

**PLANO CITY COUNCIL**  
**September 24, 2001**

**COUNCIL MEMBERS**

Jeran Akers, Mayor  
Rick Neudorff, Mayor Pro tem  
Phil Dyer, Deputy Mayor Pro tem  
Shep Stahel  
Steve Stovall  
Jim McGee  
Ken Lambert

**STAFF**

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

Mayor Akers convened the meeting into open session on Monday, September 24, 2001, at 7:11 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 Rick Coburn of Calvery Chapel.

The Pledge of Allegiance was led by Cub Scout Pack 63, Den 1, of Carlisle Elementary.

Mayor Akers administered the oath of office to Jim McGee, Council Member – Place 7 and presented Council Member McGee with a plaque of appreciation for his service on the Planning and Zoning Commission.

Mayor Akers presented “Food Service Awards” and proclamations recognizing “National Customer Service Week” and “Child Support Awareness Day.” The “Mayor’s Volunteer of the Month” was not presented.

Mayor Akers, Council Members and Executive Director/Police Chief Glasscock administered oaths of office to incoming members of the following boards:

Animal Shelter Advisory Committee  
Board of Adjustment  
Building Standards Commission  
Civil Service Commission  
Community Relations Commission

Cultural Affairs Commission  
Heritage Commission  
Keep Plano Beautiful Commission  
Library Advisory Board  
Parks and Recreation Planning Board  
Planning and Zoning Commission  
Plano Housing Authority  
Plano Transition and Revitalization Commission  
Public Arts Committee  
Retirement Security Plan Committee  
Self Sufficiency Committee  
Senior Citizens Advisory Board  
Tax Increment Financing Reinvestment Zone No. 2 Board  
Technology Commission  
Transportation Advisory Committee

### **GENERAL DISCUSSION**

Arthur Townsend, citizen of the City, spoke to concerns related to his appearance before the Board of Adjustment on May 22, 2001. He requested a Council apology and reprimand of the board. Mayor Akers apologized subject to investigation and stated a report would be brought back before the Council.

Michelle Parks, community volunteer, reviewed a park proposal aimed at recognizing the City's diversity. She spoke to modification of Memorial Park, the recommended design and possible funding participation by corporations, parent/teacher organizations, businesses and individuals.

### **CONSENT AGENDA**

Upon the request of Council Members Stahel and Stovall, Consent Agenda Item "J" was removed for individual consideration due to a conflict of interest.

Mayor Akers advised that he would be stepping down on Regular Agenda Item "14" due to a conflict of interest.

Upon a motion made by Council Member Stahel and seconded by Mayor Pro tem Neudorff, the Council voted 7-0 to approve and adopt all remaining items on the agenda as recommended and as follows:

**Approval of Minutes** [Consent Agenda Item (A)]  
September 10, 2001  
September 13, 2001  
September 17, 2001

**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. B200-01** for construction of Bellview Addition Reconstruction Project in the amount of \$931,083. [Consent Agenda Item (B)] (See Exhibit “A”)

**Bid No. B196-01** for the Whelen Community Warning System in the amount of \$379,882. [Consent Agenda Item (C)] (See Exhibit “B”)

**Adoption of Resolutions**

**Resolution No. 2001-9-19(R):** To approve receipt of a grant of \$40,903 from the Telecommunications Infrastructure Board; authorizing the City Manager to execute all necessary documents to receive the grant funding; designating the grant funding for purchase of computer equipment and operation of a portable computer lab for the Plano Public Library System; and providing an effective date. [Consent Agenda Item (D)]

**Resolution No. 2001-9-20(R):** To approve and authorize refunds of property tax overpayments; and providing an effective date. [Consent Agenda Item (E)]

**Resolution No. 2001-9-21(R):** To approve the tax roll for Fiscal Year 2001-2002; and providing an effective date. [Consent Agenda Item (F)]

**Resolution No. 2001-9-22(R):** To approve the settlement of a claim by Jimmie Dean Price, Jr. against the City of Plano resulting from an accident involving the vehicle he was driving and a vehicle driven by an employee of the City of Plano; authorizing the City Manager to execute any and all documents necessary to settle such claim; and providing an effective date. [Consent Agenda Item (G)]

**Resolution No. 2001-9-23(R):** To approve the settlement of a claim by Kimberly Kay Cates against the City of Plano resulting from an accident involving the vehicle in which she was a passenger and a vehicle driven by an employee of the City of Plano; authorizing the City Manager to execute any and all documents necessary to settle such claim; and providing an effective date. [Consent Agenda Item (H)]

