

**PLANO CITY COUNCIL**  
**September 9, 2002**

**COUNCIL MEMBERS**

Pat Evans, Mayor  
Phil Dyer, Mayor Pro tem  
Steve Stovall, Deputy Mayor Pro tem  
Shep Stahel  
Scott Johnson  
Sally Magnuson  
Jim McGee  
Ken Lambert

**STAFF**

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

Mayor Evans convened the meeting into open session on Monday, September 9, 2002, at 7:08 p.m., in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present.

The invocation was led by Pastor Bob Ross of Prairie Creek Baptist Church.

The Pledge of Allegiance was led by Junior Girl Scout Troop 2232.

The Council resumed discussion of the Preliminary Open Meeting.

**Personnel Appointments**

**Plano Transition and Revitalization Commission**

Upon a motion made by Council Member Magnuson and seconded by Council Member Johnson the Council voted 8-0 to name Stella Mercedes Vea as the Cultural Affairs Commission representative member of this committee.

**Keep Plano Beautiful Commission**

Upon a motion made by Council Member McGee and seconded by Council Member Johnson, the Council voted 8-0 to name David James Gillespie to the position designated to increase the board's membership and setting an initial term expiring October 2003.

## **PROCLAMATIONS AND SPECIAL RECOGNITION**

Mayor Evans presented proclamations recognizing “9-1-1 Hero Recognition,” “23<sup>rd</sup> Annual Community Credit Union Plano Balloon Festival,” and “Food Safety Awareness Month.”

Mayor Evans recognized Floyd Richard Simmons for service on the Transportation Advisory Committee.

## **GENERAL DISCUSSION**

Kate Studdard, citizen of the City, requested information regarding euthanasia ratios coinciding with the institution (employment) of managers at the Plano Animal Shelter and to a reports of a euthanasia drug missing from the shelter. Mayor Evans stated that the City Manager will respond. Susan Oviatt, shelter volunteer, requested information regarding changes that have been made at the shelter related to grooming and access to the back of the shelter by volunteers. Gary Oviatt, shelter volunteer, stated concerns related to the euthanasia of animals that remained in the adoptable area of the shelter. Jenny Choudhury, shelter volunteer, spoke regarding animal behavior when confined, the importance of volunteers, and stated concern regarding restricting volunteer access. Francis Richmond, shelter volunteer, questioned why volunteers and citizens were exposed to animals who were scheduled for euthanasia. Joe Cattell, citizen of the City, expressed a lack of confidence in the Plano Animal Shelter and management. He spoke regarding the increased euthanasia rate, food donations, missing drugs and requested that a board rather than an advisory committee oversee the shelter. DeAnne Rogers, member of the Animal Shelter Advisory Committee, spoke regarding evaluation of animals for euthanasia and stated concerns related to the lack of information/reports regarding events of August 24, 2002 and other issues related to shelter operation. Lisa Kristof, citizen of the City, stated concerns related to dogs left in the City’s dog park by animal control officers and the missing euthanasia drug. She spoke regarding educating the community on dog/cat ownership and a revamping of shelter procedures. Chris Cattell, citizen of the City, stated concern regarding euthanasia at the shelter, lack of policies and behavior of employees.

**Receive City Manager’s response to comments of public interest made at a previous Council meeting. Council may discuss and provide direction on the following item(s):**

### **Sign Ordinance**

City Manager Muehlenbeck spoke regarding a request to allow trash receptacles containing advertising to be placed in parking lots of retail establishments. He advised that the current ordinance addresses such signage by prohibiting any form of off-site advertising and Staff’s recommendation not to allow a new type of off-site signage.

Mayor Pro tem Dyer spoke to the possibility of having the Planning and Zoning Commission consider a modification. Mr. Muehlenbeck responded to Council Member Lambert that other cities have received similar requests and that the current ordinance covers off-site advertising.

