

PLANO CITY COUNCIL

WILL CONVENE INTO A SPECIAL CALLED MEETING AT 5:00 P.M., MAY 17, 2005, FOLLOWED BY AN EXECUTIVE SESSION IN THE PLANO MUNICIPAL BUILDING, 1520 K AVENUE, IN COMPLIANCE WITH VERNON'S TEXAS CODES ANNOTATED, GOVERNMENT CODE CHAPTER 551 (OPEN MEETINGS ACT), AS FOLLOWS:

Mission Statement: The mission of the City of Plano is to provide outstanding services and facilities, through cooperative efforts with our citizens, that contribute to the quality of life in our community.

The City Council may convene into Executive Session to discuss posted items in the regular meeting as allowed by law.

SPECIAL CALLED SESSION

- I. **A resolution** to canvass the election returns of the Special Election held in conjunction with the Joint General Election of May 7, 2005, for the purpose of submitting an initiative to the electorate regarding the use of bond funds to finance a Performing Arts Center in Plano to the Arts of Collin County, Inc. for the purpose of building a facility in Allen, Texas; declaring the results; and resolving other matters on the subject.
- II. **A resolution** to canvass the results of a bond election held in the City on May 7, 2005; resolving other matters related thereto; and providing an effective date.
- III. **A resolution** to canvass the election returns of the Special Election held in conjunction with the Joint General Election of May 7, 2005, for the purpose of approving the legal sale of mixed beverages in restaurants by food and beverage certificate holders only; declaring the results; and resolving other matters on the subject.
- IV. **A resolution** to canvass the election returns of the Special Election held in conjunction with the Joint General Election of May 7, 2005, for the purpose of approving the legal sale of beer and wine for off-premise consumption only; declaring the results; and resolving other matters on the subject.
- V. **A resolution** to canvass the election returns of the Special Election held in conjunction with the Joint General Election on May 7, 2005, at which were submitted six amendments to the City Charter of the City of Plano affecting Section 2.01 of Article 2, Section 3.01(d) of Article 3, Section 3.02 of Article 3, Section 4.07 of Article 4, Section 10.02 of Article 10, Section 10-A.02 of Article 10-A, and Section 11.06 of Article 11 of the Charter; declaring the results of such election; declaring that each proposition which was approved by a majority of the qualified voters voting in such election shall become a part of the Home Rule Charter of the City of Plano; authorizing the taking of all acts required as a result of the adoption of such Charter Amendments; and declaring the effective date of this resolution.

- VI. **A resolution** to canvass the election returns of the Joint General Election of May 7, 2005, for the election of four members of Council [Places 1, 3, 5 and 7] for a term of three years; declaring the results; and resolving other matters on the subject.
- VII. **Oaths of Office** for newly-elected Council Members
- VIII. **Recognition** of outgoing Council Members
- IX. **Selection and Designation** of Mayor Pro Tem and Deputy Mayor Pro Tem
- X. **An ordinance** to amend Section 3-2 (Sale or Manufacture of Beer or Wine Near Church, School, Hospital); Section 3-3 (Manufacturing, Importing, Transporting, Selling, Etc.—Unlawful in Districts Zoned Residential); Section 3-4 (Same – Fees; Receipt; Length of Validity); and Section 3-5 (License Application Reviewed by Department of Code Enforcement) of Chapter Three (Alcoholic Beverages) of the City of Plano Code of Ordinances as has been previously amended; providing distance regulations and permit and fee requirements applicable to the retail sale of alcoholic beverages in the City of Plano; providing a penalty clause, repealer clause, savings clause, severability clause and an effective date.

EXECUTIVE SESSION

- I. Real Estate
Rice Field Turner/Muehlenbeck

In accordance with the provisions of the Open Meetings Act, during Special Called Meetings, agenda items will be discussed and votes may be taken where appropriate.

