

PLANO CITY COUNCIL
September 26, 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
John Gilliam, First Assistant City Attorney
Elaine Bealke, City Secretary

Mayor Evans convened the Council into the Regular Session on Monday, September 26, 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 Campus Pastor Mark Morgan of the Fellowship Church – Plano.

The Pledge of Allegiance was led by Cub Scout Pack 284, Forman Elementary.

Mayor Evans recognized the Food Service Sanitation Award recipients.

GENERAL DISCUSSION

Sonja Hammar, citizen of the City, complimented citizens, the Council and Staff for welcoming those displaced by recent hurricanes. She thanked the Council for posting notice of the dedication of land to the Arts of Collin County Commission and stated disappointment that the Commission did not.

Jack Lagos, citizen of the City, spoke to the Arts of Collin County Commission not posting notice of the dedication celebration and to requirements stated in the *Open Meetings Handbook*. He stated concern regarding assurances that no discussion would take place regarding any business and that citizens were not invited to this event.

BOARD/COMMISSION REPORTS

Parks and Recreation Planning Board

Chair Wormald spoke to accomplishments of the board including passage of the park bond referendum and the progress being made on the Oak Point Park and Nature Preserve with construction to begin in spring 2006 and opening summer of 2007. Mr. Wormald spoke regarding the Tom Muehlenbeck Center opening the summer of 2007, the Oak Point Amphitheater completed in August, Preston Meadow Park to be complete this fall, Arbor Hills Nature Preserve whose second phase was completed in July and Archgate Park construction beginning in spring 2006. He spoke to the Park Master Plan Update being reviewed by the Parks and Recreation Planning Board with City Council review expected early next year. The Council thanked Mr. Wormald for his service.

Public Arts Committee

Chair Coleman spoke to the work done by the board over the last year including dedication of the first public art piece in the City's commissioned collection, the Art Walk event in downtown Plano, art selection for the Tom Muehlenbeck Center, adoption of the Public Art Funding Ordinance, development of the first proposed public art CIP budget for 2005-2006, and the development of the Public Art Community Outreach Program. He spoke to future planning for the Memorial Park Project, continuing to explore opportunities for outside funding for public art through corporate funds and grants and the possibilities of an annual "Sculpture in the Park" exhibit. Mr. Coleman spoke to the addition of sculptures on Bishop Road and thanked citizens, the Council and Staff for their support. He advised that an interim report on "Sculpture in the Park" exhibit will be provided in approximately six months.

Mayor Evans asked the public to provide information regarding individuals and organizations so that they might be recognized for the support given to individuals displaced by hurricanes in recent weeks. She spoke to *Hurricane Heros* recognizing volunteerism and humanitarian relief efforts in the community.

The Council resumed discussion of the Preliminary Open Meeting.

Review and Discuss an Amended Site Plan for the Rice Field Redevelopment Project

Scott Schaefer of Lexington Luxury Builders reviewed plans for the project including architectural features, muse streets which will be used as a functional planning tool to minimize paving and maximize open green space and a one-acre greenbelt. He spoke to the site plan which includes 100 units, the narrowing of area streets to provide two travel lanes and two parking lanes, the widening of sidewalks with connectivity to area locations, and landscaping/lighting features. Mr. Schaefer spoke to the development being thirty percent green space, perimeter townhomes facing the community and to the level of parking for non-residents.

Jack Lagos, citizen of the City, requested the Council schedule an agenda item to discuss the possibility of designating Rice Field as a Historic site. He spoke to the significance of this site and consideration of an alternate location for development at the northwest corner of Park Boulevard and K Avenue.

Mr. Schaefer advised the Council that land acquisition and construction of infrastructure will not be phased-in but that the construction of buildings will. He stated that the muse streets are wide enough to allow for emergency access and advised that plans to commemorate Rice Field have not yet been finalized, but will be included. Mr. Schaefer advised that the greenbelt will be open to the public and will include arbors, benches, and water features. He spoke to the homeowner's association documents requiring garage parking, advised that the units will range from 1,600 – 2,600 square feet with prices starting in the range of \$269,000, and stated that buildout could take as long as four years.

