

PLANO CITY COUNCIL
November 10, 2008

COUNCIL MEMBERS

Pat Evans, Mayor
Jean Callison, Mayor Pro Tem
Harry LaRosiliere, Deputy Mayor Pro Tem
Pat Miner
Scott Johnson
Mabrie Jackson
Sally Magnuson
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 Callison convened the Council directly into the Regular Session from the Preliminary Open Meeting on Monday, November 10, 2008 at 7:09 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present with the exception of Mayor Evans.

The invocation was led by Reverend Shannon Grubbs of First Christian Church Plano.

The Pledge of Allegiance was led by American Legion Honor Guard Post 321- Plano.

PROCLAMATIONS & SPECIAL RECOGNITION

Mayor Pro Tem Callison presented proclamations recognizing Veterans Day and Workplace Cares/City of Plano Kick Off of The Salvation Army Red Kettle Campaign.

OATHS OF OFFICE

Mayor Pro Tem Callison administered oaths of office to incoming board and commission members.

CERTIFICATES OF APPRECIATION

No board/commission members were present to receive their certificates.

COMMENTS OF PUBLIC INTEREST

This item was considered during Regular Items.

CONSENT AGENDA

City Secretary Zucco advised that Council Member Dunlap requested Consent Agenda Item “F” be removed for individual consideration due to a possible conflict of interest and that Council Member Jackson requested that Consent Agenda Item “I” be removed for individual consideration due to a possible conflict of interest.

Upon a motion made by Deputy Mayor Pro Tem LaRosiliere and seconded by Council Member Dunlap, 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 27, 2008

Approval of Expenditures

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

Bid No. 2009-1-C for Tire Re-Capping Service to Southern Tire Mart in the estimated annual amount of \$76,745. This will establish an annual fixed-price contract with three optional renewals. [Consent Agenda Item (B)] (See Exhibit “A”)

Bid No. 2008-215-C for Janitorial and Laundry Supplies to Eagle Brush and Chemical, Inc.; Empire Paper Co.; Complete Supply, Inc.; Pyramid School Products and Eco-Worx, Inc. in the total estimated annual amount of \$57,782. This will establish an annual fixed-price contract with three optional renewals. [Consent Agenda Item (C)] (See Exhibit “B”)

Bid No. 2008-207-C for RFP for Stop Loss Insurance to United HealthCare in the estimated annual amount of \$950,450. The term of this policy is for one year with five City optional one-year renewals. [Consent Agenda Item (D)] (See Exhibit “C”)

Bid No. 2008-226-B for 2008-2009 Arterial Concrete Pavement Rehabilitation Project – Parker Road – Preston Road to Dallas North Toll Road to Santos Construction, Inc. in the amount of \$437,665. This project involves the replacement of arterial street paving, curb and gutter, sidewalk repair and barrier free ramp construction on Parker Road between Preston Road and Dallas North Toll Road. [Consent Agenda Item (E)] (See Exhibit “D”)

Bid No. 2008-233-B for Screening Wall Replacement Cloisters to Tracon Ventures, LTD in the amount of \$768,335 for the base bid. The project consists of the removal and replacement of screening walls at four locations: 15th Street (south side) – Highedge Drive to Wilson Drive; 15th Street (north side) – Mill Valley Drive to Stratford Drive; Coit Road (west side) – 150’ north of Whistler Drive to 450’ north of Whistler Drive; and West Park Boulevard (north side) – Willowbrook Way to 1100’ west. [Consent Agenda Item (G)] (See Exhibit “E”)

Purchase from an Existing Contract

To authorize the purchase of a Gemtrac™ Storage System to store 30,000 rolls of microforms for Genealogy, Local History, Texana, and Archives located at Haggard Library, utilizing a TXMAS contract (TXMAS-6-36010) through a local representative, Southwest Solutions Group, to cover the cost for this system amounting to \$84,604 and authorizing the City Manager to execute all necessary documents. [Consent Agenda Item (H)]

