

PLANO CITY COUNCIL
November 27, 2006

COUNCIL MEMBERS

Pat Evans, Mayor
Scott Johnson, Mayor Pro Tem
Sally Magnuson, Deputy Mayor Pro Tem
Shep Stahel
Jean Callison
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
Elaine Bealke, City Secretary

Mayor Evans convened the Council into the Regular Session directly from the Preliminary Session on Monday, November 27, 2006, at 7:00 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council members were present with the exception of Deputy Mayor Pro Tem Magnuson. Council Member Callison arrived at 8:00 p.m.

The invocation was led by Sr. Pastor Tom Mullenix of the Cross Bend Christian Church.

The Pledge of Allegiance was led by Senior Girl Scout Troop 2232.

Mayor Evans administered the oath of office to incoming Fire Chief Hugo Esparza.

Mayor Evans presented a certificate of appreciation to Brenda McDonald for her service on the Self Sufficiency Committee.

COMMENTS OF PUBLIC INTEREST

Sonja Hammar, citizen of the City, spoke regarding the drought conditions and inquired when the City would be entering the next stage of watering restrictions. City Manager Muehlenbeck advised consideration would be made following any decisions made by the North Texas Municipal Water District and spoke to the reduction in water use primarily as a result of cutbacks made by the City, school district and commercial customers.

Jack Lagos, citizen of the City, spoke regarding recent revisions to the drought ordinance, the amount of water that would be used by a fountain at the Shops at Legacy and referenced charter provisions in stating opposition to utilizing public funds for the construction of the fountain.

The Council resumed discussion of Preliminary Agenda Items.

Discussion and Direction Regarding the Format and Structure of the Four District Community Outreach Meetings

Mayor Evans requested input on any changes that might be made to the community outreach meetings. Council Member Stahel spoke to quarterly meetings being appropriate, possibly rotating the meeting days to which the Council concurred. He spoke to possibly utilizing focus groups and Council Member Dunlap spoke to having the public determine which topic they would select and to having questions raised in an open forum. Council Member LaRosiliere spoke to providing a dialogue with Council Members and Council Member Ellerbe spoke to compiling a selection so that the attendees may choose a topic. Mayor Pro Tem Johnson spoke to there being interest in asking general questions rather than narrowing the focus.

Mayor Evans spoke to ensuring there is sufficient Council present at the meetings. Council Member Ellerbe spoke to having at least four Council Members in attendance including those representing the district, Council Member Dunlap spoke to Council Members representing everyone in the City and Mayor Pro Tem Johnson stated that in most cases there have been five or six Council Members present. Mayor Evans spoke to continuing as is regarding Council presence.

Mayor Evans requested Staff bring back information regarding how focus groups might be implemented for the next meeting and City Manager Muehlenbeck advised that short presentations could be prepared for five or six topics to provide a starting point. Council Member Stahel spoke to trying the focus group approach rather than trying to incorporate it into the current format.

Council Items for Future Discussion/Action on Future Agendas

No items were brought forward.

Consent and Regular Agendas

Council Member Stahel requested that Consent Agenda Item "G," to purchase switching equipment in the amount of \$49,469 from Internetwork Experts through a Department of Information Resources (DIR) Contract be removed for individual consideration due to a possible conflict of interest.

Citizen Sonja Hammar requested that Consent Agenda Item "S," a resolution to adopt a Chapter 380 Program for Economic Incentives be removed for individual consideration.

Citizen Sonja Hammar requested to speak on Regular Agenda Item “1,” a resolution approve the terms and conditions of an agreement by and between RH 15th Condos One, Ltd. and the City of Plano. Ms. Hammar and citizen Richard Simmons requested to speak on Regular Agenda Item “13,” discussion and direction regarding City of Plano participation in a public-private project for the construction of a fountain at the Shops at Legacy.

Council Member Dunlap advised that he would be stepping down on consideration of Regular Agenda Items “2,” an ordinance to designate a certain area within the City of Plano as Reinvestment Zone No. 103 for a tax abatement consisting of a 2.8383 acre tract of land located approximately at the southwest intersection of Bishop Road and Infinity Avenue “3,” a resolution to approve an agreement by and between the City of Plano, Texas, the County of Collin, Texas, the Collin County Community College District, Jackson Shaw/Legacy Hotel, LP, and “13,” discussion and direction regarding City of Plano participation in a public-private project for the construction of a fountain at the Shops at Legacy.

Council Reports

Mayor Pro Tem Johnson spoke to attendance at a holiday celebration for the Assistance League of Collin County during which the City was recognized for its contributions.

