

PLANO CITY COUNCIL
October 8, 2007

COUNCIL MEMBERS

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

STAFF

Thomas H. Muehlenbeck, City Manager
Frank Turner, Executive Director
Bruce Glasscock, Executive Director
Rod Hogan, Executive Director
Diane C. Wetherbee, City Attorney
John Gilliam, First Assistant City Attorney
Diane Zucco, City Secretary

Mayor Evans convened the Council into the Regular Session on Monday, October 8, 2007, at 7:01 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 Jack Schneider of St. Paul Lutheran Church.

The Pledge of Allegiance was led by Boy Scout Troop 380 of St. Andrew Methodist Church.

SPECIAL RECONGITIONS AND PROCLAMATIONS

Mayor Evans recognized Citizens Assisting Plano Police (CAPP) for their One-Year Anniversary and Melissa O'Neal who was honored at the Writers' League of Texas Agents and Editors Conference.

OATHS OF OFFICE

Mayor Evans administered oaths of office to incoming and reappointed members of the boards and commissions.

BOARD AND COMMISSION REPORT

Director of Finance McGrane spoke regarding the Tax Increment Financing Reinvestment Zone No. 1 Board which covers the area of the Willow Bend Mall and was created under state statutes to become an advisory board to the City Council. He spoke to the two major construction projects in the zone (public parking spaces and the Sockwell Training Center) being complete and revenues for the zone for this fiscal year at \$4.73 million. Mr. McGrane spoke to outstanding debts within the zone to repay the developer for public parking (\$3.9 million) and the obligation of upfront monies for the training center (\$5.4 million). He advised that payoff should be accomplished in two years.

Mr. McGrane spoke regarding the Tax Increment Financing Reinvestment (TIF) Zone No. 2 Board where initial projects have been completed including a Plano Independent School District (PISD) facility, renovation of the Cox Theater and administration building. He advised that tax revenues for 2007 should be in the range of \$3.4 million and the two outstanding notes including upfront costs for the Cox Theater (\$1.5 million) and school district bonds to upfront the cost of the administration building (\$5.1 million). Mr. McGrane advised that payoff should be accomplished in three years or less which is well in advance of the twelve years projected. He responded to the Council that the TIF's were established for fifteen year periods of time and that incremental revenue can only be spent on public improvements in the zone and to participation by the City, Collin County, Collin County Community College and PISD.

COMMENTS OF PUBLIC INTEREST

Jack Lagos, citizen of the City, spoke to providing the current packet at Council meetings. He spoke to the City's charter speaking to the avoidance of even the appearance of impropriety, requested clarification regarding Ms. Bane's signature on tax returns for the Plano Economic Development Board (PEDB) which is a private company document and the omission of her name on a list of the board. He spoke to City Manager Muehlenbeck's resignation as treasurer and stated concern regarding his service in this capacity. Mr. Lagos spoke to the PEDB being a public entity based on the fact that its main contributor is the City of Plano and to making public records available.

CONSENT AGENDA

Upon the request of Staff, Consent Agenda Item "D" was pulled and held.

Citizen Jack Lagos requested Consent Agenda Item "P," a resolution to approve the terms and conditions of an Economic Development Program Agreement by and between the City of Plano, Texas, and Nexen Petroleum U.S.A., Inc. be removed for individual consideration.

Upon the request of Staff, Consent Agenda Item "Q" was removed for individual consideration.

Staff advised that the applicant for Regular Agenda Item "4" has requested it be withdrawn.

Upon a motion made by Council Member LaRosiliere and seconded by Council Member Ellerbe, the Council voted 8-0 to approve and adopt all remaining items on the Consent Agenda as recommended and as follows:

Approval of Minutes [Consent Agenda Item (A)]

September 24, 2007

Approval of Expenditures

Purchase from Existing Contract/Agreement: (Purchase of products/services through Cooperative Purchasing Interlocal Contract with another governmental/quasi-governmental agency or an additional purchase from current City of Plano annual purchase agreement).