Municipal Center is wheelchair accessible. A sloped curb entry is available at the main entrance facing Avenue L, with specially marked parking spaces nearby. Access and special parking are also available on the north side of building. The Council Chamber is accessible by elevator to the lower level. Requests for sign interpreters or special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary at 972-941-7120.



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Council Meeting Date:	5/17/05	Reviewed by Legal <i>DL</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Legal		Initials	Date
Department Head	Diane Wetherbee	Executive Director		
Dept Signature:	<i>Diane Wetherbee</i>	City Manager	<i>DL</i>	<i>5/10/05</i>
Agenda Coordinator (include phone #): Lynne Jones - 7109				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input checked="" type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, CANVASSING THE ELECTION RETURNS OF THE SPECIAL ELECTION HELD IN CONJUNCTION WITH THE JOINT GENERAL ELECTION OF MAY 7, 2005, FOR THE PURPOSE OF SUBMITTING AN INITIATIVE TO THE ELECTORATE REGARDING THE USE OF BOND FUNDS TO FINANCE A PERFORMING ARTS CENTER IN PLANO TO THE ARTS OF COLLIN COUNTY, INC. FOR THE PURPOSE OF BUILDING A FACILITY IN ALLEN, TEXAS; DECLARING THE RESULTS; AND RESOLVING OTHER MATTERS ON THE SUBJECT.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S):				
COMMENTS:				
SUMMARY OF ITEM				
This resolution canvasses the election returns of the special election held on May 7, 2005 for the purpose of submitting an initiative to the electorate regarding the use of bond funds to finance a performing arts center in Plano to the Arts of Collin County, Inc. for the purpose of building a facility in Allen, Texas				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
n/a		n/a		

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RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, CANVASSING THE ELECTION RETURNS OF THE SPECIAL ELECTION HELD IN CONJUNCTION WITH THE JOINT GENERAL ELECTION OF MAY 7, 2005, FOR THE PURPOSE OF SUBMITTING AN INITIATIVE TO THE ELECTORATE REGARDING THE USE OF BOND FUNDS TO FINANCE A PERFORMING ARTS CENTER IN PLANO TO THE ARTS OF COLLIN COUNTY, INC. FOR THE PURPOSE OF BUILDING A FACILITY IN ALLEN, TEXAS; DECLARING THE RESULTS; AND RESOLVING OTHER MATTERS ON THE SUBJECT.

WHEREAS, as a result of a qualified initiative received by the City Council, the Council called a Special Election regarding the use of bond funds to finance a performing arts center for the purpose of building a facility in Allen, Texas, to be held in conjunction with the General Election to be held on May 7, 2005, by Ordinance 2005-2-29, passed February 25, 2005 and corrected by Ordinance No. 2005-4-13, passed April 11, 2005; and

WHEREAS, the City Council met on May 17, 2005, and canvassed the election returns of the above-mentioned election; and

WHEREAS, it was found that the item received the stated number of votes.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. In the Special Election held on May 7, 2005, for the purpose of submitting an initiative to the electorate regarding the use of bond funds to finance a performing arts center in Plano to the Arts of Collin County, Inc. for the purpose of building a facility in Allen, Texas the votes were received as follows:

For the Resolution _____ Against the Resolution _____

Section II. The City Council hereby finds and determines, as a result of this Canvass, that a total of _____ persons voted in this Special Election held on May 7, 2005.

DULY PASSED AND APPROVED this the ____ day of _____, 2005.