**Resolution No. 2001-9-24(R):** To authorize the City of Plano to receive and utilize funding from the Texas Department of Transportation for the City’s participation in the Federal Congestion Mitigation and Air Quality (CMAQ) Clean Vehicle Program; approving terms and conditions of an agreement by and between the City of Plano and the State of Texas, acting by and through the Texas Department of Transportation; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (I)]

**Resolution No. 2001-9-25(R):** To certify that the City is eligible to receive financial assistance under the Collin County Parks and Open Space Matching Grant Program as provided by the Collin County Commissioner's Court; certifying that the City's matching share is readily available; designating the Director of Parks and Recreation as being responsible for acting for, and on behalf of the City of Plano in dealing with the Collin County Commissioner's Court for the purpose of participating in the Collin County Parks and Open Space Matching Grant Program; certifying that the Tennyson/Archgate Athletic Site will be dedicated for public park and recreational uses; and providing an effective date. [Consent Agenda Item (K)]

**Resolution No. 2001-9-26(R):** To certify that the City is eligible to receive financial assistance under the Collin County Parks and Open Space Matching Grant Program as provided by the Collin County Commissioner's Court; certifying that the City's matching share is readily available; designating the Director of Parks and Recreation as being responsible for acting for, and on behalf of the City of Plano in dealing with the Collin County Commissioner's Court for the purpose of participating in the Collin County Parks and Open Space Matching Grant Program; certifying that Preston Meadow Park will be dedicated for public park and recreational uses; and providing an effective date. [Consent Agenda Item (L)]

### **Adoption of Ordinances**

**Ordinance No. 2001-9-27:** To amend Section 12-102(a) of Chapter 12 (Traffic Code) of the City of Plano Code of Ordinances to prohibit parking of motor vehicles along the east side of Bettye Haun Drive from its intersection with Quincy Lane south to the alley north of Mackey Court within the City limits of the City of Plano on school days between the hours of 7:15 a.m. to 8:15 a.m. and 2:30 p.m. to 3:15 p.m.; declaring it unlawful and a misdemeanor to park motor vehicles upon such sections of such roadway within the limits herein defined; providing a fine for criminal penalties not to exceed \$200 for each offense; and providing a repealer clause, a severability clause, a savings clause, and an effective date. [Consent Agenda Item (M)]

**Ordinance No. 2001-9-28:** To repeal Ordinance No. 2001-6-5; establishing the number of certain classifications within the Police and Fire Departments for Fiscal Year 2001-2002; establishing the authorized number and effective dates of such positions for each classification; establishing a new salary plan for the Police and Fire Departments effective September 24, 2001; and providing a repealer clause, a severability clause and an effective date. [Consent Agenda Item (N)]

### **Approval of a Contract**

To approve the terms and conditions of a Professional Services Agreement by and between the City of Plano, Texas and Interface EAP; providing for Employee Assistance Program for the City of Plano in the amount of \$62,040 and authorizing the City Manager to execute all documents necessary to effectuate the service. [Consent Agenda Item (O)]

To approve and authorize for the selection of Pacheco Koch Consulting Engineers, Inc. to provide Professional Engineering Services for an amount not to exceed \$87,955 in connection with the design of Intersection Improvements – Legacy Drive at S.H. 121, Legacy Drive at Tollway, Parker Road at Preston Road and 15<sup>th</sup> Street at Coit Road and authorizing the City Manager to execute all necessary documents to effectuate this contract. [Consent Agenda Item (P)]

To approve for Broker of Record for Insurance (Richmont Insurance Managers, Inc.) and related Risk Management Services and Loss Control Consulting (Holmes Murphy of Dallas) RFP #C172-01 in the estimated annual amount of \$139,450 for an annual contract with renewals. [Consent Agenda Item (Q)]

### **Approval of Expenditure**

To approve an expenditure for the purchase of nine (9) mobile video/audio recording systems in the amount of \$47,600. This purchase will be made from Kustom Signal, through the Texas State GSC Inter-Local Contract Agreement. [Consent Agenda Item (R)]

### **Approval of Contract Renewal**

To approve a one-year renewal for the Wellness and Safety Program with Medical Center of Plano in the estimated amount of \$100,000. (C9807-187) [Consent Agenda Item (S)]

