

PLANO CITY COUNCIL
October 22, 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
Diane Zucco, City Secretary

Mayor Pro Tem Magnuson convened the Council directly into the Regular Session from the Preliminary Open Meeting on Monday, October 22, 2007, at 7:01 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present with exception of Mayor Evans.

The invocation was led by Council Member LaRosiliere.

The Pledge of Allegiance was led by Cub Scout Pack 421 of Andrews Elementary.

SPECIAL RECONGITIONS AND PROCLAMATIONS

Mayor Pro Tem Magnuson recognized Mary Zumwalt, Ms. Texas Senior America and Susan Beckley-Helt for 25 years of Service to the City of Plano. She further presented proclamations recognizing Animal Shelter Appreciation Week and Arbor Day, 2007.

OATHS OF OFFICE

Mayor Pro Tem Magnuson administered oaths of office to incoming and reappointed members of the boards and commissions.

CERTIFICATES OF APPRECIATION

Mayor Pro Tem Magnuson presented Certificates of Appreciation to outgoing members of the boards and commissions.

BOARD AND COMMISSION REPORT

Plano Youth Advisory Commission Chair Asta Feng spoke to their mission to be the voice of the Plano teen community by exploring issues and developing activities which will promote positive youth relations with and for the City of Plano. She spoke to Commission projects including the mock alcohol-related car crashes, Christmas parade participation, government day, assisting with Kid's Night Out and attendance at the "GateKeeper Program." Ms. Feng spoke to the Commission providing government knowledge and YacFest held in the Spring. Deputy Mayor Pro Tem Callison spoke to members of the Commission attending the National League of Cities Conference.

COMMENTS OF PUBLIC INTEREST

Jack Lagos, citizen of the City, requested clarification on the status of Plano Economic Development Board (PEDB) Director Sally Bane and City Manager Muehlenbeck responded that she is a City employee. Mr. Lagos spoke to her signature on the tax returns for the board which is a private entity as being against the Code of Conduct for employees. He spoke to the PEDB funding coming from public sources and to the Chief Operating Office of Granite Properties acting as the secretary for the PEDB. Mr. Lagos spoke to the location of PEDB and companies receiving economic development funding being located at Granite Properties.

The Council resumed discussion of items from the Preliminary Open Meeting.

CONSENT AGENDA

City Manager Muehlenbeck requested Consent Agenda Item "L," a resolution to approve the terms and conditions of a Settlement and Release Agreement by and between Oncor Electric Delivery Company and the City of Plano, be removed for individual consideration.

Council Member Stahel requested that Consent Agenda Items "T," a resolution to terminate the contract entered into by and between Garrison Enterprises, Inc., dba Digital Health, Inc., for Bid CSP No. 2006-133-B for the purchase of Inspection Software System in the amount of \$57,900; and "U," a resolution to approve the terms and conditions of a Support Services Agreement with SunGard HTE, Inc. for the maintenance and support of SunGard HTE Software Applications; be removed for individual consideration due to possible conflicts of interest.

Citizen Jack Lagos requested that Consent Agenda Item "M," a resolution to approve the terms and conditions of an Economic Development Program Agreement by and between the City of Plano, Texas, and Invensys Systems Inc., and "N," a resolution to approve the terms and conditions of an Economic Development Program Agreement by and between the City of Plano, Texas, and Terex Corporation, a resolution be removed for individual consideration.

Upon a motion made by Council Member LaRosiliere and seconded by Council Member Stahel, the Council voted 7-0 to approve and adopt all remaining items on the Consent Agenda as recommended and as follows:

Approval of Minutes [Consent Agenda Item (A)]

October 8, 2007

Approval of Expenditures

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

Bid No. 2007-208-B for the Parkwood Boulevard Widening – Park Boulevard to Spring Creek Parkway street project, to Tiseo Paving Company, Inc., in the amount of \$4,145,991. [Consent Agenda Item (B)] (See Exhibit “A”)

Bid No. 2007-209-C for Environmental Waste Truck Parts to Heil of Texas, RLS Services, and SWS. This will establish an annual fixed price contract with three optional one-year renewals in the total estimated annual amount of \$333,960. [Consent Agenda Item (C)] (See Exhibit “B”)