### Solicitation

City Manager Muehlenbeck spoke regarding a request to allow additional garage sale signs stating that such an ordinance would encourage citizens to place signs in the rights-of-way in violation of the sign referendum. He spoke regarding the possible proliferation of other temporary signs that might result and stated Staff's recommendation to continue enforcing the current ordinance. Mr. Muehlenbeck responded to Council Member Lambert regarding the process of collecting signs along medians and right-of-way of collector streets. Chief Building Official Mower responded to Council Member Lambert regarding the permit process, notification of sign requirements and enforcement in cases where no permit is in effect. Mayor Evans spoke to signage on neighbor's property with permission. Council Member McGee spoke to the current ordinance being restrictive when considering signage on neighbor's property. Deputy Mayor Pro tem Stovall spoke to Planning and Zoning Commission consideration. Council Member McGee spoke to consideration of the prohibition of garage sale signage on fencing.

City Manager Muehlenbeck spoke regarding a request that non-profit organizations be governed differently than itinerant vendors with regard to temporary sales/car washes and a suggestion that non-profit organizations be allowed to hold twelve, three-day permits per location per year. He spoke to the intent of the ordinance to limit the use of any one location to 45 days per year or less with no more than five sales per year and efforts to avoid the appearance that any one corner is a perpetual "sale" location. Mr. Muehlenbeck spoke regarding enforcement problems that would ensue if non-profit organizations were treated differently and stated Staff's recommendation to perhaps exempt school organizations from permit requirements when car wash/sale is held on school property. Council Member Stahel spoke to possibly an alternate site at one of the schools and Council Member Lambert spoke to treating all solicitors equally and to exempting school groups on school property. City Attorney Wetherbee spoke to Staff bringing back information regarding the attributes of school property and providing an exemption for fundraising.

### Animal Shelter

City Manager Muehlenbeck spoke to questions raised at the last meeting regarding the animal shelter and provided information on evaluation of animals for euthanasia based on injury, illness, behavior and/or space and stated that each of the four animals in question was evaluated by the interim manager, the inspection services supervisor and an animal control officer. He reviewed evaluations of these animals and spoke regarding culpability in adopting animals with aggressive tendencies, evaluation of adoption/euthanasia policies and other procedures, and a review of supervisor's decision-making processes on August 24, 2002. Mr. Muehlenbeck spoke to Staff receiving input between meetings.

## CONSENT AGENDA

City Secretary Bealke advised that Staff has requested that Consent Agenda Item “P” be pulled and held in order to insert information regarding late fees.

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

### **Approval of Minutes:** [Consent Agenda Item (A)]

August 26, 2002  
August 28, 2002  
September 3, 2002

### **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. C112-02** for a fixed-price contract for Solid Waste Truck Parts in the estimated annual amount of \$142,653. [Consent Agenda Item (B)] (See Exhibit “A”)

### **Adoption of Resolutions**

**Resolution No. 2002-9-4(R):** To approve and authorize refunds of property tax overpayments; and providing an effective date. [Consent Agenda Item (C)]

**Resolution No. 2002-9-5(R):** To authorize the City Manager to enter into an interlocal agreement with local governmental entities pursuant to Chapter 791 of the Government Code to establish a cooperative purchasing group known as the Innovation Group National Purchasing Alliance (“Alliance”) and providing an effective date. [Consent Agenda Item (D)]

**Resolution No. 2002-9-6(R):** To approve the internal operating procedures for receipt of electronic sealed bids or proposals and a comprehensive e-procurement system to ensure the identification, security, confidentiality and protection against premature opening of electronic bids or proposals required by House Bill 1981 and providing an effective date. [Consent Agenda Item (E)]

**Resolution No. 2002-9-7(R):** To approve the terms and conditions of a communications facilities license by and between City of Plano and Metroplex Telephone Company d/b/a/ AT&T Wireless for the placement of cellular antennas on the municipal center communications tower located at 1520 Avenue K; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (F)]