To approve of expenditure to replace existing operable wall and wall covering in restrooms and corridors at the Plano Centre, in the amount of \$300,762 from Hisaw & Associates General Contractors, Inc., through an existing Contract/Agreement with The Interlocal Purchasing System (TIPS), and authorizing the City Manager to execute all necessary documents. (TIPS Vendor Contract No. 14012707) [Consent Agenda Item (B)]

Change Order: (Change to current City of Plano contract allowable under State law)

To North Texas Contracting, Inc., increasing the contract by \$160,325 for Dallas North Trunk Sewer Main Rehab – Phase III, Change Order No. 1. (Original Bid No. 2007-117-B). This change order is for the incremental cost to change from polymer concrete manholes to concrete manholes lined with Polytriplex liner to protect the manhole from corrosion. [Consent Agenda Item (C)]

Public Improvement Agreement

To approve the terms and conditions of a Public Improvement Agreement by and between the City of Plano, Texas, and Wolverine Equities Company 2000 Highway 190 L.P., in the amount of \$100,000 for participation in the Mapleshade Lift Station located south of Mapleshade Lane between Ohio Drive and Coit Road [Consent Agenda Item (D)] (This item pulled and held)

Adoption of Resolutions

Resolution No. 2007-10-1(R): To approve the terms and conditions of an Interlocal Cooperation Agreement for Library Services by and between the City of Plano and Collin County, Texas providing the terms and conditions for receipt of funding in the amount of \$79,113 from Collin County; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the Agreement herein; and providing an effective date. [Consent Agenda Item (E)]

Resolution No. 2007-10-2(R): To authorize the purchase of library materials for Plano Public Library System (PPLS) in the amount of \$350,000 from the Brodart Company through the Northeast Texas Library System (NETLS) contract; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the purchase approved herein and providing an effective date. [Consent Agenda Item (F)]

Resolution No. 2007-10-3(R): To authorize the purchase of library materials for Plano Public Library System (PPLS) in the amount of \$500,000 from Baker & Taylor through the Northeast Texas Library System (NETLS) contract; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the purchase approved herein and providing an effective date. [Consent Agenda Item (G)]

Resolution No. 2007-10-4(R): To authorize the purchase of specialized online database library services for Plano Public Library System from Amigos Library Services through Plano Public Library System's membership with OCLC, the sole source supplier of comprehensive interlibrary loan and bibliographic record purchases; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the purchase approved herein; and providing an effective date. [Consent Agenda Item (H)]

Resolution No. 2007-10-5(R): To suspend the October 25, 2007, effective date of Atmos Energy Corp., Mid-Tex Division requested rate change to permit the City time to study the request and to establish reasonable rates; approving cooperation with Atmos Cities Steering Committee and other cities in the Atmos Energy Corp., Mid-Tex Division service area to hire legal and consulting services and to negotiate with the company and direct any necessary litigation and appeals; requiring reimbursement of cities' rate case expenses; finding that the meeting at which this resolution is passed is open to the public as required by law; requiring notice of this resolution to the company and legal counsel; and providing an effective date. [Consent Agenda Item (I)]

Resolution No. 2007-10-6(R): To approve the terms and conditions of a quote by and between the City of Plano and Diversified Metal Fabricators, Inc., the sole source provider of bleachers with vinyl coated steel seats and vinyl coated seat backs; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (J)]

Resolution No. 2007-10-7(R): To approve the terms and conditions of an Interlocal Agreement by and between the City of Plano and the North Central Texas Council of Governments (NCTCOG) providing terms and conditions for an Expanded Regional Storm Water Management Program; authorizing the City Manager to execute any and all documents deemed necessary to effectuate the action taken; and providing an effective date. [Consent Agenda Item (K)]

Resolution No. 2007-10-8(R): To approve the terms and conditions of an Agreement by and between Signature Towing, Inc. and the City of Plano; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (L)]

Resolution No. 2007-10-9(R): To approve the terms and conditions of a Professional Services Agreement by and between City of Plano and Southern Methodist University for educational services at a fee not to exceed \$30,000; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (M)]

Resolution No. 2007-10-10(R): To approve the terms and conditions of an Interlocal Agreement by and between City of Plano and University of Texas at Dallas for educational services at a fee not to exceed \$30,000; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (N)]

Resolution No. 2007-10-11(R): To amend the existing Building Inspections Department Fee Schedule to provide for additional City Services and Programs; repealing all previous fee schedules and charges for services listed in the new Building Inspections Department Fee Schedule; and providing a repealer clause, a severability clause, and an effective date: [Consent Agenda Item (O)]