Approval of Contract: (Purchase of products/services exempt from State of Texas Competitive Bid Laws)

To approve the terms and conditions of an Engineering Services Contract by and between the City of Plano and Hayden Consultants, Inc., in the amount of \$129,836 for the 17th Street and R Avenue Reconstruction project and authorizing the City Manager to execute all necessary documents. [Consent Agenda Item (J)]

Approval of Change Order

To Tiseo Paving Company, increasing the contract by \$80,229 for the Parkwood Boulevard Widening - Park Boulevard to Spring Creek Parkway, Change Order No. 1. This includes the construction of two right turn lanes on Spring Creek Parkway and other items necessary to construct the project. (Original Bid No. 2007-208-B) [Consent Agenda Item (K)]

To Birkhoff, Hendricks and Conway, LLP, increasing the professional services contract by \$114,600 for the Mapleshade Lift Station and Sewer Line Project. (First Modification – Project No. 5814) [Consent Agenda Item (L)]

Adoption of Resolutions

Resolution No. 2008-11-1(R): To approve the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano and Collin County, Texas, providing for the widening of Alma Drive from Spicewood Drive to Rowlett Creek; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (M)]

Resolution No. 2008-11-2(R): To approve the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano and Collin County, Texas, providing for Intersection Improvements at Plano Parkway and Jupiter Road; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (N)]

Resolution No. 2008-11-3(R): To approve the terms and conditions of a Second Amendment to the Development Agreement with Lexington Park LP for Plano-Rice Field Redevelopment project; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (O)]

Resolution No. 2008-11-4(R): To find Steve Copling is entitled to defense representation pursuant to City Code of Ordinances in connection with the matter of Charles Kenneth Skees, Sr. and Charles Kenneth Skees, Jr., vs. Christopher John Carker; Tommy Walters; Ralph Colberg; Steve Copling; Kim Lee and Ken Mackenzie; and providing an effective date. [Consent Agenda Item (P)]

Resolution No. 2008-11-5(R): To approve the use of Best Management Practices to provide alternative industrial user wastewater discharge permit requirements to control and reduce pollutants that may violate local, state or federal pretreatment standards and requirements; and providing an effective date. [Consent Agenda Item (Q)]

Resolution No. 2008-11-6(R): To approve the purchase of On-Site CBRNE (Chemical, Biological, Radiological, Nuclear, and Explosives) Detection Equipment in the amount of \$120,500 from Smiths Detection, the sole source vendor of such equipment and services; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the purchase; and providing an effective date. [Consent Agenda Item (R)]

Resolution No. 2008-11-7(R): To approve the terms and conditions of a Communications Facilities License Agreement by and between the City of Plano, Texas and Sprint Wireless Broadband Company, LLC, a Delaware limited liability company to locate, place, attach, install, and operate, telecommunications equipment in certain specific portions of the public rights-of-way in the City of Plano near the Coit Road water tower site located at 3617 Sandy Trail Lane; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (S)]

Resolution No. 2008-11-8(R): To designate certain municipal vehicles as authorized emergency vehicles; and providing an effective date. [Consent Agenda Item (T)]

Resolution No. 2008-11-9(R): To support the Raise Your Hand Texas program; and providing an effective date. [Consent Agenda Item (U)]

Resolution No. 2008-11-10(R): To repeal Resolution No. 2008-9-37(R) in its entirety and approve the terms and conditions of a new Agreement by and between the City of Plano, Texas, the County of Collin, Texas, Connecticut General Life Insurance Company, a Connecticut corporation, and CMC-Plano Pkwy Equity Investors, L.P., a Texas limited partnership; providing for a real and business personal property tax abatement, authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (V)]

Resolution No. 2008-11-11(R): To repeal Resolution No. 2008-9-38(R) in its entirety and approve the terms and conditions of a new Economic Development Incentive Agreement by and between the City of Plano, Texas and Connecticut General Life Insurance Company, a Connecticut corporation; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (W)]