Mayor Pro Tem Lambert spoke to receiving input from citizens concerned that nothing will commemorate the Rice family like this field and stated concern that the intersection of two major collector streets is going to be narrowed. He spoke to providing parking on-site and stated he could not support the plan. Mr. Schaefer spoke to creating a transit-oriented development and Mr. Lambert spoke to having everything in writing before casting a vote.

Director of Planning Jarrell advised that a development agreement will be brought back to the Council which will include plans. She spoke to the additional parking and street trees helping to pull the project visually closer to the Haggard Park Neighborhood. First Assistant City Attorney Gilliam stated that the site plan and public improvements will be attached to the development agreement. Ms. Jarrell stated that a planned development is anticipated for zoning, that there has been discussion regarding adopting the zoning exhibit to tie down design basics and that some façade designs need to be considered by the Heritage Commission. Council Member Magnuson spoke to the developer being responsive to neighborhood requests and working with the long-range goals of the City. Deputy Mayor Pro Tem Johnson spoke positively regarding the green space being an open public area.

Executive Director Turner reviewed the history of the City's acquisition of Rice Field as a redevelopment site and spoke to the site only being available for sporting activities conducted through organizations. He advised that at the end of the current season, equipment will be dismantled by the school district and the field cleared. Mr. Turner spoke to development at this location reinforcing downtown as a neighborhood and urban center, to the support of commercial activities and transit use. He spoke to this development being in line with the goal established in 1998 to add 1,000 dwelling units within a one-quarter mile radius of the rail platform. Mayor Evans spoke to the strategic plan for development and support of the downtown business area and stated that relocating the project would not address this goal. Mr. Turner advised that the development would qualify for lending under the Smart Commute Program and further that the City has gained significant national notoriety with regards to its downtown development. He spoke to the project being an extension of the existing neighborhood.

Mary Compton, citizen of the City, spoke in support of the request, the receptiveness of the developers to input from area residents, commercial vacancies along 15th Street and stated that major traffic is only a concern when games are held at the field. Naomi Goolsbee, citizen of the City, spoke in support of the project and to it helping to revitalize the downtown area.

Comprehensive Monthly Financial Report

Director of Finance McGrane spoke regarding the Comprehensive Monthly Financial Report for August 2005, advising that sales tax is up 12%, unemployment rates have dropped and single-family housing starts are up. He spoke to the growth in commercial values and the decrease in single family permit revenue due to the number of patio homes being constructed. Mr. McGrane spoke to the increase in water usage due to the hot, dry summer months and reviewed the distribution of investments.

CONSENT AGENDA

Upon the request of citizen Jack Lagos, Consent Agenda Item "I" was removed for individual consideration.

Upon the request of Council Member Stahel, Consent Agenda Item "G" was removed for individual consideration due to a possible conflict of interest.

Upon the request of Mayor Pro Tem Lambert, Consent Agenda Item "P" was removed for individual consideration due to a possible conflict of interest. Citizen Pam Hatcher requested that Consent Agenda Item "P" be removed for discussion.

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

Approval of Minutes [Consent Agenda Item (A)]
September 12, 2005

Approval of Expenditures

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

Bid No. 2005-247-C Public Works Mowing and Landscaping Services to Brandon's Landscape Service in the estimated annual amount of \$73,361. This will establish an annual fixed price contract with two optional one-year renewals. [Consent Agenda Item (B)] (See Exhibit "A")

Bid No. 2005-257-C Street Sign Blades & Blanks to Roadrunner Traffic Supply, Inc. in the estimated annual amount of \$43,526. This will establish an annual fixed price contract with two optional one-year renewals. [Consent Agenda Item (C)] (See Exhibit "B")

Bid No. 2005-232-C Oil & Lubrication Products to Steagall Oil and Buckley Oil Company in the estimated annual amount of \$93,420. This will establish an annual fixed price contract with two optional one-year renewals. [Consent Agenda Item (D)] (See Exhibit "C")