Pat Evans, MAYOR

ATTEST:

Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee
Diane C. Wetherbee, CITY ATTORNEY

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**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date:	5/17/05	Reviewed by Legal <i>WJ</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Budget & Research	Initials	Date	
Department Head	Karen Rhodes	Executive Director		
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>	<i>5/12/05</i>
Agenda Coordinator (include phone #):		Elizabeth Dorrance x7146		
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input checked="" type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
A RESOLUTION OF THE CITY OF PLANO, TEXAS, CANVASSING THE RESULTS OF A BOND ELECTION HELD IN THE CITY ON MAY 7, 2005; RESOLVING OTHER MATTERS RELATED THERETO; AND PROVIDING AN EFFECTIVE DATE.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(s): N/A				
COMMENTS:				
SUMMARY OF ITEM				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		

A RESOLUTION OF THE CITY OF PLANO, TEXAS, CANVASSING THE RESULTS OF A BOND ELECTION HELD IN THE CITY ON MAY 7, 2005; RESOLVING OTHER MATTERS RELATED THERETO; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council (the "City Council") of the City of Plano (the "City"), by ordinance duly passed and adopted, made provision for an election (the "Election") to be held within the City on May 7, 2005, for the purpose of submitting certain propositions for the issuance of general obligation bonds to the resident qualified electors of the City; and

WHEREAS, the City Council has investigated all matters pertaining to the Election, including the ordering, giving of notice, appointing of officers, and holding and making returns of the Election; the election officers who held the election have duly made the returns of the results thereof; and said returns have been duly delivered to the City Council for official canvassing of the returns thereof; and

WHEREAS, upon the consideration of the returns of the Election, it appears that the same was held in accordance with the authorizing proceedings and was in all respects legally held after due notice had been given, and the returns duly and legally made, and other instruments, showed the following results:

PROPOSITION NO. 1

THE ISSUANCE OF \$21,700,000 GENERAL OBLIGATION BONDS FOR FIRE FIGHTING, EMERGENCY OPERATIONS AND LOGISTICS FACILITIES AND EQUIPMENT IN THE CITY OF PLANO

VOTES FOR:
VOTES AGAINST:

PROPOSITION NO. 2

THE ISSUANCE OF \$2,000,000 GENERAL OBLIGATION BONDS FOR LIBRARY FACILITIES

VOTES FOR:
VOTES AGAINST:

PROPOSITION NO. 3

THE ISSUANCE OF \$1,355,000 GENERAL OBLIGATION BONDS FOR EXPANSION OF THE PLANO ANIMAL SHELTER

VOTES FOR:
VOTES AGAINST:

PROPOSITION NO. 4

THE ISSUANCE OF \$57,775,000 GENERAL OBLIGATION BONDS FOR PARKS AND RECREATION FACILITIES IN THE CITY OF PLANO

VOTES FOR:
VOTES AGAINST:



PROPOSITION NO. 5

THE ISSUANCE OF \$6,600,000 GENERAL OBLIGATION BONDS FOR EXPANSION OF CARPENTER PARK RECREATION CENTER

VOTES FOR:

VOTES AGAINST:

PROPOSITION NO. 6

THE ISSUANCE OF \$55,372,000 GENERAL OBLIGATION BONDS FOR STREET IMPROVEMENTS

VOTES FOR:

VOTES AGAINST:

TOTAL BALLOTS CAST IN ELECTION: _____

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section 1. All of the recitals contained in the preamble of this Resolution are found to be true and are adopted as findings of fact by the City Council and as part of its judgment.

Section 2. It is further found and determined that the results of the Election as canvassed and tabulated in the preamble hereof reflect the expressed desires of the electors.

Section 3. As a result of this canvass, the City Council hereby finds and determines that a total of _____ persons voted in the Election.

Section 4. In conformity with law, the City Council is hereby authorized to issue the bonds on behalf of the City in the amounts and for the purposes mentioned in the propositions set forth in the proceedings calling the election.

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PASSED AND APPROVED BY the City Council of the City of Plano this _____,
2005.