Adoption of Ordinances

Ordinance No. 2008-11-12: To amend Section VI of Ordinance No. 2008-9-36 so as to provide for new threshold amounts for tax abatement real property and business personal investments within Reinvestment Zone No. 116 located on a 13.030 acre tract of land at the northeast corner of Plano Parkway and Dallas North Tollway, in the City of Plano, Texas; ordaining other matters relating thereto; and providing an effective date. [Consent Agenda Item (X)]

Ordinance No. 2008-11-13: To abandon all right, title and interest of the City, in and to a portion of that certain Drainage Easement recorded in Volume 2276, Page 167 of the Land Records of Collin County, Texas, being situated in the William Miller Survey, Abstract No. 568, which is located within the City limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such Easement to the abutting property owner, CMC-Plano Pkwy, L.P., to the extent of its interest; authorizing the City Manager to execute any documents deemed necessary; and providing an effective date. [Consent Agenda Item (Y)]

Ordinance No. 2008-11-14: To amend Ordinance No. 92-7-15 codified as Chapter 21, Article VII, Industrial Wastewater Pretreatment, Plano Code of Ordinances by amending Section 21-301 Definitions by deleting the definition “TWC. Texas Water Commission” and adding definitions for “ TCEQ. Texas Commission on Environmental Quality” and “BMP. Best Management Practices”; by amending Sections 21-303(a)(2) and 21-317(c) by replacing “TWC” with “TCEQ”; by amending Section 21-323(a) by replacing “Texas Water Commission” with “TCEQ”; by amending Section 21-307(c) Industrial User Wastewater Discharge Permit Requirements by deleting the phrase “Including Liquid Waste Haulers”; and by adding Section 21-307.1 “Alternative Industrial User Wastewater Discharge Permit Requirements”; providing a savings clause, a severability clause and a effective date. [Consent Agenda Item (Z)]

Ordinance No. 2008-11-15: To repeal Ordinance No. 2004-12-15, entitled “Food Categories and Fees”, and replace it with this Ordinance, to be entitled “Health Department Fees” to provide for updated permit and inspection fees; amending Article X, Division 2, Section 6-454(a), Issuance of an operating health permit, of Chapter 6 of the Code of Ordinances by deleting references to specific fee amounts and adding language referring to this fee ordinance; amending Article VIII, Section 21-362(a), Fee and display of permit, of Chapter 21 of the Code of Ordinances by deleting references to specific fee amounts and adding language referring to this fee ordinance; providing a repealer clause, a severability clause, a publication clause and an effective date. [Consent Agenda Item (AA)]

Ordinance No. 2008-11-16: To repeal Ordinance Nos. 99-9-1, 99-9-5, 2002-9-11, 2003-3-4, 2004-12-15 and 2004-12-16 codified as Chapter 9, Food Code of the Code of Ordinances of the City of Plano and replace them with a new Chapter 9, Food Code; and providing a penalty clause; a repealer clause; a severability clause; a savings clause; a publication clause and an effective date. [Consent Agenda Item (BB)]

END OF CONSENT

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

Bid No. 2008-227-B for 2008-2009 Arterial Concrete Pavement Rehabilitation Project – Legacy Drive – Preston Road to SH 121 to Smith Contracting, Inc. in the amount of \$293,485. This project involves the repair of arterial street paving, and curb/gutter on Legacy Drive between Preston Road and SH 121. [Consent Agenda Item (F)] (See Exhibit “F”)

Upon a motion made by Council Member Magnuson and seconded by Deputy Mayor Pro Tem LaRosiliere, the Council voted 6-0 to approve Bid No. 2008-227-B for 2008-2009 Arterial Concrete Pavement Rehabilitation Project – Legacy Drive – Preston Road to SH 121 to Smith Contracting, Inc. in the amount of \$293,485.

Council Member Dunlap resumed his place at the bench.