Bid No. 2005-210-B to RDO Equipment Company for the Purchase of one (1) New or Used Articulating Loader 4.0 YD Capacity in the amount of \$184,223 to be utilized in the Environmental Waste Department. [Consent Agenda Item (E)] (See Exhibit "D")

Rejection of Bid No. 2005-239-C Environmental Waste Truck Parts. [Consent Agenda Item (F)] (See Exhibit "E")

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 one (1) New Holland TS115A Tractor with Alamo Machete Boom Mower in the amount of \$81,149 from Landmark Equipment Company, Inc., through H-GAC Cooperative Purchasing Program contract and authorizing the City Manager to execute any and all documents necessary to effectuate this purchase. (GR01-04) [Consent Agenda Item (H)]

Adoption of Resolutions

Resolution No. 2005-9-14(R): To approve and authorize refunds of property tax overpayments; and providing an effective date. [Consent Agenda Item (J)]

Resolution No. 2005-9-15(R): To approve the appointment of the Health Authority for the City of Plano in accordance with Section 121.033 of the Texas Health and Safety Code; and providing an effective date. [Consent Agenda Item (K)]

Resolution No. 2005-9-16(R): To authorize the City of Plano to participate in and receive funding through the Texas Highway Traffic Safety Program for an Intersection Traffic Control Project, PIN 17560006409000, targeting intersections regulated by means of a signal light; authorizing the City Manager to execute the grant agreement and any other documents necessary to effectuate the action taken; and providing an effective date. [Consent Agenda Item (L)]

Resolution No. 2005-9-17(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 reconstruction of the US 75 and Parker Road interchange; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (M)]

Resolution No. 2005-9-18(R): To approve the terms and conditions of a drainage easement located at the southeast corner of McDermott Road and proposed Rasor Road which is designated as park land but hasn't been used as a park, authorizing its execution by the City Manager, and providing an effective date. [Consent Agenda Item (N)]

Resolution No. 2005-9-19(R): To approve the Cities Aggregation Power Project's (CAPP) Letter of Intent to enter into negotiations for a capacity contract with the owner of coal (including Texas Lignite) generation to supply the base load electric power needs for CAPP members over a 10-year period and providing an effective date. [Consent Agenda Item (O)]

Resolution No. 2005-9-20(R): To encourage the Texas Municipal League to support legislation that requires using 100% of the State Motor Fuel Tax for the development, operation, and maintenance of the State Road System. [Consent Agenda Item (Q)]

Resolution No. 2005-9-21(R): To approve the terms and conditions of an interlocal cooperation agreement by and between the City of Plano and the City of Murphy providing terms and conditions for governmental services including residential and commercial building plan examinations and building inspections, authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (R)]

Adoption of Ordinances

Ordinance No. 2005-9-22: To repeal Ordinance No. 2003-9-13; establishing a certification pay plan for classified members of the Plano Fire and Police Departments; establishing an assignment pay plan for members of the Plano Fire Department serving in the capacity of paramedic; establishing a Shift Personnel Coordinator and Paramedic Preceptor pay plan for members of the Plano Fire Department; establishing an Assignment Pay Plan for members of the Plano Police Department serving in the capacity of field training officers; and providing a repealer clause, a severability clause, and an effective date. [Consent Agenda Item (S)]

Ordinance No. 2005-9-23: To repeal Ordinance No. 2005-6-28; establishing the number of certain classifications within the Police and Fire Departments for Fiscal Year 2005-2006; establishing the authorized number and effective dates of such positions for each classification effective October 1, 2005 and January 1, 2006, respectively; establishing a new salary plan for the Police and Fire Departments effective October 3, 2005; and providing a repealer clause, a severability clause and an effective date. [Consent Agenda Item (T)]

Ordinance No. 2005-9-24: 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 (U)]

Ordinance No. 2005-9-25: To transfer the sum of \$500,000 from the General Fund Unappropriated Fund Balance to the General Fund Operating Appropriation for Fiscal Year 2004-05 for the purpose of additional funding for the establishment of a Disaster Relief Fund; amending the budget of the City and Ordinance No. 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 (V)]