**Resolution No. 2002-9-8(R):** To establish a fee schedule for the use of Parks and Recreation Facilities; repealing previous fee schedules for the use of the Parks and Recreation Facilities; and providing a repealer clause, a severability clause, and an effective date. [Consent Agenda Item (G)]

**Resolution No. 2002-9-9(R):** To repeal the previous tax abatement policy of the City of Plano; adopting a tax abatement policy statement on establishing criteria for evaluating incentive applications; establishing procedural guidelines and criteria governing tax abatement agreements; and providing an effective date. [Consent Agenda Item (H)]

### **Adoption of Ordinances**

**Ordinance No. 2002-9-10:** To repeal Ordinance No. 96-8-8; increasing fees for registration of dogs, cats, potbellied pigs, ferrets, and dangerous animals; increasing impoundment and adoption fees for dogs, cats, ferrets, and other animals; and providing a repealer clause, a severability clause, and an effective date. [Consent Agenda Item (I)]

**Ordinance No. 2002-9-11:** To amend Ordinance No. 99-9-5, Article XI, Inspection and Enforcement, Section 9-107, Permit, Subsection (d), Fees, of Chapter 9 Food and Food Establishments of the City Code; increasing fees for food permits; providing a severability clause, and an effective date. [Consent Agenda Item (J)]

**Ordinance No. 2002-9-12:** To repeal Ordinance No. 2001-12-20, codified as Section 21-2, Municipal Drainage Utility System Charges of Article I, in General, of Chapter 21, Utilities, of the Code of Ordinances of the City of Plano, Texas; adopting a new Section 21-2, providing for an amended fee schedule for municipal drainage system; and providing a repealer clause, a severability clause and an effective date. [Consent Agenda Item (K)]

**Ordinance No. 2002-9-13:** To repeal Sections III and V of Ordinance No. 85-9-21, Sections I and IV of Ordinance No. 87-9-13, Ordinance No. 92-10-37 in its entirety, Ordinance No. 93-9-51 in its entirety and Ordinance No. 79-9-20 in its entirety, adopting a new Section 21-131, Failure to Pay for Service, of Article IV, Service Charges Generally, of Chapter 21, Utilities, of the Code of Ordinances; adopting a new Section 21-154, Utilities Service Fee, of Article IV, Service Charges Generally of Chapter 21, Utilities, of the Code of Ordinances of the City of Plano; and providing a repealer clause, a savings clause, a severability clause, and an effective date. [Consent Agenda Item (L)]

**Ordinance No. 2002-9-14:** To revise Section 8-3 of Chapter 8 Fire Prevention and Protection, of the Code of Ordinances of the City; establishing a policy of responding only to emergency ambulance service requests; providing for the collection of such fees and for crediting thereof upon receipt; ordaining other matters on the subject; and providing a severability clause and an effective date. [Consent Agenda Item (M)]

**Ordinance No. 2002-9-15:** To amend Sections 21.28(F) (Testing Fee) and 21.31(B) (Certified Backflow Technician Registration Fee), of Plano City Ordinance No. 2000-2-16, codified as Division 1.5 Cross Connection Control Program of Article II Water of Chapter 21 Utilities of the Plano Code of Ordinances; providing a severability clause, and an effective date. [Consent Agenda Item (N)]

**Ordinance No. 2002-9-16:** To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, so as to rezone 22.2+ acres out of the John M. Salmon Survey, Abstract No. 815, located on the north side of Parker Road and east of Jupiter Road in the City of Plano, Collin County, Texas, from Agricultural to Planned Development-139-Single Family-9; directing a change accordingly in the official zoning map of the City; and providing an penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Zoning Case 2002-31 [Consent Agenda Item (O)]

To amend Section 11-222, Permit, Subsection (D) Fee; term; renewal of Article VI, Alarm Systems, of Chapter 11, Licenses and Business Regulations of the Code of Ordinances of the City of Plano to revise the permit fee and increase the late fee; providing a severability clause, and an effective date. [Consent Agenda Item (P)] This item was pulled and held.