Adoption of Ordinances

Ordinance No. 2007-10-12: To approve the carrying forward of Fiscal Year 2006-2007 funds to Fiscal Year 2007-2008; and providing an effective date. [Consent Agenda Item (R)]

END OF CONSENT

Resolution No. 2007-10-13(R): To approve the terms and conditions of an Economic Development Program Agreement by and between the City of Plano, Texas, and Nexen Petroleum U.S.A., Inc., to promote state and local economic development and to stimulate business and commercial activity in the City and County, and authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (P)]

Jack Lagos, citizen of the City, requested the Council deny or table the item and spoke to the Chief Operating Officer of Granite Properties acting as secretary for the Plano Economic Development Board (PEDB), PEDB being located there and there being another company located there that has received economic development funding.

First Assistant City Attorney Gilliam advised that the fact that PEDB leases space at Granite Properties and that two economic development incentives have been granted to companies in these facilities does not create a conflict of interest. He spoke to there being several grants under consideration at various locations in the City and the fact that two happen to be located in a desirable business locations does not indicate a conflict. Mr. Gilliam spoke to any implication that a board member or officer of PEDB has any influence in the location or approval of a 380 grant being misleading since the PEDB is not a decision-making body but is a private entity and while it is true that they receive money under contract from the City does not remove the fact that it is a separate entity and not a governmental one. He stated that under the contract there are employees provided to PEDB to assist them in their functions (to draw economic development to the City), but that the board is advisory only and assists in the facilitation of bringing candidates to the City.

Resolution No. 2007-10-13(R) (cont'd)

Mr. Gilliam advised that the City Council decides whether or not a company receives a grant and how much it will be. Mr. Lagos spoke to seeing open records regarding transactions.

Upon a motion made by Council Member LaRosiliere and seconded by Council Member Ellerbe, the Council voted 8-0 to approve the terms and conditions of an Economic Development Program Agreement by and between the City of Plano, Texas, and Nexen Petroleum U.S.A., Inc., to promote state and local economic development and to stimulate business and commercial activity in the City and County, and authorizing its execution by the City Manager; and providing an effective date; and further to adopt Resolution No. 2007-10-13(R).

Ordinance No. 2007-10-14: To repeal Ordinance No. 65-5-2, as codified in Chapter 21 Utilities, Division 2, Private Wells, Section 21-36 through Section 21-46 of the Code of Ordinances in its entirety and enacting this new Chapter 21, Utilities, Division 2, Section 21-36 through 21-47, Private Wells in the Code of Ordinances establishing regulations for the construction and operation of water wells in Plano; providing for definitions; providing for permit and license requirements and fees; providing for testing and inspections; providing for construction requirements; providing a repealer clause; a savings clause; a severability clause; a penalty clause; and providing an effective date. [Consent Agenda Item (Q)]

First Assistant City Attorney Gilliam advised that this item was removed in order to make several floor amendments including adding the word “functioning” in Section 21-37(e)(7) and Section 21-44(a)(6), (7), and (8) prior to “septic tanks.” He spoke to revisions in Section 21-44(b) where references to 21-45(a) should read 21-44(a) and that Section 21-47 should be referred to as 21-46.1

Upon a motion made by Mayor Pro Tem Magnuson and seconded by Council Member LaRosiliere, the Council voted 8-0 to repeal Ordinance No. 65-5-2, as codified in Chapter 21 Utilities, Division 2, Private Wells, Section 21-36 through Section 21-46 of the Code of Ordinances in its entirety and enacting this new Chapter 21, Utilities, Division 2, Section 21-36 through 21-47, Private Wells in the Code of Ordinances establishing regulations for the construction and operation of water wells in Plano; providing for definitions; providing for permit and license requirements and fees; providing for testing and inspections; providing for construction requirements; and as revised by floor amendments; providing a repealer clause; a savings clause; a severability clause; a penalty clause; and providing an effective date; further to adopt Ordinance No. 2007-10-14 as revised.