Bid No. 2007-216-C for Printing Services for the Parks and Recreation Leisure Catalog to DFW Printing in the annual amount of \$86,592. This will secure unit pricing and establish an annual fixed price contract for one year with three City optional renewals. [Consent Agenda Item (D)] (See Exhibit “C”)

Bid No. 2007-218-B, 2006-2007 Screening Wall Panel Replacement Project- Re-bid to Ratliff Hardscape, LTD. in the amount of \$323,300. This project involves the demolition and reconstruction of “thin wall” screening wall panels around various subdivisions in the City. [Consent Agenda Item (E)] (See Exhibit “D”)

Bid No. 2007-219-B, 2007-2008 Residential and Arterial Pavement Under- sealing and Raising Contract to URETEK USA, Inc., in the amount of \$1,660,200. This project will involve the injection of high density polyurethane foam to under-seal and raise street and alley pavement on residential and arterial thoroughfare locations identified by the City. [Consent Agenda Item (F)] (See Exhibit “E”)

RFQ No. 2007-59-B for an Emergency Medical Services System analysis for the City of Plano Fire Department to Matrix Consulting Group in the amount of \$61,900. [Consent Agenda Item (G)] (See Exhibit “F”)

Approval of Contract

To Connolly Architects, Inc., in the amount of \$367,930, for design, bidding and construction administration of an addition to the Animal Shelter. [Consent Agenda Item (H)]

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 the purchase of labor and materials for mechanical, electrical and fire protection system modifications at the Joint-Use Facility, in the amount of \$171,366 from Centennial Contractors Enterprises, Inc. through an existing contract/agreement with Texas Cooperative Purchasing Network (TCPN), and authorizing the City Manager to execute all necessary documents. (TCPN Vendor Contract No. R4538) [Consent Agenda Item (I)]

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

To Core Construction increasing the contract by \$155,586 for the Tom Muehlenbeck Center project, Change Order No. 6 (Bid No. 2006-39-B). [Consent Agenda Item (J)]

Adoption of Resolutions

Resolution No. 2007-10-24(R): To approve and authorize the refunds of Property Tax Overpayments; and providing an effective date. [Consent Agenda Item (K)]

Resolution No. 2007-10-25(R): To authorize the purchase of a service agreement from 3M Library Systems, suppliers of maintenance for 3M equipment in the amount of \$50,611 for the Plano Public Library System; 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. **Resolution No. 2007-10-34(R):** To approve the terms and conditions of a Settlement and Release Agreement by and between Oncor Electric Delivery Company and the City of Plano; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (O)]

Resolution No. 2007-10-26(R): To approve the terms and conditions of an Interlocal Agreement by and between the City of Plano and Collin County, Texas, for the widening and extension of Parkwood Boulevard from Park Boulevard to Spring Creek Parkway; authorizing its execution by the City Manager and providing an effective date. [Consent Agenda Item (P)]

Resolution No. 2007-10-27(R): To approve the terms and conditions of the Funding Agreements between the City of Plano, Texas, and various arts organizations, which all render services that are beneficial to the public and serve a valid public purpose; authorizing the City Manager to execute such agreements with these organizations for provision of support of the arts; and providing an effective date. [Consent Agenda Item (Q)]

Resolution No. 2007-10-28(R): To approve the terms and conditions of the Funding Agreement between the City of Plano and Plano Santa's Inc. for performance of the 2007 Plano Christmas Parade; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (R)]

Resolution No. 2007-10-29(R): To approve the terms and conditions of an Amendment to Development Agreement with Lexington Luxury Builders, LLC for Plano-Rice Field Redevelopment Project; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (S)]

Resolution No. 2007-10-30(R): To approve the terms and conditions of an agreement by and between Redmoon, Inc. and the City of Plano for Public Wireless Internet Services; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (V)]