Pat Evans
Mayor, City of Plano, Texas

ATTEST:

Elaine Bealke
City Secretary, City of Plano, Texas

APPROVED AS TO FORM:

Diane C. Wetherbee
City Attorney, City of Plano, Texas

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**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Council Meeting Date:	5/17/05	Reviewed by Legal <i>ML</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Legal		Initials	Date
Department Head	Diane Wetherbee	Executive Director		
Dept Signature:	<i>Diane Wetherbee</i>	City Manager	<i>ML</i>	<i>5/10/05</i>
Agenda Coordinator (include phone #):		Lynne Jones - 7109		
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input checked="" type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, CANVASSING THE ELECTION RETURNS OF THE SPECIAL ELECTION HELD IN CONJUNCTION WITH THE JOINT GENERAL ELECTION OF MAY 7, 2005, FOR THE PURPOSE OF APPROVING THE LEGAL SALE OF MIXED BEVERAGES IN RESTAURANTS BY FOOD AND BEVERAGE CERTIFICATE HOLDERS ONLY; DECLARING THE RESULTS; AND RESOLVING OTHER MATTERS ON THE SUBJECT.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(s):				
COMMENTS:				
SUMMARY OF ITEM				
This resolution canvasses the election returns of the special election held on May 7, 2005 for the purpose of approving the legal sale of mixed beverages in restaurants by food and beverage certificate holders only.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
n/a		n/a		

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RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, CANVASSING THE ELECTION RETURNS OF THE SPECIAL ELECTION HELD IN CONJUNCTION WITH THE JOINT GENERAL ELECTION OF MAY 7, 2005, FOR THE PURPOSE OF APPROVING THE LEGAL SALE OF MIXED BEVERAGES IN RESTAURANTS BY FOOD AND BEVERAGE CERTIFICATE HOLDERS ONLY; DECLARING THE RESULTS; AND RESOLVING OTHER MATTERS ON THE SUBJECT.

WHEREAS, upon receipt of a qualified petition for a local option election, the City Council called a Special Election to be held in conjunction with the General Election to be held on May 7, 2005, by Ordinance 2005-1-23, passed January 24, 2005, for the purpose of approving the legal sale of mixed beverages in restaurants by food and beverage certificate holders only; and

WHEREAS, the City Council met on May 17, 2005, and canvassed the election returns of the above-mentioned election; and

WHEREAS, it was found that the item received the stated number of votes.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. In the Special Election held on May 7, 2005, for the purpose of approving the legal sale of mixed beverages in restaurants by food and beverage certificate holders only the votes were received as follows:

For _____ Against _____

Section II. The City Council hereby finds and determines, as a result of this Canvass, that a total of _____ persons voted in this Special Election held on May 7, 2005.

Section III. The Mayor and the City Secretary and any other officers and employees of the City of Plano required to take any action as a result of the adoption of this Resolution are hereby authorized and directed to take any and all such actions.

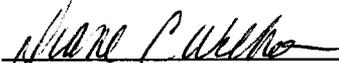
DULY PASSED AND APPROVED this the ____ day of _____, 2005.

Pat Evans, MAYOR

ATTEST:

Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:



Diane C. Wetherbee, CITY ATTORNEY

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**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Council Meeting Date:	5/17/05	Reviewed by Legal	<i>a</i> <input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Legal		Initials	Date
Department Head	Diane Wetherbee	Executive Director		
Dept Signature:	<i>D. Wetherbee</i>	City Manager	<i>[Signature]</i>	<i>5/10/05</i>
Agenda Coordinator (include phone #):		Lynne Jones - 7109		
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input checked="" type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, CANVASSING THE ELECTION RETURNS OF THE SPECIAL ELECTION HELD IN CONJUNCTION WITH THE JOINT GENERAL ELECTION OF MAY 7, 2005, FOR THE PURPOSE OF APPROVING THE LEGAL SALE OF BEER AND WINE FOR OFF-PREMISE CONSUMPTION ONLY; DECLARING THE RESULTS; AND RESOLVING OTHER MATTERS ON THE SUBJECT.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S):				
COMMENTS:				
SUMMARY OF ITEM				
This resolution canvasses the election returns of the special election held on May 7, 2005 for the purpose of approving the legal sale of beer and wine for off-premise consumption only.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
n/a		n/a		

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RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, CANVASSING THE ELECTION RETURNS OF THE SPECIAL ELECTION HELD IN CONJUNCTION WITH THE JOINT GENERAL ELECTION OF MAY 7, 2005, FOR THE PURPOSE OF APPROVING THE LEGAL SALE OF BEER AND WINE FOR OFF-PREMISE CONSUMPTION ONLY; DECLARING THE RESULTS; AND RESOLVING OTHER MATTERS ON THE SUBJECT.

