility. No one else spoke either for or against the request. The Public Hearing was closed.

Mayor Pro Tem Lambert spoke to the request placing a residential product on office zoning, having confidence that City House will complete the project and stipulations in place regarding screening.

Upon a motion made by Mayor Pro Tem Lambert and seconded by Council Member Stahel, 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. 559 so as to allow the additional use of Household Care Institution on one lot on 1.7± acres of land located on the west side of Independence Parkway, 117± feet south of Crickett Drive in the City of Plano, Collin County, Texas, presently zoned Neighborhood Office as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2005-22; 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. 2005-7-9.

**Public Hearing and adoption of Ordinance No. 2005-7-10 as requested in Zoning Case 2005-24** – To amend Section 1.600 (Definitions) of Article 1 (General Regulations); Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses); and related sections of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, to permit winery use with approval of a specific use permit; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: City of Plano [Regular Agenda Item (5)]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission recommended approval of the request with the following stipulations:

1. Amend Section 1.600 (Definitions) of Article 1 (General Regulations) to create the following definition for winery use:

**Ordinance No. 2005-7-10 (cont'd)**

Winery - A wine-making facility that: (1) ferments juices from grapes and/or other fruit, (2) blends wines, (3) manufactures, bottles, labels, and packages wine, and/or performs any other activity authorized by Chapter 16, Winery Permit, of the Texas Alcoholic Beverage Code as amended.

2. Amend the use charts in Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses) to permit winery use with approval of a specific use permit in the Agricultural (A), Retail (R), Downtown Business/Government (BG), Light Commercial (LC), Commercial Employment (CE), Central Business-1 (CB-1), Light Industrial-1 (LI-1), Regional Commercial (RC), and Corridor Commercial (CC) zoning districts.

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 Council Member Stahel and seconded by Council Member Magnuson, the Council voted 8-0 to amend Section 1.600 (Definitions) of Article 1 (General Regulations); Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses); and related sections of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, to permit winery use with approval of a specific use permit as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2005-24; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date; and further to adopt Ordinance No. 2005-7-10.

There being no further discussion, Mayor Evans adjourned the meeting at 11:15 p.m.

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**Pat Evans, MAYOR**

ATTEST:

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**Elaine Bealke, City Secretary**