Council Member Ellerbe spoke to attendance at the National League of Cities Transportation Steering Committee and scheduling of an additional meeting to consider the large number of items.

CONSENT AGENDA

Upon a motion made by Council Member Ellerbe and seconded by Council Member Dunlap, the Council voted 6-0 to approve and adopt all remaining items on the Consent Agenda as recommended and as follows:

Approval of Minutes [Consent Agenda Item (A)]

November 9, 2006
November 13, 2006

Approval of Expenditures

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

RFP No. 2006-239-C to establish an annual contract for Oil and Lubrication Products (2) to Steagall Oil, Shelby Oil, and Buckley Oil in the estimated annual amount of \$95,212. This will establish an annual contract with three renewals. [Consent Agenda Item (B)] (See Exhibit “A”)

RFP No. 2006-215-C to establish an annual contract for Security Personnel Service for Municipal Courts to Ruiz Protective Service Inc. in the estimated annual amount of \$58,964. This will establish an annual contract with three renewals. [Consent Agenda Item (C)] (See Exhibit “B”)

Bid No. 2007-17-G for MSA OPTIMAIR 6A PAPRs (breathing apparatus) to Safety Supply Inc. in the amount of \$26,159 (Homeland Security Grant for Police Department). [Consent Agenda Item (D)] (See Exhibit “C”)

Bid No. 2007-21-C for an annual fixed price contract for Irrigation Repair Parts to Longhorn, Inc. in the estimated annual amount of \$130,000 per year for two years with three City optional one-year renewals. [Consent Agenda Item (E)] (See Exhibit “D”)

Bid No. 2007-16-C for the purchase of Library Periodicals and Related Subscription Services from EBSCO Information Services in the amount of \$75,113. [Consent Agenda Item (F)] (See Exhibit “E”)

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

To approve the purchase and maintenance of TDS450 Digital System in the amount of \$44,045 from Océ North America, Inc. through an existing contract/agreement with TXMAS and authorizing the City Manager to execute all necessary documents. (TXMAS-2-36010). [Consent Agenda Item (H)]

To approve the purchase of material testing services for the Alma Road Whitetopping Street Resurfacing project in the amount of \$29,543 from GME Consulting Services, Inc. through an existing contract/agreement and authorizing the City Manager to execute all necessary documents. (Contract #2005-265-D) [Consent Agenda Item (I)]

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 and R-Delta Engineers, Inc. in the amount of \$155,615 for design of Springbrook Drive – Janwood Drive to Quill Drive and authorizing the City Manager to execute all necessary documents. [Consent Agenda Item (J)]

To approve the purchase of street lights along McDermott Road from Custer Road to Coit Road from TXU Electric Delivery Company, the sole provider of such services/equipment and authorizing the City Manager to execute all necessary documents to effectuate the purchase in an amount not to exceed \$26,331. [Consent Agenda Item (A)] [Consent Agenda Item (K)]

To enter into and execute a binding contract with the Texas Department of State Health Services for costs associated with purchase and shipping (not to exceed \$70,000) of single doses of antiviral medication intended to reduce severity and intensity of symptoms for City employees and their immediate family members specific to a pandemic influenza event as declared by the City Health Authority. [Consent Agenda Item (L)]

Renewal of Contract

To approve renewal of Contract No. 2006-36-C for Tire Re-Capping Service with Southern Tire Mart in the estimated annual amount of \$75,575. [Consent Agenda Item (M)]

Approval of Change Order:

To Duit Construction Co., Inc., increasing the contract by \$68,010 for the Alma Road Whitetopping Street Resurfacing project, Change Order #2. (Original Bid #2006-112-B). [Consent Agenda Item (N)]

To Tiseo Paving Company, Inc., increasing the contract by \$30,873 for the Ridgeview Drive Widening from Custer Road to Independence Parkway, Change Order #3. (Original Bid #B162-05) [Consent Agenda Item (O)]

Adoption of Resolutions

Resolution No. 2006-11-20(R): To approve the annual purchase of software and hardware maintenance for the Plano Public Library System for the Horizon System from SirsiDynix, a sole source supplier of said services, in an amount not to exceed \$52,765; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the annual purchase approved herein; and providing an effective date. [Consent Agenda Item (P)]

Resolution No. 2006-11-21(R): To approve the terms and conditions of an Interlocal Cooperation Agreement for Library Services by and between the City of Plano and Denton County, Texas providing the terms and conditions for receipt of funding in the amount of \$11,289 from Denton 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 (Q)]