#### **Approval of Agreement**

To approve the terms and conditions of a professional services contract between the City of Plano and Family Services of Plano wherein Family Services of Plano will provide services to the Police Department to combat juvenile delinquency and authorizing execution of such agreement by the City Manager, and providing an effective date. [Consent Agenda Item (Q)]

#### **Award of Contract**

To authorize expenditure of eGovernment business analyst services in an amount not to exceed \$44,460 from Checkmate Consulting Inc.; and authorizing the City Manager to execute all documents necessary to effectuate the purchase. [Consent Agenda Item (R)]

#### **Approval of Change Order**

To S. J. Louis Construction of Texas Ltd., LLP, increasing the contract by \$61,906 for Claridge Drainage Improvements, Change Order No. 6 (Bid No. B170-01) [Consent Agenda Item (S)]

#### **END OF CONSENT**

**Ordinance No. 2002-9-17:** To approve and adopt the tax rate for the fiscal year beginning October 1, 2002, and terminating September 30, 2003, and providing an effective date. [Regular Agenda Item (1)]

**Ordinance No. 2002-9-17 (cont'd)**

City Manager Muehlenbeck spoke regarding presentation of this item, receipt of public comment, the Budget Worksession held and stated that the budget calls for expenditures of \$299 million which is a 3.1% increase over the re-estimate for 2001-02. He spoke regarding the budget reflecting a reduction in sales tax and a reduction in the number of full-time and part-time positions.

Upon a motion made by Council Member McGee and seconded by Mayor Pro tem Dyer, the Council voted 8-0 to approve and adopt the tax rate for the fiscal year beginning October 1, 2002, and terminating September 30, 2003, and providing an effective date; and further to adopt Ordinance No. 2002-9-17.

**Ordinance No. 2002-9-18:** To approve and adopt the budget for the fiscal year beginning October 1, 2002, and terminating September 30, 2003; and providing an effective date. [Regular Agenda Item (2)]

Upon a motion made by Council Member McGee and seconded by Council Member Johnson, the Council voted 8-0 to approve and adopt the budget for the fiscal year beginning October 1, 2002, and terminating September 30, 2003; and providing an effective date; and further to adopt Ordinance No. 2002-9-18.

**Ordinance No. 2002-9-19:** To approve and adopt the capital improvement program and setting the appropriations for 2002-2003; and providing an effective date. [Regular Agenda Item (3)]

Upon a motion made by Deputy Mayor Pro tem Stovall and seconded by Council Member Johnson, the Council voted 8-0 to approve and adopt the capital improvement program and setting the appropriations for 2002-2003; and providing an effective date; and further to adopt Ordinance No. 2002-9-19.

**Public Hearing** pertaining to a presentation of alternatives and recommendations for the placement of an Outdoor Warning Siren in the area north of Independence Parkway and Legacy Drive. City Council will provide direction and action on this matter at the conclusion of the Public Hearing. [Regular Agenda Item (4)]

Director of Public Safety Communications Timmons spoke to the outdoor emergency warning system and gave an overview/history of the system. He spoke regarding the recommended one-mile radius of coverage for each site, the impact of Resolution No. 96-1-12(R) specifying design criteria for City property around the Davis Library and the requirement for a 90-day notice period. Mr. Timmons spoke regarding the community input process begun in March 2002 and reconsideration of the Davis Library site. He advised that the 90-day comment period has lapsed, and spoke to the notification provided and input received.