To approve a one-year renewal for the services of an onsite Occupational and Wellness Nurse and Professional Health Consulting Services with Presbyterian Occupational Health Network in the estimated amount of \$70,000 (C9810-002) [Consent Agenda Item (T)]

### **Purchase off Existing Contract**

To approve for the purchase of two (2) Ford Ranger Pickups for the Equipment Services Department in the amount of \$32,921 through the Houston-Galveston Area Council of Governments (HGAC) Inter-Local Contract Agreement (No. VE00-03). [Consent Agenda Item (U)]

### **END OF CONSENT**

Due to conflicts of interest, Council Members Stahel and Stovall stepped down from the bench on the following item.

**Resolution No. 2001-9-29(R):** To approve an amendment to a software license and services agreement between the City of Plano and Peoplesoft USA, Inc.; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (J)]

Upon a motion made by Mayor Pro tem Neudorff and seconded by Deputy Mayor Pro tem Dyer, the Council voted 5-0 to approve an amendment to a software license and services agreement between the City of Plano and Peoplesoft USA, Inc.; authorizing its execution by the City Manager; and providing an effective date and further to adopt Resolution No. 2001-9-29(R).

Council Members Stahel and Stovall resumed their places on the bench.

**Resolution No. 2001-9-30(R):** To create a policy for renaming City streets; and providing an effective date. [Regular Agenda Item (1)]

Fred N. Moses, representing the Dr. Martin Luther King, Jr. Street Committee, stated opposition to the item, spoke to the resolution not being legally binding and sending the wrong message. He further spoke to this not being in the best interest of the City and its citizens and regarding efforts of the committee.

Upon a motion made by Council Member Lambert and seconded by Mayor Pro tem Neudorff, the Council voted 7-0 to create a policy for renaming City streets; and providing an effective date and further to adopt Resolution No. 2001-9-30(R).

Arthur L. Young, citizen of the City, spoke in opposition to the item, regarding its background, the message it sends and stated that previously no resolution was needed to change a street name. Jimmy Dismuke, citizen of the City, spoke to the committee's efforts to rename a street for Dr. Martin Luther King, Jr., support for the committee and the previous policy of the Council renaming streets.

**Public Hearing** pursuant to Chapter 26 of the Texas Parks and Wildlife Code pertaining to the use or taking of a portion of City of Plano park, known as Preston Ridge Trail, for drainage easement facilities to the City of Plano. [Regular Agenda Item (2)]

City Engineer Upchurch spoke regarding a proposed drainage easement and stated that from an engineering perspective it has been determined that this is the only feasible alternative. He spoke regarding the hike/bike trail that will be impacted during construction, but stated it will be replaced as quickly as possible thereafter and that there are no other impacts. Mr. Upchurch further stated that there are no trees in the area and that the ground will be restored to its original condition.

Director of Parks and Recreation Wendell stated that Staff has reviewed the project and concurs that there is no feasible or prudent alternative to this location, all reasonable planning has been done to minimize harm to the parkland and spoke regarding review of the location. He stated that the trail will be replaced following construction, and that the request has been reviewed by the Parks and Recreation Planning Board who voted in favor and who also determined that no harm will come to the property as a result of the project.

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

**Ordinance No. 2001-9-31:** To approve a project for a drainage easement to the City of Plano, requiring the use or taking of a portion of City of Plano public park land, known as Preston Ridge Trail; providing for a determination that there is no feasible and prudent alternative to the proposed use or taking of the park land; and that the proposed project includes all reasonable planning to minimize harm to the land and the park and recreation area resulting from the use; and providing an effective date. [Regular Agenda Item (3)]

Upon a motion made by Mayor Pro tem Neudorff and seconded by Council Member Stovall, the Council voted 7-0 to approve a project for a drainage easement to the City of Plano, requiring the use or taking of a portion of City of Plano public park land, known as Preston Ridge Trail; providing for a determination that there is no feasible and prudent alternative to the proposed use or taking of the park land; and that the proposed project includes all reasonable planning to minimize harm to the land and the park and recreation area resulting from the use; and providing an effective date; and further to adopt Ordinance No. 2001-9-31.