Public Hearing pursuant to Chapter 26 of the Texas Parks and Wildlife Code pertaining to use or taking of a portion of City of Plano Park, known as Evans Park, for a permanent and temporary water line easement. [Regular Agenda Item (1)]

Chief Engineer of CIP Cosgrove spoke to the item requesting an easement to install a water line on a portion of Evans Park which will allow maintenance while continuing water service to apartment complexes in the vicinity. He provided photographs of the location, advised that one tree will be removed and spoke to the Council finding that there is no feasible and prudent alternative to the use or taking of the park land as proposed by the project and that the project includes all reasonable planning to minimize harm to the park land resulting from the use or taking and further that the park will be restored to its present condition when the project is complete. He responded to the Council that the Public Works Department will be doing the construction, to making sure there are two distinct sources of water and to this being a safety issue. Mr. Cosgrove advised that the hackberry tree will be replaced with another type at another location.

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

Ordinance No. 2007-10-15: To approve a project for a permanent and temporary water line easement to the City of Plano, Texas, requiring the use or taking of a portion of City of Plano public park land, known as Evans Park; 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 (2)]

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 Johnson and seconded by Council Member Stahel, the Council voted 8-0 to approve a project for a permanent and temporary water line easement to the City of Plano, Texas, requiring the use or taking of a portion of City of Plano public park land, known as Evans Park; 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. 2007-10-15.

Public Hearing and adoption of Ordinance No. 2007-10-16 as requested in Zoning Case 2007-21 to amend Subsection 2.820 (CC - Corridor Commercial) of Section 2.800 (District Charts) of Article 2 (Zoning Districts and Uses); Subsection 3.511 of Section 3.500 (Front Yard Regulations); Subsection 3.606 of Section 3.600 (Side Yard Regulations); and Subsection 3.704 of Section 3.700 (Rear Yard Regulations) of Article 3 (Supplementary Regulations) and related sections of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, pertaining to residential setback requirements of the Corridor Commercial zoning district; 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 (3)]

Ordinance No. 2007-10-16 (cont'd)

Director of Planning Jarrell spoke to the Planning and Zoning Commission calling a Public Hearing to consider amending the Zoning Ordinance pertaining to setback requirements for nonresidential development within the Corridor Commercial (CC) zoning district. She spoke to the CC zoning district created in 1999, incorporating the requirements utilized for the Regional Employment (RE) and Regional Commercial (RC) districts and to those areas containing larger and deeper parcels of land and being bounded by thoroughfare separating nonresidential uses from residential. Ms. Jarrell spoke to the setbacks limiting development for some of the smaller properties in the CC district and the proposal to change the requirements to mirror those in other parts of the City where there is a relationship between commercial and residential zoning. She spoke to approval by the Planning and Zoning Commission with recommendations as follows:

1. Amend the Corridor Commercial zoning district by deleting the "Setbacks from Residential Districts" portion of Subsection 2.820(3) (Area, Yard and Bulk Requirements), and amending setbacks to read as follows:

Minimum Front Yard: 50 feet, except as specified in Section 3.500 ~~and setbacks from Residential Districts below.~~

Minimum Side Yard: None, except as specified in Section 3.600.

~~Maximum~~ Minimum Rear Yard: None, or ten feet where no alley abuts the property line except as specified in Section 3.700.

2. Establish general setback standards for nonresidential development in the Corridor Commercial district from adjacent residential zoning districts by omitting the Corridor Commercial zoning district reference as stated in Subsections 3.511 (Front Yard Regulations), Subsection 3.606 of Section 3.600 (Side Yard Regulations), and Subsection 3.704 of Section 3.700 (Rear Yard Regulations)

Ms. Jarrell responded to the Council that the landscaping requirements have not been revised, simply the setbacks.

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

Ordinance No. 2007-10-16 (cont'd)

Upon a motion made by Council Member LaRosiliere and seconded by Council Member Ellerbe, the Council voted 8-0 to amend Subsection 2.820 (CC - Corridor Commercial) of Section 2.800 (District Charts) of Article 2 (Zoning Districts and Uses); Subsection 3.511 of Section 3.500 (Front Yard Regulations); Subsection 3.606 of Section 3.600 (Side Yard Regulations); and Subsection 3.704 of Section 3.700 (Rear Yard Regulations) of Article 3 (Supplementary Regulations) and related sections of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, pertaining to residential setback requirements of the Corridor Commercial zoning district as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2007-21; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date; and further to adopt Ordinance No. 2007-10-16.