WHEREAS, upon receipt of a qualified petition for a local option election, the City Council called a Special Election to be held in conjunction with the General Election to be held on May 7, 2005, by Ordinance 2005-1-24, passed January 24, 2005, for the purpose of approving the legal sale of beer and wine for off-premise consumption only; and

WHEREAS, the City Council met on May 17, 2005, and canvassed the election returns of the above-mentioned election; and

WHEREAS, it was found that the item received the stated number of votes.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. In the Special Election held on May 7, 2005, for the purpose of approving the legal sale of beer and wine for off-premise consumption only, the votes were received as follows:

For _____ Against _____

Section II. The City Council hereby finds and determines, as a result of this Canvass, that a total of _____ persons voted in this Special Election held on May 7, 2005.

Section III. The Mayor and the City Secretary and any other officers and employees of the City of Plano required to take any action as a result of the adoption of this Resolution are hereby authorized and directed to take any and all such actions.

DULY PASSED AND APPROVED this the ____ day of _____, 2005.

Pat Evans, MAYOR

ATTEST:

Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee

Diane C. Wetherbee, CITY ATTORNEY

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**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Council Meeting Date:	5/17/05	Reviewed by Legal <i>05/17/05</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Legal		Initials	Date
Department Head	Diane Wetherbee	Executive Director		
Dept Signature:	<i>Diane Wetherbee</i>	City Manager	<i>[Signature]</i>	<i>5/17/05</i>
Agenda Coordinator (include phone #): Lynne Jones - 7109				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input checked="" type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, CANVASSING THE ELECTION RETURNS OF THE SPECIAL ELECTION HELD IN CONJUNCTION WITH THE JOINT GENERAL ELECTION ON MAY 7, 2005, AT WHICH WERE SUBMITTED SIX AMENDMENTS TO THE CITY CHARTER OF THE CITY OF PLANO AFFECTING SECTION 2.01 OF ARTICLE 2, SECTION 3.01(d) OF ARTICLE 3, SECTION 3.02 OF ARTICLE 3, SECTION 4.07 OF ARTICLE 4, SECTION 10.02 OF ARTICLE 10, SECTION 10-A.02 OF ARTICLE 10-A, AND SECTION 11.06 OF ARTICLE 11 OF THE CHARTER; DECLARING THE RESULTS OF SUCH ELECTION; DECLARING THAT EACH PROPOSITION WHICH WAS APPROVED BY A MAJORITY OF THE QUALIFIED VOTERS VOTING IN SUCH ELECTION SHALL BECOME A PART OF THE HOME RULE CHARTER OF THE CITY OF PLANO; AUTHORIZING THE TAKING OF ALL ACTS REQUIRED AS A RESULT OF THE ADOPTION OF SUCH CHARTER AMENDMENTS; AND DECLARING THE EFFECTIVE DATE OF THIS RESOLUTION.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S):				
COMMENTS:				
SUMMARY OF ITEM				
This resolution canvasses the election returns of the special election held on May 7, 2005, at which election six Propositions were submitted for consideration by the qualified voters of the City to amend the City Charter.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
n/a		n/a		