**Resolution No. 2001-9-32(R):** To approve the granting of a drainage easement being in the A.B. Hanna Survey, Abstract No.388, City of Plano, Collin County, Texas, across a portion of City of Plano park known as Preston Ridge Trail and authorizing the execution of the easement by the City Manager; and providing an effective date. [Regular Agenda Item (4)]

Upon a motion made by Council Member Lambert and seconded by Deputy Mayor Pro tem Dyer, the Council voted 7-0 to approve the granting of a drainage easement being in the A.B. Hanna Survey, Abstract No.388, City of Plano, Collin County, Texas, across a portion of City of Plano park known as Preston Ridge Trail and authorizing the execution of the easement by the City Manager; and providing an effective date; and further to adopt Resolution No. 2001-9-32(R).

**Ordinance No. 2001-9-33:** To provide for the issuance and sale of City of Plano, Texas, General Obligation Bonds, Series 2001A, in the amount of \$18,195,000; levying a tax in payment thereof; and enacting other provisions relating thereto. [Regular Agenda Item (5)]

Director of Finance McGrane advised that six bids were received and the lowest has a true interest cost of 4.751249 percent.

Upon a motion made by Council Member Lambert and seconded by Deputy Mayor Pro tem Dyer, the Council voted 7-0 to provide for the issuance and sale of City of Plano, Texas, General Obligation Bonds, Series 2001A, in the amount of \$18,195,000; levying a tax in payment thereof; and enacting other provisions relating thereto, and further to adopt Ordinance No. 2001-9-33.

**Ordinance No. 2001-9-34:** To provide for the issuance and sale of City of Plano, Texas, Tax Notes, Series 2001A, in the amount of \$4,200,000; levying a tax in payment thereof; and enacting other provisions relating thereto. [Regular Agenda Item (6)]

Director of Finance McGrane advised that three bids were received and that the lowest has a true interest cost of 3.201343 percent.

Upon a motion made by Mayor Pro tem Neudorff and seconded by Council Member McGee, the Council voted 7-0 to provide for the issuance and sale of City of Plano, Texas, Tax Notes, Series 2001A, in the amount of \$4,200,000; levying a tax in payment thereof; and enacting other provisions relating thereto; and further to adopt Ordinance No. 2001-9-34.

**Ordinance No. 2001-9-35:** To provide for the issuance and sale of City of Plano, Texas, Municipal Drainage Utility System Revenue Bonds, Series 2001, in the amount of \$4,530,000; and enacting other provisions relating thereto. [Regular Agenda Item (7)]

Director of Finance McGrane stated that the drainage bonds received an upgrade to "A1" and advised that three bids were received and that the lowest has a true interest cost of 4.826960 percent.

Upon a motion made by Council Member Stovall and seconded by Council Member Stahel, the Council voted 7-0 to provide for the issuance and sale of City of Plano, Texas, Municipal Drainage Utility System Revenue Bonds, Series 2001, in the amount of \$4,530,000; and enacting other provisions relating thereto; and further to adopt Ordinance No. 2001-9-35.

Director of Planning Phyllis Jarrell advised the Council that Staff has been working with the Planning and Zoning Commission and developers on the following two items and she requested they be tabled for two weeks to allow for clarification. The Council then voted on the two concurrently.

**Public Hearing and consideration of an ordinance as requested in Zoning Case 2000-86** – To amend Subsection 2-809 (SF-A - Single-Family-Attached) of Section 2-800 (District Charts) of Article 2 and related sections of the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, pertaining to the area, yard and bulk requirements, and other development standards for Single-Family-Attached (SF-A) uses; 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 (8)]

**Public Hearing and consideration of an ordinance as requested related to Proposed Amendment to the Subdivision Ordinance** – To amend the Subdivision Ordinance, Section 5.4 (Streets and Thoroughfares) f. (Access from Residential Subdivisions or Additions) of Article V (Requirements for Public Improvements, Reservations, and Design) and related sections of the Subdivision Ordinance as codified in Chapter 16, of Article VII of the Code of Ordinances pertaining to residential lot frontage standards necessary to obtain a certificate of satisfactory completion of the City of Plano Subdivision Ordinance as adopted by Ordinance No. 98-9-5, 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 (9)]