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

Purchase from an Existing Contract - To approve the purchase of a Premier Support Service Contract in the amount of \$65,010 from Microsoft Corporation through a State of Texas Department of Information Resources (DIR) contract, and authorizing the City Manager to execute all necessary documents. (DIR-SDD-821) [Consent Agenda Item (I)]

Upon a motion made by Deputy Mayor Pro Tem LaRosiliere and seconded by Council Member Dunlap, the Council voted 6-0 to approve the purchase of a Premier Support Service Contract in the amount of \$65,010 from Microsoft Corporation through a State of Texas Department of Information Resources (DIR) contract.

Council Member Jackson resumed her place at the bench.

Ordinance No. 2008-11-17 to amend Section 19-1(a) of Chapter 19, Streets and Sidewalks, of the Code of Ordinances of the City of Plano, providing an exception to the prohibition of the obstruction of streets, alleys, sidewalks, parkway areas, or public grounds; providing a repealer clause, a savings clause, a severability clause, and an effective date. [Regular Agenda Item (1)]

Ordinance No. 2008-11-18 to amend Article 1, Chapter 19 of the Code of Ordinances of the City of Plano, Texas entitled “Streets and Sidewalks”, adopting and establishing Section 19-2 entitled “Valet Parking” to provide for licensing and regulation of valet parking operations; providing a severability clause, a repealer clause, a savings clause, and an effective date. [Regular Agenda Item (2)]

Executive Director Turner advised that the proposed ordinances would make it permissible to operate valet parking with a City-issued permit on public parking spaces and right-of-way. He advised that Item “1” removes the prohibition against having objects within the right-of-way and that Item “2” defines the structure of regulation.

Ordinance No. 2008-11-18 (cont'd)

Mr. Turner spoke to current valet parking implemented in Legacy Town Center and Downtown Plano and concerns raised on regulation and conflict with other valet operations. He spoke to working with merchants and property owners at both locations and stated that the proposal requires application including the location of drop-off spaces and parking destinations. Mr. Turner spoke to providing operation on a non-exclusive basis, no direct fees with reimbursement paid by businesses, notification of adjoining property owners and a renewal process. He spoke to the proposal offering the least amount of regulation while ensuring protection and stated that regulations would not affect valet operations restricted to private property.

Upon a motion made by Council Member Magnuson and seconded by Council Member Dunlap, the Council voted 7-0 to amend Section 19-1(a) of Chapter 19, Streets and Sidewalks, of the Code of Ordinances of the City of Plano, providing an exception to the prohibition of the obstruction of streets, alleys, sidewalks, parkway areas, or public grounds; providing a repealer clause, a savings clause, a severability clause, and an effective date; and further to adopt Ordinance No. 2008-11-17.

Upon a motion made by Council Member Magnuson and seconded by Council Member Dunlap, the Council voted 7-0 to amend Article 1, Chapter 19 of the Code of Ordinances of the City of Plano, Texas entitled "Streets and Sidewalks", adopting and establishing Section 19-2 entitled "Valet Parking" to provide for licensing and regulation of valet parking operations; providing a severability clause, a repealer clause, a savings clause, and an effective date; and further to adopt Ordinance No. 2008-11-18.

Public Hearing and adoption of Ordinance No. 2008-11-19 to amend the Project and Finance Plan for Tax Increment Financing Reinvestment Zone Number Two to include additional property within the zone; fund the purchase and improvement of property within the zone; ordain other matters relating thereto; and provide a severability clause, a savings clause, and an effective date. [Regular Agenda Item (3)]

Director of Finance Tacke spoke to establishment of the TIF Reinvestment Zone No. 2 to encourage revitalization and reinvestment in Downtown Plano and the north/south corridor along the DART lite-rail. She spoke to the dedication of property tax revenue and a projected \$45 million over the fifteen-year life of the zone which can be utilized for infrastructure, facilities and land within the district. Ms. Tacke spoke to new projects and this item providing for inclusion of properties previous excluded.