V-1

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, CANVASSING THE ELECTION RETURNS OF THE SPECIAL ELECTION HELD IN CONJUNCTION WITH THE JOINT GENERAL ELECTION ON MAY 7, 2005, AT WHICH WERE SUBMITTED SIX AMENDMENTS TO THE CITY CHARTER OF THE CITY OF PLANO AFFECTING SECTION 2.01 OF ARTICLE 2, SECTION 3.01(d) OF ARTICLE 3, SECTION 3.02 OF ARTICLE 3, SECTION 4.07 OF ARTICLE 4, SECTION 10.02 OF ARTICLE 10, SECTION 10-A.02 OF ARTICLE 10-A, AND SECTION 11.06 OF ARTICLE 11 OF THE CHARTER; DECLARING THE RESULTS OF SUCH ELECTION; DECLARING THAT EACH PROPOSITION WHICH WAS APPROVED BY A MAJORITY OF THE QUALIFIED VOTERS VOTING IN SUCH ELECTION SHALL BECOME A PART OF THE HOME RULE CHARTER OF THE CITY OF PLANO; AUTHORIZING THE TAKING OF ALL ACTS REQUIRED AS A RESULT OF THE ADOPTION OF SUCH CHARTER AMENDMENTS; AND DECLARING THE EFFECTIVE DATE OF THIS RESOLUTION.

WHEREAS, in accordance with Ordinance No. 2005-2-10 passed and approved by the City Council on February 14, 2005 a Special Election in conjunction with the general election, was held in and throughout the City of Plano, Texas, on Saturday, May 7, 2005, at which election were submitted six Propositions for consideration by the qualified voters of the City to amend the City Charter as more fully described in Ordinance No. 2005-2-10; and

WHEREAS, the City Council met in Special Session for which notice had been posted in all things as required by law, on Tuesday, May 17, 2005, and canvassed the election returns of the above-mentioned election; and

WHEREAS, it was found that each of the Propositions listed on the ballot under Charter Amendments, which are described on Exhibit "A" attached and incorporated herein verbatim, submitted to the voters at such election received the following votes, to-wit:

Proposition No. 1	For	_____	Against	_____
Proposition No. 2	For	_____	Against	_____
Proposition No. 3	For	_____	Against	_____
Proposition No. 4	For	_____	Against	_____
Proposition No. 5	For	_____	Against	_____
Proposition No. 6	For	_____	Against	_____

WHEREAS, it is now necessary to declare the results of such election and to declare that each Proposition for which a majority of the qualified voters voting in such

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election voted "For" has been approved by such voters, and that such amendments shall become a part of the Home Rule City Charter of the City of Plano, Texas.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. At the Special Election held in conjunction with the general election held in and throughout the City of Plano on Saturday, May 7, 2005, in all things as required by law, at which were submitted to the qualified voters of the City, six Propositions for amendment to the Home Rule City Charter of the City of Plano, the City Council hereby finds and determines that each of the said Propositions received the number of votes as indicated, to-wit:

Proposition No. 1	For	_____	Against	_____
Proposition No. 2	For	_____	Against	_____
Proposition No. 3	For	_____	Against	_____
Proposition No. 4	For	_____	Against	_____
Proposition No. 5	For	_____	Against	_____
Proposition No. 6	For	_____	Against	_____

Section II. The City Council hereby finds and determines, as a result of this Canvass, that a total of _____ persons voted in the Special Election for the City Charter held on May 7, 2005. The City Council further finds, determines and declares that Propositions 1, 3, and 4 were not approved by a majority of the qualified voters. The City Council further finds, determines, and declares that Propositions 2, 5, and 6 each received a majority vote in favor of adoption of such Proposition, and were approved by a majority of the qualified voters. Accordingly, the amendments to the Home Rule City Charter of the City of Plano as set forth in Propositions 2, 5, and 6 shall become a part of the Home Rule Charter of the City of Plano, in accordance with the provisions of LGC section 9.005.

Section III. The amendments to the Home Rule City Charter of the City of Plano, Texas, as set forth in Propositions 2, 5, and 6 as described in Ordinance No. 2005-2-10 are hereby declared by the City Council to be adopted and to be a part of the Home Rule City Charter of the City of Plano, Texas, from and after such adoption.