Upon a motion made by Council Member Stahel and seconded by Council Member Lambert, the Council voted 7-0 to table both Regular Agenda Item “8” Consideration of an ordinance as requested in Zoning Case 2000-86 – To amend Subsection 2-809 (SF-A - Single-Family-Attached) of Section 2-800 (District Charts) of Article 2 and related sections of the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, pertaining to the area, yard and bulk requirements, and other development standards for Single-Family-Attached (SF-A) uses; with provisions for penalty, repealer, savings and severability clauses and effective date. and Regular Agenda Item “9” Consideration of an ordinance as requested related to Proposed Amendment to the Subdivision Ordinance – To amend the Subdivision Ordinance, Section 5.4 (Streets and Thoroughfares) f. (Access from Residential Subdivisions or Additions) of Article V (Requirements for Public Improvements, Reservations, and Design) and related sections of the Subdivision Ordinance as codified in Chapter 16, of Article VII of the Code of Ordinances pertaining to residential lot frontage standards necessary to obtain a certificate of satisfactory completion of the City of Plano Subdivision Ordinance as adopted by Ordinance No. 98-9-5 with provisions for penalty, repealer, savings and severability clauses and effective date for two weeks.

**Public Hearing and adoption of Ordinance No. 2001-9-36 as requested in Zoning Case 2001-26** – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, so as to rezone 45.7± acres located on the southwest corner of Chaparral Road and proposed McKenzie Lane in the City of Plano, Collin County, Texas, from Agricultural (10.2± acres) and Planned Development-110-Single-Family-7 (35.5± acres) to Single-Family-7; 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 Agricultural and Planned Development-110-Single-Family-7. Neighborhood #24. Applicant: Brett Breazeale, John Mantooth, & Reid Irrevocable Trust [Regular Agenda Item (10)]

Director of Planning Phyllis Jarrell spoke regarding the developer's work with adjacent homeowners to address issues of lot size, street design, etc. She stated that the applicant has added ten acres to the request and that the property now has direct access to Chaparral Road and advised the Council that the Planning and Zoning Commission recommended approval of the request as submitted.

Mayor Akers opened the Public Hearing. David Schnurbusch, of USA Professional Services Group, Inc. representing the applicant and the developer, spoke to discussions with homeowners to address issues. Pat Miner, representing the Timber Brook Estates Homeowners Association, spoke in support of the item. 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 Lambert, the Council voted 7-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as requested in Zoning Case 2001-26, as heretofore amended, so as to rezone 45.7± acres located on the southwest corner of Chaparral Road and proposed McKenzie Lane in the City of Plano, Collin County, Texas, from Agricultural (10.2± acres) and Planned Development-110-Single-Family-7 (35.5± acres) to Single-Family-7 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. 2001-9-36.

**Public Hearing and Ordinance No. 2001-9-37 as requested in Zoning Case 2001-31** – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, so as to rezone a 2.3± acre tract, 950± feet south of State Highway 121 and 2,260± feet west of Independence Parkway in the City of Plano, Collin County, Texas, from Single-Family-Attached (SF-A) to Regional Employment (RE); 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 Single-Family-Attached. Neighborhood #2. Applicant: GKN Venture Ltd. [Regular Agenda Item (11)]

**Ordinance No. 2001-9-37 (cont'd)**

Director of Planning Phyllis Jarrell advised the Council that the applicant is requesting the property be brought into the adjacent Regional Employment zoning district and that the Planning and Zoning Commission recommended approval of the request as submitted. She stated that Single-Family-Attached would provide approximately eight units per acre.

Mayor Akers opened the Public Hearing. Kirk Williams, Winstead, Sechrest & Minick, representing the applicant stated he was available for any questions. No one else spoke either for or against the request. The Public Hearing was closed.

Upon a motion made by Council Member Lambert and seconded by Council Member Stovall, the Council voted 7-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as requested in Zoning Case 2001-31, as heretofore amended, so as to rezone a 2.3± acre tract, 950± feet south of State Highway 121 and 2,260± feet west of Independence Parkway in the City of Plano, Collin County, Texas, from Single-Family-Attached (SF-A) to Regional Employment (RE) 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. 2001-9-37.

**Public Hearing and Ordinance No. 2001-9-38 as requested in Zoning Case 2001-34 –** To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, to grant a request for a Specific Use Permit (SUP) for a Day Care Center on one lot on 1.4± acres on the northeast corner of Communications Parkway and Windcom Court in the City of Plano, Collin County, Texas, presently zoned Regional 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 Regional Employment. Neighborhood #29. Applicant: Jan's Transportation LLP [Regular Agenda Item (12)]

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

Mayor Akers opened the Public Hearing. Chuck McKinney, of Jones & Boyd, Inc., representing the applicant stated he was available for questions. No one else spoke either for or against the request. The Public Hearing was closed.