Adoption of Ordinances

Ordinance No. 2007-10-31: To abandon all right, title and interest of the City, in and to that certain Alliance Boulevard Round-About Right-of-Way being situated in the Denton Darby Survey, Abstract Number 260, which is located within the City limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such Right-of-Way to the abutting property owners, Two Lips Partners, Ltd. and Baylor Medical Center at Plano, to the extent of its interest; authorizing the City Manager to execute any documents deemed necessary; and providing an effective date. [Consent Agenda Item (W)]

Ordinance No. 2007-10-32: To abandon all right, title and interest of the City, in and to that certain Alliance Boulevard Round-About Right-of-Way being situated in the Denton Darby Survey, Abstract Number 260, which is located within the City limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such Right-of-Way to the abutting property owners, Arch Pardue and Feel Good, Ltd., to the extent of its interest; authorizing the City Manager to execute any documents deemed necessary; and providing an effective date. [Consent Agenda Item (X)]

Ordinance No. 2007-10-33: To repeal Section 18-34 of Chapter 18, Solid Waste, Article II, Collection Charges of the Code of Ordinances of the City of Plano, codified in Ordinance No. 2006-10-23, in its entirety and enacting this new Chapter 18, Solid Waste, Article II, Section 18-34 in the Code of Ordinances of the City of Plano establishing a revised schedule of rates and charges for solid waste disposal and collection applicable to commercial accounts; providing a repealer clause; a severability clause; and providing an effective date. [Consent Agenda Item (Y)]

END OF CONSENT

Resolution No. 2007-10-34(R): To approve the terms and conditions of a Settlement and Release Agreement by and between Oncor Electric Delivery Company and the City of Plano; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item "L")

Director of Customer and Utility Services Israelson spoke to work done with Oncor to come to agreement on the street light audit and recommended amendments to verbiage to allow flexibility in determining the number of poles painted and straightened as follows:

Amendment to the agreement Section I. Street Light Improvement Work last sentence should read: "Oncor and the City may mutually agree to adjust the final count of poles to be painted and straightened each year and Oncor and City may mutually agree on the exact split of work between painting and straightening poles each year which agreements shall not be unreasonably withheld by either party and, so long as the cost to Oncor of the total program of work is not increased above *that which would be incurred by Oncor for the work specified in this paragraph.*"

Mr. Israelson spoke to defining a scope of work and to keeping costs constant. City Manager Muehlenbeck advised that this agreement does not relieve Oncor from continuing to paint/straighten poles above this number and to establishing basic specifications. He spoke to the strides made by the Customer and Utility Services Department in this area.

Resolution No. 2007-10-34(R) (Cont'd)

Upon a motion made by Council Member Stahel and seconded by Deputy Mayor Pro Tem Callison, the Council voted 7-0 to approve the terms and conditions of a Settlement and Release Agreement by and between Oncor Electric Delivery Company and the City of Plano; authorizing its execution by the City Manager; and providing an effective date; and further to adopt Resolution No. 2007-10-34(R) with amendments.

Resolution No. 2007-10-35(R): To approve the terms and conditions of an Economic Development Program Agreement by and between the City of Plano, Texas, and Invensys Systems Inc., a Massachusetts corporation 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 "M")

Jack Lagos, citizen of the City, spoke regarding different figures provided on the agenda cover sheet. He spoke to the City granting \$150,000 for rental space and a potential \$150,000 for additional square feet leased. Mr. Lagos spoke to granting a potential \$136,000 for 185 jobs and to the appearance of impropriety of this agreement. Director of Finance McGrane spoke to the amount indicated being that for the current year which comes from the \$6 million in economic development funding. He stated that any future liability is based upon conditions set upon with the company and responded to City Manager Muehlenbeck that Invensys receives the funding.

Council Member Johnson spoke to this company bringing 85 jobs initially to the City with an average salary of \$150,000, to the firm being a leader in their industry and bringing people into Plano. He spoke to the location being one of the best in the City and to using tax dollars for economic development to further help the tax structure in the City. Council Member Ellerbe advised that the Council has no control over where a business chooses to locate its offices but is looking to get companies to come to Plano.

Upon a motion made by Council Member Dunlap and seconded by Deputy Mayor Pro Tem Callison, the Council voted 7-0 to approve the terms and conditions of an Economic Development Program Agreement by and between the City of Plano, Texas, and Invensys Systems Inc., a Massachusetts corporation 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. 2007-10-35(R).