Resolution No. 2006-11-22(R): To approve the amended and restated Tax Abatement Agreement by and between the City of Plano, Texas, the County of Collin, Texas, the Collin County Community College District and Plano LH, LP, a Delaware Limited Partnership, and providing for a business personal property and real property tax abatement, and authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (R)]

Resolution No. 2006-11-23(R): To approve the terms and conditions of an Economic Development Program Agreement by and between the City of Plano, Texas and Capital One, National Association, along with Capital One Auto Finance, Inc., a Texas Corporation, to promote state and local economic development and to stimulate business and commercial activity in the City and county; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (T)]

Adoption of Ordinances

Ordinance No. 2006-11-24: To abandon all right, title and interest of the City, in and to a portion of that certain variable width right-of-way called Coit Road, being situated in the Martha McBride Survey, Abstract Number 553, 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 owner, John Paul II High School Building and Endowment Fund, to the extent of its interest; authorizing the City Manager to execute any documents deemed necessary; and providing an effective date. [Consent Agenda Item (U)]

END OF CONSENT

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

Purchase from Existing Contract/Agreement: To authorize the purchase of switching equipment in the amount of \$49,469 from Internetwork Experts through a Department of Information Resources (DIR) Contract, and authorizing the City Manager to execute all necessary documents. (DIR-SDD-239). [Consent Agenda Item (G)]

Upon a motion made by Council Member LaRosiliere and seconded by Mayor Pro Tem Johnson, the Council voted 5-0 to authorize the purchase of switching equipment in the amount of \$49,469 from Internetwork Experts through a Department of Information Resources (DIR) Contract, and authorizing the City Manager to execute all necessary documents.

Council Member Stahel resumed his place at the bench.

Resolution No. 2006-11-25(R): To adopt a Chapter 380 Program for Economic Incentives; establishing procedures to administer the program and an application for applying for such incentive; and providing an effective date. [Consent Agenda Item (S)]

Sonja Hammar, citizen of the City, requested information regarding the incentives. City Manager Muehlenbeck advised that this item outlines the program and that recommendations will come from the economic development board. Ms. Hammar spoke to some Council Members being members of the board and Mr. Muehlenbeck spoke to the information that might be brought forward to the whole Council.

Resolution No. 2006-11-25(R) (cont'd)

City Attorney Wetherbee advised that this is not an entitlement and that the Council will make the determination regarding requests and that future agenda items will notify the public that funds are being used for economic development. Mr. Muehlenbeck advised that funding may come from a variety of sources and Ms. Hammar spoke to lack of specificity in the item.

Upon a motion made by Council Member Ellerbe and seconded by Mayor Pro Tem Johnson, the Council voted 6-0 to adopt a Chapter 380 Program for Economic Incentives; establishing procedures to administer the program and an application for applying for such incentive; and providing an effective date; and further to adopt Resolution No. 2006-11-25(R).

Resolution No. 2006-11-26(R): To approve the terms and conditions of an agreement by and between RH 15th Condos One, Ltd. and the City of Plano; authorizing its execution by the City Manager; and providing an effective date. [Regular Agenda Item (1)]

Executive Director Turner spoke to the request being a reassignment of the development agreement for 15th Street Village and stated that the terms and conditions are the same. He spoke to the number of town homes and condominiums currently constructed and the creation of RH 15th Condos One, Ltd. Mr. Turner spoke to an extension of an option for the purchase of City property dependant either on the construction of a pool/amenity center and plans for the construction of a second condominium building or the construction of six town homes on property they now control or future acquisitions that would be immediately adjacent to the property. He spoke to the agreement providing for a \$100,000 infrastructure allowance and the City's cost participation in construction of parking spaces near the police and courts building.

Steve Merani, of RH 15th Condos One, Ltd. provided an update on the development, described the structure of the new organization and spoke to financing, project management and marketing.

Mr. Turner responded to citizen Sonja Hammar advising that the City has no ownership in properties controlled by the partnership and owns the property proposed to be optioned.

Upon a motion made by Council Member Stahel and seconded by Council Member Ellerbe, the Council voted 7-0 to approve the terms and conditions of an agreement by and between RH 15th Condos One, Ltd. and the City of Plano; authorizing its execution by the City Manager; and providing an effective date; and further to adopt Resolution No. 2006-11-26(R)

Due to possible conflicts of interest, Council Member Dunlap stepped down from the bench on the following two items.