Ordinance No. 2005-9-26: To determine the public use, need and necessity for the acquisition of fee simple title to a 31.0169 acre (1,351,096 square feet) tract of land generally located adjacent to White Rock Creek south of Spring Creek Parkway, in the City of Plano, Collin County, Texas, for a public park and related public improvements in the City of Plano, Collin County, Texas, authorizing the City Attorney, to file proceedings in eminent domain to acquire the needed real property; and providing an effective date. [Consent Agenda Item (W)]

Ordinance No. 2005-9-27: To determine the public use, need and necessity for the acquisition of fee simple title to a 2.606 acre (113,517.36 square feet) tract of land located at the southeast corner of Spring Creek Parkway and Windhaven Parkway, in the City of Plano, Collin County, Texas, for a public park and for the purpose of constructing, reconstructing and maintaining street and highway facilities and related public improvements in the City of Plano, Collin County, Texas, authorizing the City Attorney to file proceedings in eminent domain to acquire the needed real property; and providing an effective date. [Consent Agenda Item (X)]

Ordinance No. 2005-9-28: To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, so as to rezone 18.8± acres located at the northwest corner of Windhaven Parkway and Red Wolf Lane in the City of Plano, Collin County, Texas, from Agricultural to Single-Family Residence-6; 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. Zoning Case 2005-29. Item was approved by the City Council on 9/12/05. [Consent Agenda Item (Y)]

END OF CONSENT:

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

Purchase from Existing Contract/Agreement: To authorize the purchase of network infrastructure equipment in the amount of \$72,820 from Internetwork Experts through the Department of Information Resources (DIR) contract, and authorizing the City Manager to execute all necessary documents. (DIR#: DIR-BUSOP-012) [Consent Agenda Item (G)]

Upon a motion made by Deputy Mayor Pro Tem Johnson and seconded by Council Member Magnuson, the Council voted 7-0 to authorize the purchase of network infrastructure equipment in the amount of \$72,820 from Internetwork Experts through the Department of Information Resources (DIR) contract.

Council Member Stahel resumed his seat at the bench.

Resolution No. 2005-9-29(R): To approve the terms and conditions of an agreement by and among the Town of Fairview, the Cities of Allen, Frisco and Plano and the Arts of Collin County Commission, Inc. for Fairview to be a “Member” of the Arts of Collin County Commission, Inc.; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (I)]

Jack Lagos, citizen of the City, spoke to the Arts of Collin County resolution passed in February, 2004 which states if there is no approved project, members cannot be added. First Assistant Gilliam advised that he knew of no basis for not voting on this item.

Upon a motion made by Council Member Magnuson and seconded by Deputy Mayor Pro Tem Johnson, the Council voted 8-0 to approve the terms and conditions of an agreement by and among the Town of Fairview, the Cities of Allen, Frisco and Plano and the Arts of Collin County Commission, Inc. for Fairview to be a “Member” of the Arts of Collin County Commission, Inc.; authorizing its execution by the City Manager; and providing an effective date; and further to adopt Resolution No. 2005-9-29(R).

Due to a possible conflict of interest, Mayor Pro Tem Lambert stepped down from the bench.

Resolution No. 2005-9-30(R): To approve the terms and conditions of a First Amendment to Option Contract by and between Richard Howe and the City of Plano; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (P)]

Executive Director Turner advised that Mr. Howe has requested a one-year extension of the option and other amendments including modifying the agreement to provide an option for land acquisition upon substantial completion of 44 units rather than 50 and provide for the sale of an additional 100 square feet of land located on the south side of the current option tract. He reviewed the history of the agreement for residential development and steps that have been taken to this point and advised that there are five townhomes acquired or under contract and nine condominium contracts pending. Mr. Turner spoke to redevelopment being more complicated than new development.