Resolution No. 2007-10-36(R): To approve the terms and conditions of an Economic Development Program Agreement by and between the City of Plano, Texas, and Terex Corporation, a Delaware corporation, 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 "N")

Jack Lagos, citizen of the City, spoke to the appearance of impropriety, to providing \$50,000 for 45 full-time jobs to be moved into Plano at a Granite Properties location and to receiving \$1,000 for additional jobs up to \$200,000. He spoke to the Chief Operating Officer of Granite Properties serving as secretary to the Plano Economic Development Board and the vice-chair being housed in one of their properties.

Resolution No. 2007-10-36(R) (Cont'd)

Upon a motion made by Council Member LaRosiliere and seconded by Council Member Ellerbe, the Council voted 7-0 to approve the terms and conditions of an Economic Development Program Agreement by and between the City of Plano, Texas, and Terex Corporation, a Delaware corporation, 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. 2007-10-36(R).

Council member Stahel stepped down from the bench on the following two items

Resolution No. 2007-10-37(R): To terminate the contract entered into by and between Garrison Enterprises, Inc., dba Digital Health, Inc., for Bid CSP No. 2006-133-B for the purchase of Inspection Software System in the amount of \$57,900; and providing an effective date.

Barry Knight, representing Garrison Enterprises, spoke to meetings held to work out remaining issues with the product. He spoke regarding problems with conversion of dates/address and to the value of the product once issues are resolved. Mr. Knight requested additional time to address conversion problems and get the system up and running. He responded to Council Member Johnson that there were problems in receiving information from City Staff and to an extension granted. Ryan LaPrade, of Garrison Enterprises spoke to working towards resolution of conversion issues.

Upon a motion made by Council Member Ellerbe and seconded by Council Member LaRosiliere, the Council voted 6-0 to terminate the contract entered into by and between Garrison Enterprises, Inc., dba Digital Health, Inc., for Bid CSP No. 2006-133-B for the purchase of Inspection Software System in the amount of \$57,900; and providing an effective date; and further to adopt Resolution No. 2007-10-37(R).

Resolution No. 2007-10-38(R): To approve the terms and conditions of a Support Services Agreement with SunGard HTE, Inc., a sole source vendor for the maintenance and support of SunGard HTE Software Applications; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item "U")

Upon a motion made by Council Member LaRosiliere and seconded by Deputy Mayor Pro Tem Callison, the Council voted 6-0 to approve the terms and conditions of a Support Services Agreement with SunGard HTE, Inc., a sole source vendor for the maintenance and support of SunGard HTE Software Applications; authorizing its execution by the City Manager; and providing an effective date; and further to adopt Resolution No. 2007-10-38(R).

Council Member Stahel resumed his place at the bench

Public Hearing and adoption of Ordinance No. 2007-10-39 as requested in Zoning Case 2007-30 to amend Subsection 3.1601 (Administration) (9) (Appeals) of Section 3.1600 (Sign Regulations) of Article 3 (Supplementary Regulations) and Subsections 6.202 and 6.208 (Jurisdiction) of Section 6.200 (Board of Adjustment) of Article 6 (Procedures and Administration) and related sections of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, to correct potential deficiencies in the Comprehensive Zoning Ordinance; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: City of Plano. [Regular Item (1)]

Director of Planning Jarrell advised Council that the Public Hearing is at Staff's request to make some changes to the part of the Zoning Ordinance that covers the Board of Adjustment authority and types of variances they can address. She stated the proposed changes will clarify the language and allow the Board to consider variances to the Zoning Ordinance in general. She stated this language tracks with the statute of the Texas Local Government Code that governs the Board of Adjustment actions.

Ms. Jarrell stated the other items in the proposed amendments address the members that must be present to act on actions and variances. She stated the Planning and Zoning Commission has recommended approval as follows: (Additions are indicated by underlined text; deletions are indicated by strikethrough text.)