Public Hearing and adoption of Ordinance No. 2006-11-27 to establish and designate a certain area within the City of Plano as Reinvestment Zone No. 103 for a tax abatement consisting of a 2.8383 acre tract of land located approximately at the southwest intersection of Bishop Road and Infinity Avenue in the City of Plano; establishing the boundaries of such zone; ordaining other matters relating thereto; and providing an effective date. [Regular Agenda Item (2)]

Director of Finance McGrane advised that this request would establish a reinvestment zone with construction of a 400,000 square foot hotel and result in 150 full time jobs. He spoke to the abatement based on the an estimated amount of \$12 million business personal property and \$60 million real property and that it will be for ten years based on amounts equal to fifty percent of both real property and business personal property.

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, the Council voted 6-0 to establish and designate a certain area within the City of Plano as Reinvestment Zone No. 103 for a tax abatement consisting of a 2.8383 acre tract of land located approximately at the southwest intersection of Bishop Road and Infinity Avenue in the City of Plano; establishing the boundaries of such zone; ordaining other matters relating thereto; and providing an effective date; and further to adopt Ordinance No. 2006-11-27.

Resolution No. 2006-11-28(R): To approve the terms and conditions of an agreement by and between the City of Plano, Texas, the County of Collin, Texas, the Collin County Community College District, Jackson Shaw/Legacy Hotel, LP, a Texas Limited Partnership and providing for a business personal property and real property tax abatement, and authorizing its execution by the City Manager; and providing an effective date. [Regular Agenda Item (3)]

Director of Finance McGrane advised that in the agreement the square footage of the building was revised to 400,000 square feet rather than 480,000 and that notification of the attorney for Jackson Shaw has been added along with other minor word changes.

Upon a motion made by Council Member LaRosiliere and seconded by Council Member Ellerbe, the Council voted 6-0 to approve the terms and conditions of an agreement by and between the City of Plano, Texas, the County of Collin, Texas, the Collin County Community College District, Jackson Shaw/Legacy Hotel, LP, a Texas Limited Partnership and providing for a business personal property and real property tax abatement, and authorizing its execution by the City Manager; and providing an effective date; Resolution No. 2006-11-28(R) as revised.

Council Member Dunlap resumed his place at the bench.

Public Hearing and adoption of Ordinance No. 2006-11-29 to establish and designate a certain area within the City of Plano as Reinvestment Zone No. 104 for a tax abatement consisting of a 25.000 acre tract of land located approximately at the northwest corner of Preston Road and Hedgcoxe Road, in the City of Plano, Texas, establishing the boundaries of such zone, ordaining other matters relating thereto and providing an effective date. [Regular Agenda Item (4)]

Director of Finance McGrane advised that this request would establish a reinvestment zone with construction of 300,000 square feet of space and will relocate 500 employees from another Plano location and create 500 new jobs. He spoke to the abatement based on an estimated \$10 million in business personal property and \$40 million in real property and stated that it will be for ten years based on amounts equal to seventy-five percent of real property and business personal property.

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 LaRosiliere and seconded by Mayor Pro Tem Johnson the Council voted 7-0 to establish and designate a certain area within the City of Plano as Reinvestment Zone No. 104 for a tax abatement consisting of a 25.000 acre tract of land located approximately at the northwest corner of Preston Road and Hedgcoxe Road, in the City of Plano, Texas, establishing the boundaries of such zone, ordaining other matters relating thereto and providing an effective date; and further to adopt Ordinance No. 2006-11-29.

Resolution No. 2006-11-30(R): To approve the terms and conditions of an agreement by and between the City of Plano, Texas, the County of Collin, Texas, the Collin County Community College District, and Capital One National Association, a national banking association along with Capital One Auto Finance, Inc, a Texas Corporation and providing for a business personal property and real property tax abatement, and authorizing its execution by the City Manager; and providing an effective date. [Regular Agenda Item (5)]

Upon a motion made by Council Member Ellerbe and seconded by Mayor Pro Tem Johnson, the Council voted 7-0 to approve the terms and conditions of an agreement by and between the City of Plano, Texas, the County of Collin, Texas, the Collin County Community College District, and Capital One National Association, a national banking association along with Capital One Auto Finance, Inc, a Texas Corporation and providing for a business personal property and real property tax abatement, and authorizing its execution by the City Manager; and providing an effective date; and further to adopt Resolution No. 2006-11-30(R).