Citizen Pam Hatcher representing the Haggard Park Homeowners Association spoke in opposition to the item, requested the Council receive documentation regarding sales and stated concern regarding concentrating property ownership in the hands of a few individuals. She stated disappointment in the developer’s performance. Naomi Goolsbee, citizen of the City, spoke in opposition to the item, and stated concern regarding the quality of the development and the effect should the properties become rental units. Mary Compton, citizen of the City, spoke in opposition to the item citing disappointment in the development.

Resolution No. 2005-9-30(R) (cont'd)

Upon a motion made by Council Member Stahel and seconded by Council Member Callison, the Council voted 7-0 to approve the terms and conditions of a First Amendment to Option Contract by and between Richard Howe and the City of Plano; authorizing its execution by the City Manager; and providing an effective date; and further to adopt Resolution No. 2005-9-30(R).

Mayor Pro Tem Lambert resumed his seat on the bench.

Discussion and possible action regarding re-allocation of FY 2005-2006 Cultural Arts Grants funds previously recommended for Plano Repertory Theater. [Regular Agenda Item (1)]

Creative Arts Manager Wear stated that since the funds recommended for the Plano Repertory Theater (PRT) have been set aside in a contingency fund prior to the passage of the FY 2005-2006 budget, it is recommended that \$66,000 be held for possible rent subsidies for new users of the Courtyard Theater and that the remaining monies be allocated for supplemental grants for local arts agencies. He spoke to the PRT being the principal tenant for the Arts Center Theater as well. Council Member Stahel spoke to possibly delaying action in order to encompass all organizations affected. Council Member Magnuson spoke to those arts organizations currently receiving funding who will be affected by the closure of PRT applying to the Cultural Affairs Commission. City Manager Muehlenbeck responded to Mayor Pro Tem Lambert that these funds are designated for the arts rather than historical items. Mayor Pro Tem Lambert spoke to determining what the impact will be. Council Member Stahel reaffirmed that the intent is to allocate monies for possible rent subsidies and that the remainder will be utilized to address supplemental requests. Mr. Wear spoke to the amount of \$66,000 being the total that would have been paid by PRT for rental during 2005 and 2006 and advised that a process similar to the original request will be used for supplements.

Sonja Hammar, citizen of the City, spoke to the disbursement of additional funds to existing organizations fostering dependency. She spoke to the decrease in funding received by the Thornton House and the desperate condition of the property. Ms. Hammar requested the Council find monies to address this situation. Mayor Pro Tem Lambert requested that the Council address how to preserve the Thornton House.

Discussion and possible action regarding the recommendation of Ray King to be the artist for the art element at the Tom Muehlenbeck Center. [Regular Agenda Item (2)]

Chair of the Public Arts Committee Coleman advised the Council that the proposed public art element for the Thomas Muehlebeck Center is Ray King's "Landscape of Light," a suspended glass and cable structure designed for the atrium area above the main reception desk which will interact with natural and ambient light to add a dramatic/dynamic effect welcoming visitors to the center. He spoke regarding the curving shape, the element being visible from the jogging track and advised that fabrication would take approximately five to six months with installation taking one week.

Mayor Pro Tem Lambert spoke to Council discussions of traditional artwork and Mayor Evans spoke to having something integral to the building. Mr. Coleman responded to Mayor Pro Tem Lambert regarding cleaning of the piece by electrostatic wand.

Deputy Mayor Pro Tem Johnson spoke to the colors and reflections changing depending on the light and the piece being visible from other areas in the building. Council Member Ellerbe spoke to viewing the piece from the jogging track. Mr. Coleman responded to Council Member Stahel regarding the load factor for each cable, the staggering of glass and the durability of safety glass. The Council concurred to proceed to contract.