1. Amend Subsection 3.1601 (Administration) (9) (Appeals) of Section 3.1600 (Sign Regulations) to read as follows:

3.1600 Sign Regulations

3.1601(9) Appeals

(a) Process

Any person aggrieved by a decision of the Building Official or his designee, under this ordinance or any person seeking a variance from this ordinance, may file an appeal with the Board of Adjustment. The appeal shall be made in accordance with the guidelines set forth in Section 6.200.

~~**(b) Meeting Dates**~~

~~The Board of Adjustment shall meet to consider an appeal to this ordinance, provided there has been an appeal filed with the Building official 15 days prior to the meeting date.~~

~~**(c) Quorum**~~

~~All cases brought before the Board of Adjustment, under this ordinance, must be heard by no less than four members. A concurring vote of four members is required to grant a variance of this ordinance or to overrule any decision or interpretation made under this ordinance by the Building Official.~~

~~**(db) Board Decision**~~

Ordinance No. 2007-10-39 (Cont'd)

The decision of the Board shall be final as to administrative remedies. No appeal to the Board for the same variance on the same piece of property shall be allowed prior to the expiration of two years. Any variance granted by the Board expires unless a permit securing the variance has been applied for within 90 days from the date of the decision. An applicant whose sign permit is denied by the Board based upon the content may invoke the judicial review process found in 9.d below. (ZC 2004-24; Ordinance No. 2004-8-21)

(ec) Hardship Criteria

A variance shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss. In order to make a finding of hardship and to grant a variance from this ordinance, the Board must determine that:

- (i) The requested variance does not violate the intent of the ordinance.
- (ii) The requested variance will not adversely affect surrounding properties.
- (iii) The requested variance will not adversely affect public safety.
- (iv) Special conditions exist which are unique to this applicant or property.

(fd) Judicial Review (ZC 2004-24; Ordinance No. 2004-8-21)

- (i) An applicant denied a sign permit by the Board based on the content of the proposed sign may seek relief under this provision and is not subject to Subsection 6.209.3. An applicant whose sign was denied by the Board based on the content of the proposed sign may file a notice of nonacceptance of the decision of the Board with the City Attorney within ten business days of the date of the filing of the Board's decision which shall be the date the Board announces the decision either orally or in writing to the applicant.

Within ten business days after receiving a notice of nonacceptance from an applicant, the City Attorney shall initiate suit in district court for determination that the sign is illegal pursuant to this ordinance and for an injunction to prohibit display of the sign. The notice of nonacceptance must be in writing, delivered by hand delivery or certified mail, return receipt requested, to the Office of the City Attorney, City of Plano, 1520 K Avenue, P.O. Box 860358, Plano, Texas 75086. Nothing in this provision shall be interpreted to require the City of Plano to pay for legal fees and costs incurred by the applicant associated with this proceeding.

- (ii) This remedy is only available to applicants denied a permit by the Board based on content of the proposed sign. All other permit denials by the Board are subject to the judicial process set forth in Subsection 6.209.3.

Ordinance No. 2007-10-39 (Cont'd)

2. Amend Section 6.202 of Section 6.200 (Board of Adjustment) to read as follows:

6.200 Board of Adjustment

6.202 City Council may appoint four alternate members of the Board of Adjustment who shall serve in absence of one or more of the regular members, ~~when requested by the Mayor or City Manager, or Chief Building Official as the case may be, so that all cases to be heard by the Board of Adjustment will always be heard by a minimum number of four members. In the matter of variances from Section 3.1600, such variances will always be heard by a minimum number of three members.~~ The alternate members, when appointed, shall serve for the same period as the regular members, which is for a term of two years expiring on October 31 of the appropriate year, and any vacancy shall be filled in the same manner as for regular members, and alternate members shall be subject to removal under the same provisions as regular members. (ZC 92-46; Ordinance No. 92-9-13)