Public Hearing and adoption of Ordinance No. 2006-11-31 as requested in Zoning Case 2006-21 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to amend Planned Development-65-Central Business-1 by adding a general condition of the Planned Development District regarding lot frontage on 168.1± acres located north and south of Legacy Drive between the Dallas North Tollway and Parkwood Boulevard in the City of Plano, Collin County, Texas, currently 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: City of Plano [Regular Agenda Item (6)]

Director of Planning Jarrell spoke to amending lot frontage requirements to accommodate urban style development in Legacy Town Center. She advised that the planned development district does not have a specified minimum lot requirement, includes design requirements that would assist in governing the amount of frontage and has been recommended for approval by the Planning and Zoning Commission as follows:

General Conditions of the Planned Development District:

5. Lots must have frontage on a street. There is no required frontage distance for a lot although each lot must meet the design standards of the district.

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 LaRosiliere and seconded by Mayor Pro Tem Johnson, the Council voted 7-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to amend Planned Development-65-Central Business-1 by adding a general condition of the Planned Development District regarding lot frontage on 168.1± acres located north and south of Legacy Drive between the Dallas North Tollway and Parkwood Boulevard in the City of Plano, Collin County, Texas, currently zoned Planned Development-65-Central Business-1; directing a change accordingly in the official zoning map of the City as requested in Zoning Case 2006-21 and as recommended by the Planning and Zoning Commission; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date; and further to adopt Ordinance No. 2006-11-31.

Public Hearing and adoption of Ordinance No. 2006-11-32 as requested in Zoning Case 2006-23 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to rezone 17.6± acres located on the west side of Des Moines Drive, 1,590± feet north of Spring Creek Parkway in the City of Plano, Collin County, Texas, from Light Commercial to Patio Home; 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: FTL Associates, Ltd. [Regular Agenda Item (7)]

Ordinance No. 2006-11-32 (cont'd)

Director of Planning Jarrell presented Regular Agenda Items “7,” “8” and “9” concurrently. She spoke to the zoning case that would rezone 17.6 acres from Light Commercial to Patio Home and advised that while the use is not in conformance with the Comprehensive Plan there are policies to consider rezoning from commercial to residential uses. Ms. Jarrell spoke to compatibility with other development in the area, advised that limited visibility and access of the property does not yield itself to retail/commercial development and that the Planning and Zoning Commission recommended approval of the request as submitted.

Ms. Jarrell advised regarding a review of the alignment of Des Moines Drive and a 2004 Thoroughfare Plan amendment to extend it from Spring Creek Parkway to K Avenue as a four-lane undivided roadway. She stated that Staff determined that an amendment to the Plan to remove a portion of Des Moines Drive would not be detrimental to circulation, stated that access to the commercial properties can be served by K Avenue and spoke to intersection improvements under construction at the Spring Creek Parkway/K Avenue intersection. Ms. Jarrell advised that the Planning and Zoning Commission recommended that the Transportation Element of the Comprehensive Plan be amended to remove the portion of Des Moines Drive north of Leatherwood Drive to K Avenue, and to decrease the capacity of the remaining portion of Des Moines Drive between Spring Creek Parkway and Leatherwood Drive from a Type E, four-lane secondary thoroughfare street to a Type F, two-lane collector street.

Ms. Jarrell spoke to the third item being an appeal of the Planning and Zoning Commission’s action on a concept plan that accompanied Zoning Case 2006-23. She advised that Staff felt that while a direct connection to K Avenue at Des Moines might not be necessary, it was appropriate to stub out a street from the proposed development into the Pecan Lane area that could be extended if and when additional development or redevelopment occurs. Ms. Jarrell stated that the extension would provide two points of access and that the City’s policies support the connection of residential subdivisions. She advised that the Planning and Zoning Commission approved the concept plan without the street extension.

Ms. Jarrell responded to the Council regarding prior consideration of the alignment of Des Moines Drive and stated that the street stub could be extended in the future to facilitate future development, but if property owners continue the current pattern, there would not be a need for the extension. She stated that this would be the last opportunity to have residential street connections and reviewed the layout of Des Moines Drive. Ms. Jarrell advised that as shown the street stub would split a neighborhood lot, but that it could be moved east or west to accommodate future development and stated that the Council would need to take separate action on each item.

Mayor Evans opened the Public Hearing. Chuck McKinney, representing the applicant, spoke to the project continuing the patio home development in the area, working with Staff to develop the concept plan and stated that he is neutral with regard to providing connectivity. Ms. Jarrell responded to Council Member Ellerbe that the next step in the process would be consideration of a preliminary site plan at which time street connection could be established.

Ordinance No. 2006-11-32 (cont'd)

Lynn Robertson, citizen of the City, spoke to the location of the street stub hindering sale of the property and stated her opposition. No one else spoke either for or against the request. The Public Hearing was closed.