Public Hearing and an Ordinance as requested in Zoning Case 2007-29 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 587 so as to allow the additional use of Private Club on one lot on 0.1± acre of land, located on the east side of Bishop Road, 301± feet north of Lunsford Road in the City of Plano, Collin County, Texas, presently zoned Planned Development-65-Central Business-1; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: Inland Southwest Management. [Regular Agenda Item (4)]

Director of Planning Jarrell advised the Council that Staff has received a letter from the applicant's representative requesting to withdraw the zoning case from consideration and stated her recommendation that Council accept the request. Joel Rich, representing the applicant advised that a letter of withdrawal was submitted.

Upon a motion made by Deputy Mayor Pro Tem Callison and seconded by Council Member Ellerbe, the Council voted 8-0 to accept the request to withdrawal Zoning Case 2007-29 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 587 so as to allow the additional use of Private Club on one lot on 0.1± acre of land, located on the east side of Bishop Road, 301± feet north of Lunsford Road in the City of Plano, Collin County, Texas, presently zoned Planned Development-65-Central Business-1.

Public Hearing and adoption of Ordinance No. 2007-10-17 as requested in Zoning Case 2007-23 to repeal in its entirety Ordinance No. 89-8-7; thereby rescinding Specific Use Permit No. 35 for the additional use of Private Club on 0.1± acre of land, located on one lot on the west side of U.S. Highway 75, 1,837± feet north of Plano Parkway in the City of Plano, Collin County, Texas, and amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, to reflect such action; 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: City of Plano. [Regular Agenda Item (5)]

Ordinance No. 2007-10-17 (cont'd)

Director of Planning Jarrell advised the Council that at an election in May 2005 voters approved a different type of permit and clubs have transitioned from a Private Club Permit to a Mixed-Beverage Permit. Ms. Jarrell stated that Council and the Planning and Zoning Commission advised they wanted the ordinance revised and unused Private Club Permits rescinded. Ms. Jarrell spoke of the restaurants involved in these cases and stated they have all switched to the Mixed-Beverage Permits and notified the City Secretary of their action. She advised the Council that the cases are being processed in the order the permit was transitioned.

Ms. Jarrell spoke of the process to notify property owners thirty days in advance of the public hearing notice to explain consideration of removing specific use permits. She advised that notices have been sent in accordance with state law. Ms. Jarrell advised the Council that the Planning and Zoning Commission recommended approval of the request and the restaurant is the former Tia's location on US Highway 75.

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 Ellerbe and seconded by Mayor Pro Tem Magnuson, the Council voted 8-0 to repeal in its entirety Ordinance No. 89-8-7; thereby rescinding Specific Use Permit No. 35 for the additional use of Private Club on 0.1± acre of land, located on one lot on the west side of U.S. Highway 75, 1,837± feet north of Plano Parkway in the City of Plano, Collin County, Texas, as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2007-23; and amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, to reflect such action; 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 furthermore to adopt Ordinance 2007-10-17.

Public Hearing and adoption of Ordinance No. 2007-10-18 as requested in Zoning Case 2007-24 to repeal in its entirety Ordinance No. 77-9-20; thereby rescinding Specific Use Permit No. 37 for the additional use of Private Club on 1.2± acres of land, located on one lot on the northeast corner of U.S. Highway 75 and Central Parkway in the City of Plano, Collin County, Texas, and amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, to reflect such action; 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: City of Plano. [Regular Agenda Item (6)]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission recommended approval of the request and the restaurant is the Steak and Ale location on US Highway 75.

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

Ordinance No. 2007-10-18 (cont'd)

Upon a motion made by Council Member Ellerbe and seconded by Council Member Johnson, Council voted 8-0 to repeal in its entirety Ordinance No. 77-9-20; thereby rescinding Specific Use Permit No. 37 for the additional use of Private Club on 1.2± acres of land, located on one lot on the northeast corner of U.S. Highway 75 and Central Parkway in the City of Plano, Collin County, Texas, as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2007-24; and amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, to reflect such action; 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 furthermore to adopt Ordinance 2007-10-18.

Public Hearing and adoption of Ordinance No. 2007-10-19 as requested in Zoning Case 2007-25 to repeal in its entirety Ordinance No. 80-1-19; thereby rescinding Specific Use Permit No. 52 for the additional use of Private Club on 1.3± acres of land, located on one lot on the east side of U.S. 75, 275± feet north of Central Parkway in the City of Plano, Collin County, Texas, and amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, to reflect such action; 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: City of Plano. [Regular Agenda Item (7)]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission recommended approval of the request and the restaurant is the Bennigan's location on US Highway 75.