### **Public Hearing - Outdoor Warning Siren (cont'd)**

Mr. Timmons spoke regarding advantages/disadvantages of three alternatives:

- 1) Place the 66-foot outdoor warning siren on a pole in the rear of the Davis Library.
- 2) Place the 66-foot outdoor warning siren on a pole at the corner of Coit Road and Legacy Drive where preliminary approval has been received and purchase a new siren unit for placement on the roof of the Joint Use Facility at Davis Library. It would be a directional siren aimed at the coverage gap to the east, created by the repositioning of the original siren.
- 3) Place the 66-foot outdoor warning siren on a pole at the corner of Coit Road and Legacy Drive and purchase a new siren unit for placement at Hedgcoxe Road and Independence Parkway. Representatives of this location have given preliminary approval for placement but are firm that it must be placed on the north side of the parcel, closest to the adjacent homes.

Mr. Timmons advised that Staff's recommendation is Alternative #1 which would provide the greatest level of coverage, is the most cost-effective, offers the greatest buffer from neighboring homes, and provides the quickest implementation. He advised the Council that the distance from homes range from 25-500 feet, that for Option 2 the additional siren would not exceed the roofline by five feet and would cost as much as a pole unit. Council Member Stahel spoke to placing two sirens on the roof (with one facing east and one facing west) and no pole on Coit Road/Legacy Drive. Mr. Timmons spoke to Staff consideration of alternatives and concern that that a roof-top unit may not adequately cover the area to the west. He advised that a rotating unit on the rooftop would exceed the height limit and might provide limited coverage due to obstructions and spoke to possible additional costs if two sirens were placed on the roof. He responded regarding the pole location at Coit Road/Legacy Drive being in the parking lot and Council Member Lambert spoke to another siren in this area and concern regarding the coverage provided under Option 2. Mr. Timmons responded to the Council that operating at the 30-foot range would be inconsistent with other installations, regarding consideration of the weight of the units on the roof, and stated that the coverage provided by the roof unit is an estimate based on the reduced height of the roof unit and to it being stationary.

Mayor Evans opened the Public Hearing. Craig Clark representing the Whiffletree Homeowners Association, spoke in opposition to the item citing the 1996 resolution addressing height limits on roof tops and prohibiting free-standing towers. He spoke to gaps in coverage and the proximity of the tower proposed at Davis Library to homes in the area. Mr. Timmons advised that current plans are to place the tower in the rear of Davis Library and if full one-mile radiuses are considered, a more complete coverage level is depicted.

### **Public Hearing - Outdoor Warning Siren (cont'd)**

Dan O'Hara, citizen of the City, spoke regarding the intent of the 1996 agreement, owners purchasing homes with the agreement in place and the City living up to the agreement. He responded to Council Member Stahel that Options 2 and 3 have merit but requested Staff work harder to negotiate with the neighborhood and regarding owners who were notified of the agreement when purchasing their homes. Deputy Mayor Pro tem Stovall spoke to the protection that would be provided and changes in technology from 1995 to 2002. Mr. O'Hara spoke to work done on the agreement, stated that Option 1 is in violation and spoke regarding treatment the neighborhood has received. He responded to Council Member Lambert, stating that while he is not speaking for the neighborhood, he is requesting the City follow the agreement. Council Member Lambert spoke to the agreement having a provision for modification and stated that this is a public safety issue. Mr. O'Hara stated that his neighborhood is willing to negotiate but that he does not want the agreement unilaterally disregarded.

Kirk Robicheau representing Hunter's Glen IX and X Homeowners Associations spoke in support of Staff's recommendation, the 90-day information period, the noise level, testing periods, notification, and getting close to the optimum location. Joy Bergmann, representing Hunter's Glen North Homeowners Association, spoke in support of Option 1, regarding safety issues and in opposition to Option 3.

Sue Miller, citizen of the City, stated concern regarding property values, that Option 2 is a compromise and requested a cost comparison. Ken Reiter, citizen of the City, spoke to the Council living up to the agreement, the number of residents that signed the petition, not focusing on the money spent, and requested information on how to receive specific notice. Dale Hoenshell, citizen of the City, stated concern regarding property values and requested the Council uphold the agreement. Mr. Timmons spoke regarding consideration of the Bethany School area and stated that if chosen, the site would have been about 18 feet from the nearest home.