Ms. Jarrell responded to Council Member LaRosiliere stating that splitting the lot probably would not be possible and have the lot depth required for SF-20 on either side, but that if it were moved to one side it might be accomplished. Council Member Ellerbe spoke to the opportunity to connect neighborhoods and provide two points of access.

Ms. Jarrell responded to Council Member Stahel that she has not seen current interest in addition to residential or redevelopment in the Pecan Lane area. Council Member Stahel spoke to following the recommendations of the homeowners who are in opposition to the street extension. He spoke to the extension possibly being a deterrent to a future buyer, leaving the lot as green space and perhaps moving the extension to the west to run along the property line. Ms. Jarrell responded to Council Member Dunlap stating that future development of the area as a patio home subdivision would pose access issues without the connection.

Upon a motion made by Council Member Stahel and seconded by Council Member LaRosiliere, the Council voted 7-0 to accept the rezoning as recommended by the Planning and Zoning Commission and to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to rezone 17.6± acres located on the west side of Des Moines Drive, 1,590± feet north of Spring Creek Parkway in the City of Plano, Collin County, Texas, from Light Commercial to Patio Home as requested in Zoning Case 2006-23; 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; adoption of Ordinance No. 2006-11-32.

Consideration of an appeal by the Director of Planning of the Planning & Zoning Commission's approval of a concept plan for Oak Point Estates West, a 76 lot patio home development on 17.6 acres located on the west side of Des Moines Drive, 1,590± feet north of Spring Creek Parkway. Applicant: FTL Associates., Ltd. [Regular Agenda Item (8)]

Director of Planning Jarrell responded to the Council that Staff will work with the property owner to determine the best location for the street extension if the appeal is approved and spoke to locations that would allow for future development of the property with the existing zoning. She responded to Council Member Stahel regarding placement on another lot which would allow a future street to run along the western property line of the subdivision. Ms. Jarrell advised that a vacant lot was chosen because it offers the least intrusion and that if a street were placed at the boundary of commercial/residential developments, homes may face the back of the commercial development. Mr. Stahel stated concern regarding locating the extension through the middle of a lot. Ms. Jarrell responded to the Council that the Planning and Zoning Commission would have consideration of the plan showing the location of the extension.

A motion was made by Council Member Ellerbe and seconded by Council Member LaRosiliere to approve an appeal by the Director of Planning of the Planning & Zoning Commission's approval of a concept plan for Oak Point Estates West, a 76 lot patio home development on 17.6 acres located on the west side of Des Moines Drive, 1,590± feet north of Spring Creek Parkway. The Council voted 6-1 with Council Member Stahel voting in opposition. The motion passed.

Public Hearing and adoption of Ordinance No. 2006-11-33 to amend the Transportation Element -of the Comprehensive Plan, as adopted by Ordinance No. 2004-8-19, to remove the portion of Des Moines Drive north of Leatherwood Drive to K Avenue, and to decrease the capacity of the remaining portion of Des Moines Drive between Spring Creek Parkway and Leatherwood Drive from a Type E, four-lane, secondary thoroughfare street to a Type F, two lane collector street; and providing a repealer clause, a severability clause, and an effective date. Applicant: City of Plano [Regular Agenda Item (9)]

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 Johnson and seconded by Council Member Stahel, the Council voted 7-0 to amend the Transportation Element -of the Comprehensive Plan, as adopted by Ordinance No. 2004-8-19, to remove the portion of Des Moines Drive north of Leatherwood Drive to K Avenue, and to decrease the capacity of the remaining portion of Des Moines Drive between Spring Creek Parkway and Leatherwood Drive from a Type E, four-lane, secondary thoroughfare street to a Type F, two lane collector street as recommended by the Planning and Zoning Commission; and providing a repealer clause, a severability clause, and an effective date; and further to adopt Ordinance No. 2006-11-33.

Public Hearing and adoption of Ordinance No. 2006-11-34 as requested in Zoning Case 2006-24 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 579 so as to allow the additional use of an 80-foot Antenna Support Structure on 2.2± acres of land out of the Oliver Loving Survey, Abstract No. 536, located on the east side of Jupiter Road, 245± feet south of Park Boulevard 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: P.I.S.D. [Regular Agenda Item (10)]

Director of Planning Jarrell advised the Council that the item requests an antenna support structure to be located on PISD property and is recommended for approval as submitted by the Planning and Zoning Commission.

Mayor Evans opened the Public Hearing. Dave Kirk, T-Mobile, spoke to work done with the school district on the proposal and responded to the Council that the structure is designed for multiple carriers. No one else spoke either for or against the request. The Public Hearing was closed.