3. Amend Section 6.208 (Jurisdiction) of Section 6.200 (Board of Adjustment) to read as follows:

6.208 Jurisdiction

- (1) Each case must be heard by at least four members. The concurring vote of four members of the Board of Adjustment is necessary to:
- (a) reverse an order, requirement, decision, or determination of an administrative official;
 - (b) decide in favor of an applicant on a matter on which the Board of Adjustment is required to pass under a zoning ordinance; or
 - (c) authorize a variance from the terms of a zoning ordinance.
- (2) When in its judgment, the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be substantially or permanently injured, the Board of Adjustment may, in specific cases, after written notice and public hearings, and subject to appropriate conditions and safeguards, authorize or order the following:
- ~~(1)~~(a) Hear and decide appeals where it is alleged there is error on any order, requirement, decision, or determination made by the Building Official in the enforcement of this ordinance. (ZC 92-46; Ordinance No. 92-9-13)
 - ~~(2)~~(b) Permit the reconstruction, extension, or enlargement of a building occupied by nonconforming uses, on the lot or tract occupied by such building, provided such reconstruction does not prevent the return of such property to a conforming use.

Ordinance No. 2007-10-39 (Cont'd)

(3)(c) Require the discontinuance of nonconforming uses of land or structure under any plan where by the full value of the structure and facilities can be amortized within a definite period of time, taking into consideration the general character of the neighborhood and the necessity for all property to conform to the regulations of this ordinance. All actions to discontinue a nonconforming use of land or structure shall be taken with due regard for the property rights of the persons affected when considered in the light of the public welfare and the character of the area surrounding the designated nonconforming use and the conservation and preservation of property. The Board of Adjustment shall, from time to time on its own motion or upon cause presented by interested property owners, inquire into the existence, continuation, or maintenance of any nonconforming use within the city.

(4)(d) Permit such variance from the terms of the Zoning Ordinance of height, yard, area, exterior, structure, lot coverage, and off street parking and loading regulations that will not be contrary to the public interest and where, because of special conditions, the enforcement of this ordinance or its amendments would result in an unnecessary hardship, except as provided in (ii), (iii) and (iv) below. A variance shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss, nor shall it permit any person a privilege in developing a parcel of land not permitted by this ordinance to other parcels of land in the district. No variance may be granted if it results in an unnecessary hardship, as herein defined, on another parcel of land.

(i) In order to make a finding of hardship and to grant a variance from this ordinance, the Board of Adjustment must determine that: (ZC 92-46; Ordinance No. 92-9-13):

(a)1. The requested variance does not violate the intent of the ordinance or its amendments.

(b)2. Special conditions of restricted area, shape, topography, or physical features exist that are peculiar to the subject parcel of land and are not applicable to other parcels of land in the same zoning district.

(c)3. The hardship is in no way the result of the petitioner's own actions.

(d)4. The interpretation of the provisions in this ordinance or its amendments would deprive the petitioner of rights commonly enjoyed by other properties in the same zoning district, that comply with the same provisions.

(ii) No variance may authorize a use other than those permitted in the district for which the variance is sought.

Ordinance No. 2007-10-39 (Cont'd)

(iii) ~~Also,~~ A petition or request for a variance shall not be heard or granted with regard to any parcel of property or portion thereof upon which a preliminary site plan, site plan, preliminary plat, or final plat, when required by this ordinance or the Subdivision Ordinance for any parcel of property or portion thereof, has not been finally acted upon by both the Planning & Zoning Commission and, where required, by the City Council.

(iv) The administrative procedures and requirements of this ordinance and the Subdivision Ordinance, with regard to both Planning & Zoning Commission and the City Council consideration and action, on preliminary site plans, site plans, preliminary plats, and final plats, must be exhausted prior to requesting a variance from the terms of this ordinance.

Ms. Jarrell stated that a minimum of four members must be present to take action on a variance in response to Council Member Stahel's inquiry.

Mayor Pro Tem Magnuson 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 Dunlap and seconded by Council Member LaRosiliere, Council voted 7-0 to amend Subsection 3.1601 (Administration) (9) (Appeals) of Section 3.1600 (Sign Regulations) of Article 3 (Supplementary Regulations) and Subsections 6.202 and 6.208 (Jurisdiction) of Section 6.200 (Board of Adjustment) of Article 6 (Procedures and Administration) and related sections of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, to correct potential deficiencies in the Comprehensive Zoning Ordinance, as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2007-30; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date; and further to adopt Ordinance 2007-10-39.