Public Hearing and adoption of Resolution No. 2005-9-31(R) to adopt the Park Forest II Neighborhood Action Plan as proposed by the Park Forest II Neighborhood Planning Team, and approving its use by the appropriate personnel and departments of the City of Plano for the purpose of guiding future development and provision of City Services within the Park Forest II Neighborhood; and providing an effective date. The general area is bounded on the east by Alma Drive, on the west by Green Oaks Drive, on the North by Spring Creek Parkway and on the south by Cross Bend Road. Applicant: City of Plano [Regular Agenda Item (3)]

Urban Planner Soltan spoke to community involvement in the creation of the action plan. Greg Gormley, representing the Park Forest II Neighborhood spoke to the goal to create a positive community image and instill community pride, maintain and preserve the quality of the existing residential properties by promoting homeownership, housing rehabilitation and code compliance. He spoke to the number of rental properties in this area and homeowners inherently having a vested interest in the upkeep of their homes. Mr. Gormley spoke regarding the park system in the area, its benefits, and the goal to ensure they are maintained. He spoke to addressing transportation issues including the number of cars parked on the street and issues related to the heavy leaf drop in the area and associated standing water. Mr. Gormley spoke to promotion and enhancement of community spirit and thanked Staff for their assistance.

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 adopt the Park Forest II Neighborhood Action Plan as proposed by the Park Forest II Neighborhood Planning Team, and approving its use by the appropriate personnel and departments of the City of Plano for the purpose of guiding future development and provision of City Services within the Park Forest II Neighborhood; and providing an effective date. The general area is bounded on the east by Alma Drive, on the west by Green Oaks Drive, on the North by Spring Creek Parkway and on the south by Cross Bend Road; and further to adopt Resolution No. 2005-9-31(R).

Public Hearing and adoption of Resolution No. 2005-9-32(R) to adopt the Thunderbird Neighborhood Action Plan as proposed by the Thunderbird Neighborhood Planning Team, and approving its use by the appropriate personnel and departments of the City of Plano for the purpose of guiding future development and provision of City Services within the Thunderbird Neighborhood; and providing an effective date. The general area is bounded on the north and west by Alma Drive, on the south by Parker Road and on the east by Premier Drive. Applicant: City of Plano [Regular Agenda Item (4)]

Urban Planner Ball spoke regarding the neighborhood's involvement in the process. Frank Kalbac, resident of the neighborhood spoke to the area representing two different developments and the goal to assure stable property values and generate community pride by maintaining the quality of residential properties through home rehabilitation and code compliance. He spoke to utilizing solid waste services, promoting homeownership and maintenance and reducing stray animals. Mr. Kalbac spoke regarding transportation including access to the area retail center, the possible removal of a barrier limiting access to the newly completed Premier Drive, finding a way to post speed limit signs in the alleys and upgrading streets. He spoke to addressing standing water near the Rousseau Shopping Center, addressing lighting concerns and requested information on the type of trees to plant in order to regrow the neighborhood canopy. Mr. Kalbac spoke to encouraging relationships among neighbors and efforts including a neighborhood webpage, crime watch program, neighborhood events, resident guide, neighborhood association, historical record and sign toppers.

Planner Ball responded to the Council that the area will go through the Safe Streets Program to address the issue of barricades and discussion of access to area shopping centers.

Mayor Evans opened the Public Hearing. No one else spoke either for or against the request. The Public Hearing was closed. Council Member Ellerbe spoke to the neighbors coming together to purchase trees in bulk.

Upon a motion made by Council Member Stahel and seconded by Council Member Ellerbe, the Council voted 7-0 to adopt the Thunderbird Neighborhood Action Plan as proposed by the Thunderbird Neighborhood Planning Team, and approving its use by the appropriate personnel and departments of the City of Plano for the purpose of guiding future development and provision of City Services within the Thunderbird Neighborhood; and providing an effective date. The general area is bounded on the north and west by Alma Drive, on the south by Parker Road and on the east by Premier Drive; and further to adopt Resolution No. 2005-9-32(R). (Deputy Mayor Pro Tem Johnson was away from the bench.)

Public Hearing and adoption of Ordinance No. 2005-9-33 as requested in Zoning Case 2005-16 – to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, so as to rezone 199.0± acres located at the northeast corner of Los Rios Boulevard and Cloverhaven Way in the City of Plano, Collin County, Texas, from Agricultural to Single-Family Residence-7 and Single-Family Residence-6; 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: Newmark Homes [Regular Agenda Item (5)]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission recommended approval of the request as submitted. She stated that the plan initially called for a patio home component but that it has since been amended to Single-Family Residence-7 and Single-Family Residence-6.