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

Ordinance No. 2008-11-19 (cont'd)

Upon a motion made by Deputy Mayor Pro Tem LaRosiliere and seconded by Council Member Johnson, the Council voted 7-0 to amend the Project and Finance Plan for Tax Increment Financing Reinvestment Zone Number Two to include additional property within the zone; fund the purchase and improvement of property within the zone; ordain other matters relating thereto; and provide a severability clause, a savings clause, and an effective date; and further to adopt Ordinance No. 2008-11-19.

COMMENTS OF PUBLIC INTEREST

Citizen of the City Madan Goyal spoke to replacement of additional sections of screening walls while prices are low and to matching construction of walls along various portions of Willowbrook Way.

Resolution No. 2008-11-20(R): To approve the terms and conditions of an Economic Development Incentive Agreement by and between the City of Plano, Texas and Odyssey Information Services, Inc., a Texas corporation; authorizing its execution by the City Manager; and providing an effective date. [Regular Agenda Item (4)]

Director of Finance Tacke advised that terms of the agreement include occupation of a minimum of 7,500 square feet, addition of \$100,000 in business personal property and 25 full-time positions. She spoke to the company utilizing hotel rooms in the City and a grant offering of \$25,000.

Upon a motion made by Council Member Magnuson and seconded by Council Member Miner, the Council voted 7-0 to approve the terms and conditions of an Economic Development Incentive Agreement by and between the City of Plano, Texas and Odyssey Information Services, Inc., a Texas corporation; authorizing its execution by the City Manager; and providing an effective date; and further to adopt Resolution No. 2008-11-20(R).

Public Hearing and adoption of Ordinance No. 2008-11-21 as requested in Zoning Case 2008-67 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 597 so as to allow the additional use of Day Care Center on 0.4± acre of land located on the south side of Legacy Drive, 270± feet west of Coit Road in the City of Plano, Collin County, Texas, presently zoned Retail; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: QD Recreation Academy [Regular Agenda Item (5)]

Director of Planning Jarrell advised that the Zoning Ordinance allows for a waiver of outdoor place space to facilities providing care for less than four hours and that the Planning and Zoning Commission recommended approval of the request subject to:

Ordinance No. 2008-11-21 (cont'd)

1. Planning & Zoning Commission waiving the requirement for outdoor play space;
2. Day care shall be provided for less than four hours per day for an individual person. However, the day care facility may operate multiple sessions of four hours or less in length.

Mayor Pro Tem Callison opened the Public Hearing. Citizen of the City Cass Caliri inquired how students/workers will be staggered during the day. Ms. Jarrell advised that no one child will be cared for longer than four hours and to state licensing requirements. Ke Liao of QD Recreation Academy spoke to providing after-school care with inclusion of language arts and sports. No one else spoke either for or against the request. The Public Hearing was closed.

Upon a motion made by Deputy Mayor Pro Tem LaRosiliere and seconded by Council Member Magnuson, the Council voted 7-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 597 so as to allow the additional use of Day Care Center on 0.4± acre of land located on the south side of Legacy Drive, 270± feet west of Coit Road in the City of Plano, Collin County, Texas, presently zoned Retail as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2008-67; 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. 2008-11-21.

Public Hearing and adoption of Ordinance No. 2008-11-22 as requested in Zoning Case 2008-69 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 598 so as to allow the additional use of Day Care Center on 1.9± acres of land located on the south side of Los Rios Boulevard, 100± feet west of Trail Walker Drive in the City of Plano, Collin County, Texas; presently zoned Planned Development-320-Estate Development; 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: John W. Jolly [Regular Agenda Item (6)]

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

Mayor Pro Tem Callison 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 Magnuson and seconded by Council Member Jackson, the Council voted 7-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 598 so as to allow the additional use of Day Care Center on 1.9± acres of land located on the south side of Los Rios Boulevard, 100± feet west of Trail Walker Drive in the City of Plano, Collin County,

Ordinance No. 2008-11-22 (cont'd)

Texas; presently zoned Planned Development-320-Estate Development as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2008-69; 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. 2008-11-22.