Public Hearing and adoption of Ordinance No. 2007-10-40 as requested in Zoning Case 2007-31 to repeal in its entirety Ordinance No. 80-10-14; thereby rescinding Specific Use Permit No. 64 for the additional use of Private Club on one lot on 1.2± acres of land located at the southeast corner of U.S. Highway 75 and Republic Drive 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 Item (2)]

Director of Planning Jarrell stated this zoning request and the following seven pertain to the recession of private club permits. She stated that restaurants are no longer using private club permits issued by the State of Texas and to reflecting this in the zoning atlas. Ms. Jarrell stated the Planning and Zoning Commission has recommended approval of all of these cases as submitted.

Ordinance No. 2007-10-40 (Cont'd)

Mayor Pro Tem Magnuson 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 Stahel, Council voted 7-0 to repeal in its entirety Ordinance No. 80-10-14; thereby rescinding Specific Use Permit No. 64 for the additional use of Private Club on one lot on 1.2± acres of land located at the southeast corner of U.S. Highway 75 and Republic Drive in the City of Plano, Collin County, Texas, as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2007-31; 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 2007-10-40.

Public Hearing and adoption of Ordinance No. 2007-10-41 as requested in Zoning Case 2007-32 to repeal in its entirety Ordinance No. 81-1-4; thereby rescinding Specific Use Permit No. 67 for the additional use of Private Club on one lot on 0.2± acre of land located at the northwest corner of U.S. Highway 75 and Chisholm Place 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 Item (3)] (Planning and Zoning Commission recommend approval as submitted and as referenced in Regular Item 2)

Mayor Pro Tem Magnuson 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 LaRosiliere and seconded by Council Member Dunlap, Council voted 7-0 to repeal in its entirety Ordinance No. 81-1-4; thereby rescinding Specific Use Permit No. 67 for the additional use of Private Club on one lot on 0.2± acre of land located at the northwest corner of U.S. Highway 75 and Chisholm Place in the City of Plano, Collin County, Texas, as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2007-32; 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 2007-10-41.

Public Hearing and adoption of Ordinance No. 2007-10-42 as requested in Zoning Case 2007-33 to repeal in its entirety Ordinance No. 81-7-5; thereby rescinding Specific Use Permit No. 75 for the additional use of Private Club on one lot on 1.4± acres of land located on the west side of U.S. Highway 75, 920± 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 Item (4)] (Planning and Zoning Commission recommend approval as submitted and as referenced in Regular Item 2)

Mayor Pro Tem Magnuson 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 Deputy Mayor Pro Tem Callison, Council voted 7-0 to repeal in its entirety Ordinance No. 81-7-5; thereby rescinding Specific Use Permit No. 75 for the additional use of Private Club on one lot on 1.4± acres of land located on the west side of U.S. Highway 75, 920± 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 2007-33; 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 further to adopt Ordinance 2007-10-42.

Public Hearing and adoption of Ordinance No. 2007-10-43 as requested in Zoning Case 2007-34 to repeal in its entirety Ordinance No. 93-6-36; thereby rescinding Specific Use Permit No. 88 for the additional use of Private Club on one lot on 1.2± acres of land located on the east side of U.S. Highway 75, 230± feet south of Republic Drive 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 Item (5)] (Planning and Zoning Commission recommend approval as submitted and as referenced in Regular Item 2)

Mayor Pro Tem Magnuson 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 Dunlap and seconded by Council Member LaRosiliere, Council voted 7-0 to repeal in its entirety Ordinance No. 93-6-36; thereby rescinding Specific Use Permit No. 88 for the additional use of Private Club on one lot on 1.2± acres of land located on the east side of U.S. Highway 75, 230± feet south of Republic Drive in the City of Plano, Collin County, Texas, as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2007-34; 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 further to adopt Ordinance 2007-10-43.