Mayor Evans opened the Public Hearing. Rich Albrich, representing Newmark Homes spoke to consideration of this site, meetings held with residents and revision of the original plan. Pat Miner, representing the Timberbrook Estates Homeowners Association, spoke in support of the request. 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 Mayor Pro Tem Lambert, the Council voted 8-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, so as to rezone 199.0± acres located at the northeast corner of Los Rios Boulevard and Cloverhaven Way in the City of Plano, Collin County, Texas, from Agricultural to Single-Family Residence-7 and Single-Family Residence-6 as requested in Zoning Case 2005-16 and as recommended by the Planning and Zoning Commission; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date; and further to adopt Ordinance No. 2005-9-33.

Public Hearing and adoption of Ordinance No. 2005-9-34 as requested in Zoning Case 2005-25 – to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, so as to rezone 10.6± acres located generally at the northeast corner of Parker Road and Custer Road in the City of Plano, Collin County, Texas, from Planned Development-90-Retail to Planned Development-175-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. Applicant: Custer Parker LTD. [Regular Agenda Item (6)]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission recommended approval of the request as Planned Development-Retail zoning subject to:

1. Building material sales and superstore are additional allowed uses.
2. The supplemental regulations for superstore use are amended as follows:

Ordinance No. 2005-9-34 (cont'd)

- a. The required landscape edge along residential district boundary lines shall be a minimum of 20 feet in width.
 - b. The required landscape edge along Parker Road shall be a minimum of 25 feet in width.
 - c. The separation distance between the superstore building and adjacent residential zoning district shall be a minimum of 60 feet in width.
3. The required parking shall be 461 parking spaces.

Ms. Jarrell advised that the applicant has submitted a Traffic Impact Analysis indicating that with or without this development the intersection of Custer and Parker Roads will be at Level "F" in 2007. She spoke to the developer's proposed redesign of driveways and medians to improve access and provide additional stacking for traffic. Ms. Jarrell responded to the Council that the rear of the former store was 40 feet and the proposal will be 25 at the closest point.

Bill Dahlstrom, of Jackson Walker LLP, representing the applicant, reviewed the existing condition of the property and the proposal to redevelop pursuant to the retail study. He spoke to plans to raze the current structure as well as a two-story element on the site, meetings held with Staff and the neighborhood which resulted in a reduction of the structure to 102,000 square feet, with a 34,000 square foot garden center and removal of a parking structure. Mr. Dahlstrom spoke to outside storage along the building, proposals to improve median breaks, adjusted curb cuts and install a gate along the loading areas which would be closed except when trucks are entering or leaving. He spoke to removal of the building's orange stripe, Spanish tile on some of the awnings, the agreement to comply with noise ordinance restrictions and modifications/enhancements to landscape plans. Mr. Dahlstrom spoke to renovating the area and requested approval.

Mayor Evans opened the Public Hearing. Charles Anglin, representing the Rainier Sunwest Portfolio I, L.P., leasers of adjacent retail property, spoke in support of the proposal and the opportunity to bring the center back. He responded to Deputy Mayor Pro Tem Johnson stating that the cross parking and the new addition will be enhancements. Stephanie Zajac, owner of a maid service at Parker/Custer Roads spoke in support of the request and regarding it being a positive step in the growth of the City. David M. Smith, representing the Copper Creek and other area homeowners' associations, stated concerns regarding the development being a building materials sales superstore, concerns related to the operator, motorized equipment used after hours and requested additional stipulations be included in the planned development. Ken Allatt, citizen of the City, spoke in opposition to the request citing noise, traffic and dirt. He spoke to noncompliance at other Home Depot locations and requested the Council include additional conditions in the planned development and adopt the site plan with the ordinance.