Public Hearing and consideration of an Ordinance as requested in Zoning Case 2008-71 to amend Section 1.600 (Definitions) of Article 1 (General Regulations), Section 3.1000 (Screening, Fence, and Wall 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, regarding golf nets; 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)]

Senior Planner Firgens spoke to consideration and denial of an initial ordinance establishing definitions; allowing nets by right with private country clubs, golf courses, outdoor commercial amusement uses; prohibition on residential property; exemption from setback requirements; 60-foot maximum heights; and no other appurtenances. She spoke to Council direction to allow existing nonconforming nets to remain up to a specified height, allowing driving ranges to install nets, consideration of horizontal options for residences and possibly allowing new nets. Ms. Firgens spoke to deliberations, input received and ordinance preparation resulting in a second amendment.

Ms. Firgens advised that this amendment allows golf nets on residential properties contiguous to a country club/golf course or street separating the uses, provides for a combination of styles, exemption from side/rear setbacks while not being forward of the primary structure and a 20-foot maximum height. She spoke to restrictions on driving ranges where nets would be allowed by right, vertical only, exempt from rear/side setbacks with a 60-foot height maximum and miscellaneous standards providing definitions. Ms. Firgens spoke to the Planning and Zoning Commission recommendation allowing for protection of people and existing nets of 20-feet or less in height with a variance process for taller nets along with new nets. She advised that the Commission recommended the item for approval as follows. (Additions are indicated in underlined text; deletions are indicated in strikethrough text.)

1. Amend Section 1.600 (Definitions) of Article 1 (General Regulations) to create the following definition for golf nets:

Golf Nets – A vertical net, horizontal or sloping net, or combination thereof, including structural supports designed to confine golf balls to a country club (private), outdoor commercial amusement, or golf course uses.

2. Amend Section 3.1000 (Screening, Fence and Wall Regulations) of Article 3 (Supplementary Regulations) by adding the following new standards for golf nets to read as follows:

Zoning Case 2008-71 (cont'd)

3.1005 Golf Nets

(1.) Golf nets are allowed in accordance with the following:

(a.) Golf nets associated with nonresidential uses.

(i.) Golf nets shall be permitted for driving ranges only, whether as a primary use, or as an accessory use to a golf course, country club (private), and/or outdoor commercial amusement uses, in any zoning district. Golf nets shall be prohibited in other areas of a golf course, country club (private) or outdoor commercial amusement uses.

(ii.) Golf nets shall be vertical nets only and may be constructed to a maximum height of 60 feet.

(iii.) Golf nets shall be exempt from side and rear yard setback requirements.

(b.) Golf nets associated with residential uses.

(i.) Golf nets are permitted on residential properties that are contiguous to a country club (private) or golf course, and on residential lots with frontage on a public right-of-way that separates the country club (private) or golf course from the residential lots.

(ii.) Golf nets are exempt from side and rear yard setback requirements and shall not extend forward of the primary structure(s) on the property.

(iii.) Golf nets may consist of vertical nets, horizontal or sloping nets, or a combination thereof, and may create an enclosure of the yard area. The maximum height for a residential golf net is 20 feet.

(2.) All golf nets shall comply with the following requirements:

(a.) Golf nets shall be constructed of flexible netting that is designed, manufactured and sold as golf netting. Chain link fencing is prohibited as a material for golf nets.

(b.) Golf nets shall be staked and/or cable-supported with structural supports.

(c.) No flags, signs, banners or other appurtenances shall be attached to the golf nets.

Zoning Case 2008-71 (cont'd)

Ms. Firgens spoke to golf balls that bounce across streets to hit the side of homes and Director of Planning Jarrell advised that this item does not provide regulation for batting cages or basketball courts.