Ordinance No. 2006-11-34 (cont'd)

Upon a motion made by Council Member Ellerbe and seconded by Council Member LaRosiliere, 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. 579 so as to allow the additional use of an 80-foot Antenna Support Structure on 2.2± acres of land out of the Oliver Loving Survey, Abstract No. 536, located on the east side of Jupiter Road, 245± feet south of Park Boulevard in the City of Plano, Collin County, Texas, presently zoned Retail; directing a change accordingly in the official zoning map of the City as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2006-24; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date; and further to adopt Ordinance No. 2006-11-34.

Public Hearing and adoption of Ordinance No. 2006-11-35 as requested in Zoning Case 2006-26 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 580 so as to allow the additional use of Day Care Center on 0.4± acre of land out of the Original Donation, Block 16, Lot 2A, located on the south side of 14th Street, 177± feet east of M Avenue 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: Maria Folmar [Regular Agenda Item (11)]

Director of Planning Jarrell advised the Council that the request is for a day care center located in a house that has been converted to commercial uses, spoke regarding the applicant's plans for outdoor play space and stated because there is limited parking the applicant has agreed to limit the number of students to 20. She stated that the Planning and Zoning Commission recommended approval of the request subject to a maximum of 20 students.

Ms. Jarrell spoke to the concerns of one of the commissioners regarding the proximity of the property to existing day care facilities and advised that there have been no problems at other centers with regard to traffic on 14th Street. Development Review Manager Elgin advised that the property owner provides their own trash disposal and that there are two parking spaces left for location of a dumpster if necessary.

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

Upon a motion made by Council Member Stahel and seconded by Council Member Ellerbe, 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. 580 so as to allow the additional use of Day Care Center on 0.4± acre of land out of the Original Donation, Block 16, Lot 2A, located on the south side of 14th Street, 177± feet east of M Avenue 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 2006-26; 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. 2006-11-35.

Public Hearing and adoption of Ordinance No. 2006-11-36 as requested in Zoning Case 2006-28 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, amending Heritage Resource Designation No. 16 to a 2.8± acre property, situated in the City of Plano, Collin County, Texas, Block 1, Lots 2 and 2A in the Wells Addition, located on the southwest corner of Coit Road and Lorimar Drive, presently zoned Agricultural with Heritage Resource Designation No. 16, and retaining this zoning classification; directing a change accordingly in the official zoning map of the City; and providing a repealer clause, a savings clause, a penalty clause, a severability clause and an effective date. Applicant: Richard Wells [Regular Agenda Item (12)]

Heritage Resource Officer Watson spoke regarding the recommendations of the Heritage Commission and advised that the Planning and Zoning Commission reviewed the request and recommended approval subject to:

- Museum, periodic fund raising activities, related charitable and/or educational activities, office-professional/general administrative, bed-and-breakfast, and restaurant are additional allowed uses.
- Vehicle circulation and parking may be gravel construction.

Mayor Evans opened the Public Hearing. Applicant Richard Wells responded to the Council that the home was built in 1896. No one else 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 Ellerbe, the Council voted 7-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, amending Heritage Resource Designation No. 16 to a 2.8± acre property, situated in the City of Plano, Collin County, Texas, Block 1, Lots 2 and 2A in the Wells Addition, located on the southwest corner of Coit Road and Lorimar Drive, presently zoned Agricultural with Heritage Resource Designation No. 16, and retaining this zoning classification as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2006-28; directing a change accordingly in the official zoning map of the City; and providing a repealer clause, a savings clause, a penalty clause, a severability clause and an effective date; and further to adopt Ordinance No. 2006-11-36.

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

Discussion and direction regarding City of Plano participation in a public-private project for the construction of a fountain at the Shops at Legacy. [Regular Agenda Item (13)]

City Manager Muehlenbeck spoke to determining if funding could be made available for a public/private partnership project for construction of a fountain at the Shops at Legacy. He advised that \$1 million is available from the unencumbered ending balance of the 2006 budget and stated that if Council approves participation, a 380 agreement would be brought back for consideration.

Council Member Stahel spoke to the increase in the tax rate for development of an economic development fund and Mr. Muehlenbeck spoke to these funds being a combination of Staff holding down expenses and an increase in sales tax revenues.