Public Hearing and adoption of Ordinance No. 2007-10-44 as requested in Zoning Case 2007-35 to repeal in its entirety Ordinance No. 85-11-3; thereby rescinding Specific Use Permit No. 95 for the additional use of Private Club on one lot on 1.0± acre of land located on the south side of Park Boulevard, 900± feet east of Preston 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 Item (6)] (Planning and Zoning Commission recommend approval as submitted and as referenced in Regular Item 2)

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

Upon a motion made by Deputy Mayor Pro Tem Callison and seconded by Council Member Ellerbe, Council voted 7-0 to repeal in its entirety Ordinance No. 85-11-3; thereby rescinding Specific Use Permit No. 95 for the additional use of Private Club on one lot on 1.0± acre of land located on the south side of Park Boulevard, 900± feet east of Preston Road in the City of Plano, Collin County, Texas, as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2007-35; 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 further to adopt Ordinance 2007-10-44.

Public Hearing and adoption of Ordinance No. 2007-10-45 as requested in Zoning Case 2007-36 to further amend Ordinance No. 82-12-6; thereby rescinding the Private Club use but retaining the Arcade use for Specific Use Permit No. 97 on one lot on 1.2± acres of land located at the northeast corner of U.S. Highway 75 and 16th Street 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 Item (7)] (Planning and Zoning Commission recommend approval as submitted and as referenced in Regular Item 2)

Mayor Pro Tem Magnuson 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, Council voted 7-0 to further amend Ordinance No. 82-12-6; thereby rescinding the Private Club use but retaining the Arcade use for Specific Use Permit No. 97 on one lot on 1.2± acres of land located at the northeast corner of U.S. Highway 75 and 16th Street in the City of Plano, Collin County, Texas, as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2007-36; and furthermore to adopt 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 further to adopt Ordinance 2007-10-45.

Public Hearing and adoption of Ordinance No. 2007-10-46 as requested in Zoning Case 2007-37 to repeal in its entirety Ordinance No. 86-4-17; thereby rescinding Specific Use Permit No. 108 for the additional use of Private Club on one lot on 0.1± acre of land located at the northwest corner of U.S. Highway 75 and Park Boulevard 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 Item (8)] (Planning and Zoning Commission recommend approval as submitted and as referenced in Regular Item 2)

Mayor Pro Tem Magnuson 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 Johnson, Council voted 7-0 to repeal in its entirety Ordinance No. 86-4-17; thereby rescinding Specific Use Permit No. 108 for the additional use of Private Club on one lot on 0.1± acre of land located at the northwest corner of U.S. Highway 75 and Park Boulevard in the City of Plano, Collin County, Texas, as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2007-37; and furthermore to adopt 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 further to adopt Ordinance 2007-10-46.

Public Hearing and adoption of Ordinance No. 2007-10-47 as requested in Zoning Case 2007-38 to repeal in its entirety Ordinance No. 96-6-21; thereby rescinding Specific Use Permit No. 109 for the additional use of Private Club on one lot on 0.1± acre of land located on the east side of Preston Road, 380± feet south of Highland Drive 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 Item (9)] (Planning and Zoning Commission recommend approval as submitted and as referenced in Regular Item 2)

Mayor Pro Tem Magnuson 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 LaRosiliere, Council voted 7-0 to repeal in its entirety Ordinance No. 96-6-21; thereby rescinding Specific Use Permit No. 109 for the additional use of Private Club on one lot on 0.1± acre of land located on the east side of Preston Road, 380± feet south of Highland Drive in the City of Plano, Collin County, Texas, as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2007-38; as recommended by the Planning and Zoning Commission and as requested in Zoning Case 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 further to adopt Ordinance 2007-10-47.

Ordinance No. 2007-10-47 (Cont'd)

Mayor Pro Tem Magnuson stated at 8:54 p.m. that the Council would reconvene back into Executive Session in compliance with Chapter 551, Government Code, Vernon's Texas Codes, Annotated, in order to discuss Personnel, Section 551.074 and to discuss Economic Development, Section 551.087 for which a certified agenda will be kept in the office of the City Secretary for a period of two years as required. The Council closed out of the Executive Session at 10:11 p.m. into the open meeting and immediately closed.

Sally Magnuson, MAYOR PRO TEM

ATTEST:

Diane Zucco, City Secretary