City Manager Muehlenbeck spoke regarding the development of the agreement, stated that discussion was regarding a major communications tower and that there was no discussion regarding an emergency siren, and further that the 90-day period was an opportunity to allow for changes. No one else spoke either for or against the request. The Public Hearing was closed.

Mayor Pro tem Dyer stated that while Option 1 is the best location, the larger issue is the relationship between the Council and the citizens and stated support for looking into providing two roof units or going with Option 2.

### **Public Hearing - Outdoor Warning Siren (cont'd)**

Mr. Timmons responded to Council Member Lambert that the tower would be approximately 150 feet from the nearest home at the Coit/Legacy location, would be behind the library at the Davis site and would be a self-contained unit. Mr. Lambert spoke to the Coit/Legacy site being in close proximity to another site. Mr. Timmons responded to Council Member Johnson regarding concerns related to placement on a light post. Deputy Mayor Pro tem Stovall spoke regarding cellular towers located in the City and providing the neighbors a perspective on what the tower would be like.

Council Member Stahel stated agreement with Mayor Pro tem Dyer to honor parameters of the agreement and made a motion to approve Option 2. Mayor Pro tem Dyer seconded the motion. (No vote was taken at this time.)

Deputy Mayor Pro tem Stovall stated concern with placing a tower 150 feet from other homes when Davis location proximity would be 300 feet. Mr. Timmons spoke regarding the cone of coverage from each stationary position. Council Member Lambert spoke to holding public hearings if another location were considered. Council Member Stahel spoke to providing Staff direction. Mr. Timmons responded that while there was discussion with the Engineering Department regarding a single stationary unit on the roof, the architectural/engineering aspect of the joint use facility would need to be reconsidered for placement of an additional unit. Council Member Magnuson spoke to safety concerns and stated that she could not support the motion, that Option 2 is redundant and regarding possible structural costs.

Council Member Stahel withdrew his motion to approve Option 2 and made a motion to table the item for two weeks. (No second was made or vote taken at the time.) Council Member Lambert spoke to looking at what a 38-40 foot tower would cover. Mr. Timmons stated concerns related to deviations from the developed standard of protection. He stated that if there were to be deviation from a 66-foot pole that further study be conducted with the assistance of an audiologist and the manufacturer to determine sound migration. Deputy Mayor Pro tem Stovall requested Staff provide the locations of 59-foot cellular towers within a one-mile radius of this location. Mr. Timmons spoke to tabling the request for four weeks to allow time for Staff to contact an audiologist. Mayor Pro tem Dyer withdrew his second of the original motion and spoke to looking at other installations and the typical distance from residential areas. He spoke to moving forward with notifying those in the area of Coit/Legacy. Deputy Mayor Pro tem Stovall spoke to asking Staff to look for all viable alternatives. Council Member Stahel spoke to being open to any reasonable suggestion within the constraints of living up to the agreement and providing adequate noise coverage, wanting the public safety issue to be covered, doing so at minimum cost, and an obligation to live up to the agreement.

### **Public Hearing - Outdoor Warning Siren (cont'd)**

A motion was made by Council Member Stahel and seconded by Council Member Johnson, the Council voted 5-3 to table the request for the placement of an Outdoor Warning Siren in the area north of Independence Parkway and Legacy Drive for a month in order for Staff to bring forward additional information. Mayor Evans, Mayor Pro tem Dyer and Council Member Magnuson voted in opposition. The motion carried.