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 Ellerbe and seconded by Council Member LaRosiliere, Council voted 8-0 to repeal in its entirety Ordinance No. 80-1-19; thereby rescinding Specific Use Permit No. 52 for the additional use of Private Club on 1.3± acres of land, located on one lot on the east side of U.S. 75, 275± feet north of Central Parkway in the City of Plano, Collin County, Texas, as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2007-25; and amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, to reflect such action; 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 furthermore to adopt Ordinance 2007-10-19.

Public Hearing and adoption of Ordinance No. 2007-10-20 as requested in Zoning Case 2007-26 to repeal in its entirety Ordinance No. 80-4-26; thereby rescinding Specific Use Permit No. 56 for the additional use of Private Club on one lot on 0.6± acre of land located on the southwest corner of Custer Road and Parker Road in the City of Plano, Collin County, Texas, and amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, to reflect such action; 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: City of Plano. [Regular Agenda Item (8)]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission recommended approval of the request and the restaurant is the Mama's Pizza located on Parker Road.

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 Mayor Pro Tem Magnuson and seconded by Council Member Johnson, Council voted 8-0 to repeal in its entirety Ordinance No. 80-4-26; thereby rescinding Specific Use Permit No. 56 for the additional use of Private Club on one lot on 0.6± acre of land located on the southwest corner of Custer Road and Parker Road in the City of Plano, Collin County, Texas, as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2007-26; and amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, to reflect such action; 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 furthermore to adopt Ordinance 2007-10-20.

Public Hearing and adoption of Ordinance No. 2007-10-21 as requested in Zoning Case 2007-27 to repeal in its entirety Ordinance No. 83-6-11; thereby rescinding Specific Use Permit No. 60 for the additional use of Private Club on 343.9± acres of land, located on multiple lots generally bounded by Parker Road on the north, Tate Avenue and Winding Hollow Lane on the east, King Isle Drive on the west, and State Highway 190 on the south in the City of Plano, Collin County, Texas, and amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, to reflect such action; 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: City of Plano. [Regular Agenda Item (9)]

Director of Planning Jarrell spoke of the number of letters received in opposition and concerns that the land was going to be rezoned to allow residential development to occur. Ms. Jarrell stated that misinformation was clarified and as a result the notices were also improved. She advised the Council that the Planning and Zoning Commission recommended approval of the request and that the SUP is for Gleneagles Golf Course.

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

Ordinance No. 2007-10-21 (cont'd)

Upon a motion made by Council Member LaRosiliere and seconded by Council Member Dunlap, Council voted 8-0 to repeal in its entirety Ordinance No. 83-6-11; thereby rescinding Specific Use Permit No. 60 for the additional use of Private Club on 343.9± acres of land, located on multiple lots generally bounded by Parker Road on the north, Tate Avenue and Winding Hollow Lane on the east, King Isle Drive on the west, and State Highway 190 on the south in the City of Plano, Collin County, Texas, as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2007-27; and amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, to reflect such action; 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 furthermore to adopt Ordinance 2007-10-21.

Public Hearing and adoption of Ordinance No. 2007-10-22 as requested in Zoning Case 2007-28 to repeal in its entirety Ordinance No. 80-9-3; thereby rescinding Specific Use Permit No. 63 for the additional use of Private Club on one lot on 1.6± acres of land located on the north side of Central Parkway East, 213.2± feet east of U.S. Highway 75 in the City of Plano, Collin County, Texas, and amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, to reflect such action; 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: City of Plano [Regular Agenda Item (10)]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission recommended approval of the request and the restaurant is the Best Buffet restaurant location.

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 Johnson and seconded by Mayor Pro Tem Magnuson, Council voted 8-0 to repeal in its entirety Ordinance No. 80-9-3; thereby rescinding Specific Use Permit No. 63 for the additional use of Private Club on one lot on 1.6± acres of land located on the north side of Central Parkway East, 213.2± feet east of U.S. Highway 75 in the City of Plano, Collin County, Texas, as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2007-28; and amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, to reflect such action; 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 furthermore to adopt Ordinance 2007-10-22.