Section IV. The Mayor and the City Secretary, and any other officers and employees of the City of Plano, required to take any action as a result of the adoption of the amendments to the Home Rule City Charter as herein provided for, are hereby authorized and directed to take any and all such actions.

Section V. This Resolution shall become effective immediately upon its passage.

V-3



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Council Meeting Date:	5/17/05	Reviewed by Legal <i>DL</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	City Secretary		Initials	Date
Department Head	Elaine Bealke	Executive Director		
Dept Signature:	<i>Elaine Bealke</i>	City Manager	<i>JAN</i>	<i>5/11/05</i>
Agenda Coordinator (include phone #):		Di Zucco - X7551		
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input checked="" type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, CANVASSING THE ELECTION RETURNS OF THE JOINT GENERAL ELECTION OF MAY 7, 2005, FOR THE ELECTION OF FOUR MEMBERS OF COUNCIL [PLACES 1, 3, 5 AND 7] FOR A TERM OF THREE YEARS; DECLARING THE RESULTS; AND RESOLVING OTHER MATTERS ON THE SUBJECT.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(s):				
COMMENTS:				
SUMMARY OF ITEM				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		

V1-1

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, CANVASSING THE ELECTION RETURNS OF THE JOINT GENERAL ELECTION OF MAY 7, 2005, FOR THE ELECTION OF FOUR MEMBERS OF COUNCIL [PLACES 1, 3, 5 AND 7] FOR A TERM OF THREE YEARS; DECLARING THE RESULTS; AND RESOLVING OTHER MATTERS ON THE SUBJECT.

WHEREAS, for the purpose of electing four members of Council [Places 1, 3, 5 and 7] for a three (3) year term of office on the Plano City Council, the City Council called a Joint General Election to be held on May 7, 2005, by Ordinance No. 2005-2-6, passed February 14, 2005; and

WHEREAS, the City Council met on May 17, 2005, and canvassed the election returns of the above-mentioned election; and

WHEREAS, it was found that the persons herein named received the stated number of votes for said term of office on the Plano City Council:

MEMBER OF COUNCIL, PLACE NO. 1

Shep Stahel _____

MEMBER OF COUNCIL, PLACE NO. 3

Loretta Ellerbe _____

MEMBER OF COUNCIL, PLACE NO. 5

Warner A. Richeson _____

Harry LaRosiliere _____

MEMBER OF COUNCIL, PLACE NO. 7

Jean Callison _____

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS:

V1-2

Section I. That in the Joint General Election held on May 7, 2005, for Member of Council, Place No. 1, Shep Stahel received a majority of all votes cast for such place; for Member of Council, Place No. 3, Loretta Ellerbe received a majority of all votes cast for such place; for Member of Council, Place No. 5, Harry LaRosiliere received a majority of all votes cast for such place; and for Member of Council, Place No. 7, Jean Callison received a majority of all votes cast for such place.

Section II. Shep Stahel is hereby declared to be elected Council Member for Place No. 1; Loretta Ellerbe is hereby declared to be elected Council Member for Place No. 3; Harry LaRosiliere is hereby declared to be elected Council Member for Place No. 5 and; Jean Callison is hereby declared to be elected Council Member for Place 7;

Section III. The City Council hereby finds and determines, as a result of this Canvass, that a total of _____ persons voted in the Joint General Election held on May 7, 2005.

DULY PASSED AND APPROVED THIS THE 17th DAY OF MAY, 2005.