Mayor Pro Tem Callison opened the Public Hearing. Jonathan Vinson, representing a homeowner in Chase Oaks, spoke to 20-foot being inadequate to solve safety issues and to grandfathering of existing nets. He referred to the lack of enforcement and cases in other jurisdictions related to negligence. Citizen of the City Bob Healy spoke to receiving guidance on how to govern issues between homeowners' associations. Citizen Bob Gehbauer stated opposition to any golf nets, spoke to the course in place before homes were built, taking hazards into consideration when purchasing property, differing homeowner association (HOA) regulations, protection against line drives and this ordinance not being designed to protect human life. Citizens Gerhard and Cindy Torgussen spoke in opposition to golf nets, citing obstructed views, devaluation of properties, inherit risks living on courses, differing HOA regulations, and possible allowance for shorter nets.

Citizens of the City Jeff Marin and Weldon Montgomery, spoke in support of 35-foot nets, opportunities by inspectors to address nets during the building process, proposed regulations exposing the City to vicarious liability, personal injuries, property damage, the difficulty in obtaining variances, and investments in nets. Citizens Glenn and Carla Carter spoke in support of 35-foot nets, efforts by Chase Oaks for golfer compliance, curvature of some areas of courses with homes allowed in close proximity, trajectory of balls and the possibility of backyard enclosures. Citizens Cathy Fercher and Sara Montgomery spoke to dangers of errant golf balls, personal safety as well as property value and stated that a 20-foot net would not offer protection. Citizen Mike Riley spoke to there being no difference between the balls hit on a driving range (60-foot height) and a course (20-foot height). Citizen Bob Buss spoke to the dangers of incoming golf balls, issues of trespassing when golf balls invade one's yard, lack of protection and opposition to the recommendation of a 20-foot height. Citizen Saadi Darvish spoke to development of golf ball technology resulting in more problems, issues associated with a 35-foot net, and opposition coming from those who are not impacted by balls in their yards. Citizens Paul Siebenmann, Len Rao, and Shawn McMillan spoke to providing safety and in support of a 35-foot height, guidelines for HOA governance of these types of issues and being fair to everyone in the City. Citizen John Reilly spoke to issues of ethics and safety and providing resolution through zoning to accommodate differing areas of the City. Citizen Cass Caliri spoke to courses in place prior to homes being built. No one spoke either for or against the request. The Public Hearing was closed.

Council Member Jackson thanked those in attendance and spoke to the problem being a neighborhood issue, HOA's setting guidelines for their area and 20-foot being an inadequate height in some instances. Council Member Magnuson spoke to setting limits for the entire City, dangers of living on golf courses and responsibilities of homeowners to determine restrictions and advised she would cast a vote in opposition to the proposal.

Zoning Case 2008-71 (cont'd)

Director of Planning Jarrell responded to Deputy Mayor Pro Tem LaRosiliere that both horizontal and vertical elements are included within the proposal. Deputy Mayor Pro Tem LaRosiliere spoke to the risks of living on a golf course, the City's responsibility to provide protection, providing uniformity across the City, and in support of the proposal. Council Member Dunlap spoke to remodeling of golf courses not solving the problem, short cuts taken by golfers, concerns for safety, use of vertical and horizontal elements and the need for an ordinance. He stated preference for a solution between courses and their redesign to reduce danger but to helping homeowners.

Council Member Miner spoke to differences between HOA's and stated that one size does not fit all circumstances and in opposition to the proposal. Council Member Johnson spoke regarding safety, choices made by those owning property along a golf course, private matters between the course and homeowners, and to the City not becoming involved. Mayor Pro Tem Callison spoke to safety issues and in support of the recommendation.

A motion was made by Council Member Dunlap and seconded by Deputy Mayor Pro Tem LaRosiliere to approve amendment to Section 1.600 (Definitions) of Article 1 (General Regulations), Section 3.1000 (Screening, Fence, and Wall 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, regarding golf nets as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2008-71. The Council voted 3-4 with Council Members Johnson, Magnuson, Jackson and Miner voting in opposition. The motion failed.

There being no further discussion, Mayor Pro Tem Callison adjourned the meeting at 9:00 p.m.

Jean Callison, MAYOR PRO TEM

ATTEST:

Diane Zucco, City Secretary