**Ordinance No. 2001-9-38 (cont'd)**

Upon a motion made by Mayor Pro tem Neudorff, and seconded by Council Member Stahel, the Council voted 7-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as requested in Zoning Case 2001-34, as heretofore amended, to grant a request for a Specific Use Permit (SUP) for a Day Care Center on one lot on 1.4± acres on the northeast corner of Communications Parkway and Windcom Court in the City of Plano, Collin County, Texas, and as recommended by Planning and Zoning Commission presently zoned Regional 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. 2001-9-38.

**Public Hearing and Ordinance No. 2001-9-39 as requested in Zoning Case 2001-35 –** To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, to grant a request for a Specific Use Permit (SUP) for a Day Care Center on one lot on 1.3± acres on the south side of Hedgcoxe Road, 525± feet west of Custer Road, in the City of Plano, Collin County, Texas, presently zoned 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 Retail. Neighborhood #11. Applicant: Seoul Enterprises, Inc. [Regular Agenda Item (13)]

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

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

Upon a motion made by Mayor Pro tem Neudorff, and seconded by Council Member Stahel, the Council voted 7-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as requested in Zoning Case 2001-35; as heretofore amended, to grant a request for a Specific Use Permit (SUP) for a Day Care Center on one lot on 1.3± acres on the south side of Hedgcoxe Road, 525± feet west of Custer Road, in the City of Plano, Collin County, Texas, presently zoned Retail 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. 2001-9-39.

The Council took a brief recess at 8:30 p.m. and reconvened at 8:42 p.m.

Due to a conflict of interest, Mayor Akers stepped down from the bench on the following item and did not return to the bench.

**Public Hearing and Ordinance No. 2001-9-40 as requested in Zoning Case 2001-37 –** To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, so as to amend the existing Heritage Resource H-24 designation to allow a private club as an additional use on 4.5± acres located at the southwest corner of H Avenue and 16th Street in the City of Plano, Collin County, Texas, 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 Business Government with Heritage Resource designation H-24. Neighborhood #59. Applicant: City of Plano [Regular Agenda Item (14)]

Director of Planning Phyllis Jarrell advised the Council that the proposed private club would be operated in the Courtyard Theater and would allow alcohol to be sold at theater events and private rentals and that the Heritage Resource zoning designation does allow uses that that normally would not be allowed under the base zoning. She stated that a standard used to determine appropriateness of an additional use is that it would help to ensure the preservation and long-term viability of the property. Ms. Jarrell further stated that within the Business Government district there is a separation requirement between private clubs and churches of 300 feet and in this case the front door of the proposed private club would be approximately 125 feet from the church property and approximately 345 feet from the front door of the church itself. She advised the Council that the Heritage Commission has reviewed the request and recommends approval and that the Planning and Zoning Commission recommended approval of the request with the following stipulations, which would be adopted under separate action and not made part of the heritage designation at this time.

1. Adoption of an alcohol sales and service policy for the theater as developed by the City of Plano.
2. Establishment of the Good Neighbor Committee for oversight of the Theater.

Performing Arts Manager Wear spoke regarding the hours of operation proposed in the alcohol sales and service policy and stated that alcoholic beverages would only be sold in glass or plastic containers, that all trash would be removed daily and that a proposal to include a confined outdoor area on the north side has not been finalized. He further stated that consumption would not be allowed outside the building or confined outdoor area.

City Attorney Wetherbee spoke to policies regarding hours of operation or other aspects of management being separate issues not part of the zoning ordinance and that they would be considered at a later date.

**Ordinance No. 2001-9-40 (cont'd)**

Mayor Pro tem Neudorff opened the Public Hearing. Judy Klote, an elder of First Christian Church, spoke for the elected representatives of the church who voted in opposition to the sales of alcohol at the Courtyard Theater. She spoke regarding petitions in opposition, being led by the bible and unintentional consequences related to the use of alcohol. Danny Housewright, elder and Chairman of the Board of the Congregation of First Christian Church, spoke regarding the small difference the sale of alcohol would make in the viability of the Courtyard Theater, the limited number of permits allowed in the BG district and the effect giving this one to the theater might have when restaurants come into the area, and concerns with the proximity of the church to this location. L. B. Showalter, property owner in the City and member of the First Christian Church, spoke to the income to be derived not being justification to allow a specific use permit and that it would be improper to serve alcohol next to the church. Ed Johnson, property owner in the City and member of the First Christian Church Board of Elders, spoke in opposition citing the limited impact of not allowing alcohol sales, the number of permits available in the area and to saving these for restaurants that would have the potential for bringing in more revenue. Robert Boone, Chairman of the Board of Elders of First Christian Church, spoke on behalf of the elders, and approximately 150 members and 250 members of neighboring churches. He stated concern that this request would encroach on the sanctity of the church and spoke regarding discussions that the success of the facility is dependent on the sale of alcohol, the vitality of the downtown area and concern that police involvement would be reactive in nature.