Ordinance No. 2007-10-23: To repeal City of Plano Ordinance Nos. 98-2-26, and 98-8-35, codified as Article VI, Historic Landmark Preservation, of Chapter 16 of the Code of Ordinances of the City of Plano; and adopting new and amended provisions for Heritage Resource Preservation for the City; providing a penalty clause, a repealer clause, and an effective date. Tabled 8/27/07 and 9/10/07 [Regular Agenda Item (11)]

Ordinance No. 2007-10-23 (cont'd)

Upon a motion made by Council Member Stahel and seconded by Council Member Ellerbe, the Council voted 8-0 to remove the item from the table.

Heritage Preservation Officer Bear spoke regarding proposed amendments to the Preservation Ordinance as requested from the Heritage Commission including: the introduction and definition of three new terms (*Contributing Resources, Individually Designated Resources, and Preliminary Certificate of Appropriateness*) and inclusion of a 40-year minimum age criteria. She spoke to removal of the recommendation regarding a minimum age and continuation of its use as a guideline noted in the Preservation Plan. Ms. Bear spoke to additional amendments including: additional language explaining that the Commission will comply with and provide notice of public meetings per the Texas Open meetings Act; increasing the number of business days (from 30 to 60) that the Heritage Commission has to act on a Certificate of Appropriateness request; introducing language detailing that Certificates of Appropriateness expire one year from the date of approval and criteria for requesting/approving/denying extensions; creating a Preliminary Certificate of Appropriateness review process; and granting the Commission authority to delegate review/approval of some Certificate of Appropriateness requests by Staff where the Commission has preapproved criteria.

Ms. Bear spoke to granting the Commission the authority to deny demolition of "individually designated resources" when it previously only had authority to delay demolition. She advised that there are presently 32 individually designated structures, with 12 having commercial or non-profit uses. Ms. Bear advised that if requests are based on an economic hardship, the City will need to hire a real estate consultant to analyze the situation with a cost between \$7,500 to \$20,000 for commercial property and \$1,000 to \$2,000 for residential property. She spoke regarding the relocation of a structure and stated while this may be appropriate in some situations, it should be considered on a case-by-case basis since the context of the site is critical in determining its historical significance and ability to be designated at the local, state and national levels. Ms. Bear spoke to the current appeals process and possible language similar to that in the Zoning Ordinance that would allow the applicant, Planning Director or City Council to appeal any action of the Commission in regard to Preliminary Certificates of Appropriateness, Certificates of Appropriateness, Demolition Delays and Demolition Denials.

Ms. Bear responded to the Council that as written, responsibility for determining the need for an appraisal would rest with the Commission. Director of Planning Jarrell spoke to making a decision whether or not the Council wishes to prevent demolition of a structure and to expenditures of a consultant following purchasing procedures of the City. She advised that the City would be obligated if the need for analysis became necessary to prove there was no other financially feasible use of the property. Executive Director Turner spoke to the possibility being remote that there would be a structure outside of the immediate downtown area seeking demolition and falling under this requirement.

Ordinance No. 2007-10-23 (cont'd)

Ms. Bear spoke to the current 32 individually designated resources and to the need for properties to meet heritage designation requirements before consideration under this section. She responded to the Council regarding amendments to include an appeals provision for the Planning Director and City Council. Mr. Turner spoke to the floor amendments to remove the minimum age for designation reference and to amend the appeals process.

Upon a motion made by Mayor Pro Tem Magnuson and seconded by Deputy Mayor Pro Tem Callison, the Council voted 8-0 to repeal City of Plano Ordinance Nos. 98-2-26, and 98-8-35, codified as Article VI, Historic Landmark Preservation, of Chapter 16 of the Code of Ordinances of the City of Plano; and adopting new and amended provisions for Heritage Resource Preservation for the City with floor amendments expanding *Appeals* [Sec. 16-102(d)] to include the applicant, Director of Planning or two members of the City Council and expanding the process for appeals; clarifying the *Contributing Resources* and *Demolition Delay* definitions (Sec 16-103); clarifying criteria (Sec. 16-105) to remove reference to a minimum property age; removal of *Appeals* from Sec. 16-116 as the process is provided in a previous section; providing a penalty clause, a repealer clause, and an effective date; and further to adopt Ordinance No. 2007-10-23 with revisions.

There being no further discussion, Mayor Evans adjourned the meeting at 8:32 p.m.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, City Secretary