Ordinance No. 2005-9-34 (cont'd)

Mr. Allat requested the City aggressively enforce current ordinances. Ken Metz, citizen of the City, stated concerns regarding the operational policies at area Home Depots including on-site truck parking, trash left out, and blocked driveways and fire exits. Dana W. Beynon, of the Price Realty Corporation representing the apartments abutting the development, spoke in support of the request. Tray Hodge of Custer Parker, Ltd. spoke to the lack of interest in this location and the proposal being an improvement over current conditions. Audrey Doncell, citizen of the City, spoke in opposition citing the lack of separation, concerns regarding outdoor storage and addressing these concerns by including stipulations in the planned development. She requested consideration of moving the building further west to accommodate more landscaping and avoid light spillage into the neighborhood. Linda Want, a tenant at the location, spoke in support of the request and regarding Home Depot's efforts to assist her in relocating her business.

Amy King, citizen of the City spoke in support of the request and regarding retail problems in the area affecting home values. She spoke to homeowners making their purchase based on the property being zoned Retail. Danny Raj, a tenant at the northeast corner of Parker/Custer Roads stated concern that his lease was granted without knowledge of this development and spoke in favor of Home Depot. Jennifer Reynolds, leaser of property at this location, spoke to the problems associated with vacant retail properties and stated there has been no interest in this building. Mary Kroncke, citizen of the City spoke in opposition, stating that the development is inappropriate for the site and spoke to looking for a more creative use. Blane O'Banion, speaking on behalf of Weingarten Realty Investors, developers of the southwest corner of Parker/Coit Roads spoke in support of the development bringing quality retail traffic, new jobs and sales tax dollars.

Mr. Dahlstrom thanked everyone involved and spoke to the proposal enhancing the corner, redevelopment requiring flexibility and the setback modifications only affecting the eastern and northern sides of the building. He requested approval as recommended by the Planning and Zoning Commission with additional stipulations addressing the screening gates and inclusion of the preliminary site plan as part of the planned development. Hunter Stansbury, of The Home Depot advised regarding operating hours.

Director of Planning Jarrell reviewed restrictions contained in the noise ordinance and stated that the City Attorney concluded that forklifts would be covered. She spoke to the difficulty of enforcing gate restrictions, advised that if the site plan were included and changes made, it would need to come back through the process, and that this attachment informs all parties of expectations. Mr. Stansbury advised regarding the design and stated that elevations can be tied to the ordinance as well.

Council Member Ellerbe stated that the existing building could be opened 24 hours and that no modification would need to be done. She stated she was comfortable with the plan, and did not find it necessary to attach the site plan. Mr. Stansbury responded to Mayor Pro Tem Lambert that they could not accommodate moving the building 40 feet to the west. No one else spoke either for or against the request. The Public Hearing was closed.

Ordinance No. 2005-9-34 (cont'd)

Council Member Stahel spoke to adding a stipulation regarding closing the gate screening and having the preliminary site plan adopted as part of the request. Mayor Pro Tem Lambert requested attachment of the façade plan as well. Ms. Jarrell spoke to adding stipulations to the ordinance.

City Manager Muehlenbeck stated concern regarding enforcement of gate restrictions and Mayor Pro Tem Lambert spoke to enforcement by the Property Standards Department. Council Member Ellerbe stated concern with including the site plan.

A motion was made by Council Member Stahel and seconded by Mayor Pro Tem Lambert to approve and to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, so as to rezone 10.6± acres located generally at the northeast corner of Parker Road and Custer Road in the City of Plano, Collin County, Texas, from Planned Development-90-Retail to Planned Development-175-Retail as requested in Zoning Case 2005-25 and as recommended by the Planning and Zoning Commission with the inclusion of additional stipulations:

4. The gate screening the loading and unloading area must be closed at all times except during the arrival and departure of vehicles accessing the loading and unloading area.
5. The revised preliminary site plan and facade plan, attached as Exhibits "B" and "C" respectively, are adopted as part of the ordinance.

The Council further directed 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 adopting Ordinance No. 2005-9-34 as amended. The Council voted 7-1 with Council Member Ellerbe voting in opposition.

There being no further discussion, Mayor Evans adjourned the meeting at 11:55 p.m.

Pat Evans, MAYOR

ATTEST:

Elaine Bealke, City Secretary