**Public Hearing and adoption of Ordinance No. 2002-9-20 as requested in Zoning Case 2002-25** – To amend the Comprehensive Zoning Ordinance, Ordinance No. 86-3-14, as heretofore amended, so as to amend Planned Development-20-Mixed Use 2. (Sub-area B [Town Center]) m. and to add 7. (Sub-area A [Preston Road Mixed Use]) b. (Building Design) 5. on 135.3± acres on the southeast corner of Preston Road and McDermott Road in the City of Plano, Collin County, Texas, pertaining to development phasing and building design and; 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 #1. Applicants: Preston/121 Joint Venture, Stratford Group [Regular Agenda Item (5)]

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

Staff does not recommend changing the building materials standard. Staff recommends approval of the following amendments to PD-20-MU:

1. Stipulation 2(m) be amended to read as follows:

“Phasing - The northern building fronting Town Square must be constructed concurrent or prior to any development above 235,000 square feet in aggregate within Sub-Area A or concurrent with or prior to any development for which plan or permit approval is sought after ~~March 20, 2002~~ September 9, 2004.”

2. Stipulation 7(b)5 be added to read as follows:

“(5) The following shall apply to buildings adjacent to the promenade regardless of use:

- a) A minimum of 50% of the surface area of the first level of the facade adjacent to the promenade and 25% of the side facades must be glass windows, doors or display windows. The surface area shall be calculated by multiplying the length of the facade by 15 feet.

**Ordinance No. 2002-9-20 (cont'd)**

b) Covered walkways must be provided along a minimum of 50% of the length of the facade adjacent to the promenade and a minimum of 25% of the length of all side facades. This may be done through the use of awnings, arcades, roof overhangs, or similar architectural features.”

Ms. Jarrell advised that the applicant is in agreement with the recommendations, that only the first phase has been built at this time, and there has been no non-retail development and no development in Sub-area A.

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 McGee the Council voted 8-0 to amend the Comprehensive Zoning Ordinance, Ordinance No. 86-3-14, as heretofore amended, and as requested in Zoning Case 2002-25 and as recommended by the Planning and Zoning Commission; so as to amend Planned Development-20-Mixed Use 2. (Sub-area B [Town Center]) m. and to add 7. (Sub-area A [Preston Road Mixed Use]) b. (Building Design) 5. on 135.3± acres on the southeast corner of Preston Road and McDermott Road in the City of Plano, Collin County, Texas, pertaining to development phasing and building design and; 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. 2002-9-20.

The Council took a brief recess at 10:10 p.m. and reconvened the meeting at 10:20 p.m.

**Public Hearing and adoption of Ordinance No. 2002-9-21 as requested in Zoning Case 2002-34** – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, granting Specific Use Permit No. 473 so as to allow the additional use of a 90-foot tall commercial antenna on one lot on 0.01± acre on the southwest corner of Legacy Drive and Communication Parkway in the City of Plano, Collin County, Texas, presently zoned Commercial Employment; 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. Zoned Commercial Employment. Neighborhood #15. Applicant: Ericsson [Regular Agenda Item (6)]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission recommended approval as submitted.

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

**Ordinance No. 2002-9-21 (cont'd)**

Upon a motion made by Council Member Stahel and seconded by Mayor Pro tem Dyer, the Council voted 8-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, granting Specific Use Permit No. 473 so as to allow the additional use of a 90-foot tall commercial antenna on one lot on 0.01± acre on the southwest corner of Legacy Drive and Communication Parkway in the City of Plano, Collin County, Texas as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2002-34, presently zoned Commercial Employment; 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. 2002-9-21.

**Public Hearing and adoption of Ordinance No. 2002-9-22 as requested in Zoning Case 2002-35** – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, granting Specific Use Permit (SUP) No. 474 so as to allow the additional use of a Day Care Center on one lot on 1.7± acres on the west side of Custer Road, 800± feet north of Parker Road in the City of Plano, Collin County, Texas, presently zoned Planned Development-90-Retail; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Zoned Planned-Development-90-Retail. Neighborhood #34. Applicant: Metro Family Church [Regular Agenda Item (7)]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission recommended approval as submitted and responded to Deputy Mayor Pro tem Stovall that once the SUP is approved the applicant will be required to bring in a final site plan to make modifications. Development Review Manager Elgin advised that there will be minor reconstruction to convert to daycare. Ms. Jarrell responded to Council Member McGee that she is not aware of traffic calming devices in the area.