Fehmi Karahan of the Shops at Legacy responded to Council Member Stahel stating that anything above \$1 million from the City would be funded collectively, but that if the City did not participate the fountain could not be built and that the option recommended is \$3 million. He responded to Council Member Ellerbe that they will use a water source other than the City's and that the fountain would use 15,000-18,000 gallons. Mr. Karahan responded to Council Member Stahel with regard to the fountain as a gathering place advising that there is 15 feet of sidewalk area from the curb to the edge of the fountain, there will be no fence at the street and that there will be a raised edge on the fountain. He spoke to the benefits to the City in terms of tourism and taxes generated and Council Member Stahel spoke to the City not receiving a good return on this investment.

Council Member LaRosiliere spoke to the project's positive effect on the tax rolls, adding to a spectacular project and to the fountain as being one component of a 150-acre project that will ultimately be worth \$1 billion. Council Member Stahel spoke to development of the area not being dependant on the fountain. City Manager Muehlenbeck responded to Mr. Stahel that the improvement would be on the tax rolls as long as it is on private property.

Council Member Ellerbe spoke to funds spent in the downtown area, the fountain being part of a larger project, hotel/motel and sales tax revenues and in support of the item. Council Member LaRosiliere spoke to rewarding businesses that create success. Council Member Stahel spoke to the City's prior contribution in the area and stated concern that the request is not good public policy. He spoke to consideration of 380 agreements as comprehensive packages in conjunction with tax abatements rather than stand-alone issues. Mr. Karahan spoke to the project as being part of the Legacy Town Center.

Dave Noble of Trammel Crow advised that there are not sufficient office funds for the project and spoke to their commitment to the project and the City. He spoke regarding "branding" Plano as something special and Mr. Stahel spoke to making a connection with the cattle drive which is already in place.

Denton Walker of Trammel Crow spoke to their commitment to the plan and to Plano. He responded to Council Member Stahel that the fountain is the best place to utilize City funds since it will make the project better than it is today and spoke to a commitment to the Legacy area including amenities that make it special. Mr. Karahan spoke to the area being an urban development including retail/office/hotel and residential uses, having special amenities to make it a better place, and being competitive.

Mayor Pro Tem Johnson spoke to the unique nature of Legacy Town Center, encouraging its success, retention of businesses, making wise decisions on investing funds and to the fountain as a unique feature. Council Member Callison spoke regarding the distinctive nature of the fountain and its appeal to a variety of people along with the cattle drive. Council Member LaRosiliere spoke to the cattle drive representing "old" Plano and the fountain being modern, the opportunity to provide something unique and the fountain serving as a drawing point for people. Mayor Evans spoke to positioning the City to participate in this type of project, expansion of the tax base, the increase in tourism and developing gathering places.

Richard Simmons, citizen of the City, requested the Council not proceed with this request, spoke to tax abatements in place and stated that there will not be any gain in return on this additional investment. He spoke to the need for better traffic enforcement, unscheduled maintenance for streets and traffic control devices. Sonja Hammar, citizen of the City, spoke to the request being in violation of the City charter as it spends public dollars on private property, the possibility that private streets could be closed, the narrowness of the streets, and the construction of parking garages in the area. She spoke to the drought concerns in the City and recommended that the developer contribute the fountain and land to the City. Chang Young Jang, citizen of the City, spoke to the importance of providing gathering places in the City. Alvie O'Neal, citizen of the City, spoke to the fountain bringing business to the City, citizens putting their trust in the decisions of the Council and past/present Councils and city managers doing an outstanding job in taking Plano into the future.

City Attorney Wetherbee spoke to the multitude of projects over the years that have involved public funds and private property to serve the public purpose of economic development. She spoke to the Council making a reasonable interpretation of the charter, to ensuring that the public has access to the fountain, and her thought that the verbiage "private subdivision" may have some special meaning rather than referring to all subdivisions.

Council Member Stahel spoke to putting the \$1 million into the Economic Development Fund and reserving it for job retention/creation and to meeting this request from public arts funds. Mayor Evans spoke to the monies coming from the ending balance rather than a dedicated fund. Council Member Callison stated opposition to using public arts funds citing the work done by the Public Art Committee. Council Member LaRosiliere stated that he would not support the use of public art funds. Council Member Ellerbe spoke to Economic Development Funds enhancing the community and bringing in more people and sales tax. Mayor Evans stated that projects funded with public art monies belong to the City who is then responsible for maintenance and spoke to the projects planned at Oak Point Park.

By a show of hands, the Council concurred to direct the City Manager move ahead and work towards participation in a public-private project for the construction of a fountain at the Shops at Legacy.

There being no further discussion, Mayor Evans adjourned the meeting at 10:15 p.m.

Pat Evans, MAYOR

ATTEST:

Elaine Bealke, City Secretary