Chris Hatcher, member of the Haggard Park Homeowners Association and First Christian Church, spoke in support of the request and regarding neighborhood concerns that have been addressed by Staff. He spoke regarding the church board vote taken on the issue indicating that their leadership is not 100% against the proposal. Mr. Hatcher stated that the ability to serve alcohol is a non-issue and would have a low impact on the church and the surrounding neighborhood. Michael Hamilton, President of the City Center of Plano, also representing the merchants of Historic Downtown Plano, spoke in support of this request. Pam Hatcher, representing the Haggard Park Homeowners Association, spoke regarding the experience of others in this situation and stated that research indicates that no incidents have been reported related to alcohol sales and that no churches or neighborhoods have reported a negative impact. She spoke regarding meetings held with Staff and the proposed "Good Neighbor Committee" and looking at the community as a whole.

Rob Harrington, member of First Christian Church, spoke to this being a matter of reverence or economics. Joy Lambert, member of First Christian Church, spoke to Plano Independent School District efforts aimed at drug and alcohol awareness and that the historical marker for this location indicates that it was a school site. John Rambo, spoke to the importance of reverence in this matter. No one else spoke either for or against the request. The Public Hearing was closed.

**Ordinance No. 2001-9-40 (cont'd)**

Council Member Stahel spoke to respecting differing views, the Courtyard Theater being an asset to the community and downtown, the difference between having an average facility versus an excellent facility being the ability to attract events and those who would attend and regarding controlled conditions for service.

Ms. Jarrell stated that this request would count as one of the four private clubs that are allowed within the Business Government district. Mr. Wear stated that the City would need to make a policy decision regarding allowing individuals to bring their own alcoholic beverages.

Council Member McGee spoke regarding the request to waive the distance requirement to the church, the existing location of the Courtyard Theater, issues involved with allowing individuals to bring their own beverages, and revitalization and temporary private club permits. He stated that in this case, while he has concerns regarding the distance waiver, he supports the protection offered by the City which would have some control over what is consumed and how it is served.

Council Member Stovall spoke to the history of the development of the Courtyard Theater and to the support for its location in this area. He spoke regarding the transformation of the downtown area, the theater "fitting" for the neighborhood, the Heritage designation and Haggard Park area, and being an asset. Mr. Stovall stated that while the theater is within the 300-foot distance to the church there has been debate, and expressed his support.

Council Member Lambert spoke regarding his votes against zoning cases that were within the acceptable distance for apartments and single family residential districts and stated that he could not vote in support of this requested use (site) being adjacent to the church. He further stated that this discussion should have been conducted at an earlier time when the location was being considered, and further that he would be voting in opposition.

Mayor Pro tem Neudorff spoke to the Council being led to believe that there was no opposition, that a number of the art groups that will be using the site currently serve alcohol where they perform, and that he is not convinced that the sale of alcohol is necessary for a small theater. He spoke regarding his prior denials of distance waivers and stated that after listening to the testimony, he would not support the request.

**Ordinance No. 2001-9-40 (cont'd)**

A motion was made by Council Member Stahel and seconded by Council Member Stovall, to approve the amendment to the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as requested in Zoning Case 2001-37; as heretofore amended, so as to amend the existing Heritage Resource H-24 designation to allow a private club as an additional use on 4.5± acres located at the southwest corner of H Avenue and 16th Street in the City of Plano, Collin County, Texas; 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. 2001-9-40. The Council voted 4-2 with Mayor Pro tem Neudorff and Council Member Lambert voting in opposition. The motion carried.

There being no further discussion, Mayor Pro tem Neudorff adjourned the meeting at 9:34 p.m.

---

Jeran Akers, **MAYOR**

---

Rick Neudorff, **MAYOR PRO TEM**

ATTEST:

---

Elaine Bealke, **City Secretary**