Mayor Evans opened the Public Hearing. Gaylen Laing, of Gaylen Howard Laing Architect Inc. stated that the building is in a rather secluded area and regarding the drop-off location. No one else 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 the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, granting Specific Use Permit (SUP) No. 474 so as to allow the additional use of a Day Care Center on one lot on 1.7± acres on the west side of Custer Road, 800± feet north of Parker Road in the City of Plano, Collin County, Texas as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2002-35, presently zoned Planned Development-90-Retail; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date further to adopt Ordinance No. 2002-9-22.

**Resolution No. 2002-9-23(R):** To modify the policy and procedures regarding reconsideration of previous action of the City Council; and providing an effective date. [Regular Agenda Item (8)]

City Attorney Wetherbee advised that when the original resolution for reconsideration was adopted the first meeting of the month was generally a workshop and that this resolution would modify the existing resolution so that a motion to reconsider would be timely as long as it were brought back by the second or fourth Monday meeting of the month. She responded regarding the time necessary to post the meeting notice. City Manager Muehlenbeck stated that in 1992 worksessions were not regularly scheduled and it was not until 1994 when first Mondays began having action items scheduled. Council Member Lambert spoke to occasions when meetings are rescheduled and including a 10-day window.

Upon a motion made by Council Member Lambert and seconded by Deputy Mayor Pro tem Stovall the Council voted 8-0 to modify the policy and procedures regarding reconsideration of previous action of the City Council; with amendment stating that “A motion to reconsider any action of the City Council may be made not later than the next regularly scheduled Council meeting *which is at least ten (10) days following the meeting the item was acted upon and* as those meetings are required in City Charter Section 3.09;” and further to adopt Resolution No. 2002-9-23(R) as revised.

**A Motion to Reconsider the City Council’s Action on An Appeal of the Planning and Zoning Commission’s Denial of Zoning Case 2002-30** – A request to rezone 10.0± acres on the southwest corner of Chase Oaks Boulevard and future Seabrook Drive from Planned Development-107-Office-2 (PD-107-O-2) to Planned Development-Multi-Family-2 (PD-MF-2). Applicant: Mockingbird Properties. [Regular Agenda Item (9)]

Director of Planning Jarrell advised that Council Members Lambert and McGee have requested that the Council reconsider its action on this zoning case which was denied by a vote of 6-2 at its August 26, 2002, meeting. She advised that tonight’s action would be focused on whether or not to bring the case back for reconsideration and that in order to provide proper public notice it should be scheduled for October 14.

Council Member Lambert stated that he had concerns regarding the Council’s consideration of the item on August 26, 2002, stated that the item may deserve a “better look” and that reconsideration does not indicate support for the project as presented. Council Member Stahel spoke regarding reconsideration versus starting over. Mr. Lambert spoke to the options available at the time of reconsideration.

**Zoning Case 2002-30 (cont'd)**

A motion was made by Council Member Lambert and seconded by Mayor Pro tem Dyer to reconsider the City Council's Action on An Appeal of the Planning and Zoning Commission's Denial of Zoning Case 2002-30 – A request to rezone 10.0± acres on the southwest corner of Chase Oaks Boulevard and future Seabrook Drive from Planned Development-107-Office-2 (PD-107-O-2) to Planned Development-Multi-Family-2 (PD-MF-2). on October 14, 2002. The Council voted 7-1 with Council Member Stahel voting in opposition. The motion carried.

There being no further discussion, Mayor Evans adjourned the meeting at 10:34 p.m.

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Pat Evans, **MAYOR**

ATTEST:

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Elaine Bealke, City Secretary