Pat Evans, MAYOR

ATTEST:

Elaine Bealke, CITY SECRETARY

Approved as to form:

Diane C. Wetherbee

Diane C. Wetherbee, CITY ATTORNEY

V1-3



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> Not Applicable
Council Meeting Date:		5-17-05	Reviewed by Legal <i>JW</i>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Not Applicable
Department:	Legal		Initials	Date
Department Head	Diane C. Wetherbee		Executive Director	
Dept Signature:	<i>D. Wetherbee</i>		City Manager	<i>JW</i> 5/2/05
Agenda Coordinator (include phone #): Lynne Jones ext. 7109				
ACTION REQUESTED: <input checked="" type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS AMENDING SECTION 3-2 (SALE OR MANUFACTURE OF BEER OR WINE NEAR CHURCH, SCHOOL, HOSPITAL); SECTION 3-3 (MANUFACTURING, IMPORTING, TRANSPORTING, SELLING, ETC.--UNLAWFUL IN DISTRICTS ZONED RESIDENTIAL); SECTION 3-4 (SAME—FEES; RECEIPT; LENGTH OF VALIDITY); AND SECTION 3-5 (LICENSE APPLICATION REVIEWED BY DEPARTMENT OF CODE ENFORCEMENT) OF CHAPTER THREE (ALCOHOLIC BEVERAGES) OF THE CITY OF PLANO CODE OF ORDINANCES, AS HAS BEEN PREVIOUSLY AMENDED; PROVIDING DISTANCE REGULATIONS AND PERMIT AND FEE REQUIREMENTS APPLICABLE TO THE RETAIL SALE OF ALCOHOLIC BEVERAGES IN THE CITY OF PLANO; PROVIDING A PENALTY CLAUSE, REPEALER CLAUSE, SAVINGS CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S):				
COMMENTS:				
SUMMARY OF ITEM				
The changes to the City's Alcoholic Beverages ordinance are necessitated by the outcome of the Local Option Election held on May 7, 2005. Restaurants that obtain a mixed beverage permit with food and beverage certificate from the TABC will now be able to sell alcoholic beverages in Plano without going through the private club specific use permit (SUP) process with the city. This also means that the City's current distance regulations applicable to private clubs will not apply to those restaurants electing to sell alcoholic beverages by mixed beverage permit. State law does, however, allow municipalities to enact a three-hundred foot (300') buffer between businesses operating with a mixed beverage permit and churches, schools and public hospitals. This buffer may be extended to 1000' for private schools upon request from the private school board. This ordinance will put these changes into effect.				



**CITY OF PLANO
COUNCIL AGENDA ITEM**

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List of Supporting Documents:

Other Departments, Boards, Commissions or Agencies

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X-2

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS AMENDING SECTION 3-2 (SALE OR MANUFACTURE OF BEER OR WINE NEAR CHURCH, SCHOOL, HOSPITAL); SECTION 3-3 (MANUFACTURING, IMPORTING, TRANSPORTING, SELLING, ETC.--UNLAWFUL IN DISTRICTS ZONED RESIDENTIAL); SECTION 3-4 (SAME—FEES; RECEIPT; LENGTH OF VALIDITY); AND SECTION 3-5 (LICENSE APPLICATION REVIEWED BY DEPARTMENT OF CODE ENFORCEMENT) OF CHAPTER THREE (ALCOHOLIC BEVERAGES) OF THE CITY OF PLANO CODE OF ORDINANCES, AS HAS BEEN PREVIOUSLY AMENDED; PROVIDING DISTANCE REGULATIONS AND PERMIT AND FEE REQUIREMENTS APPLICABLE TO THE RETAIL SALE OF ALCOHOLIC BEVERAGES IN THE CITY OF PLANO; PROVIDING A PENALTY CLAUSE, REPEALER CLAUSE, SAVINGS CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, on May 7, 2005, a local option election was held in the City of Plano, Texas for the purpose of authorizing the legal sale of alcoholic beverages in restaurants by mixed beverage permit with food and beverage certificate; and

WHEREAS, a majority of those voting in the local option election voted in favor of authorizing the sale of alcoholic beverages at restaurants in Plano by mixed beverage permit and food and beverage certificate; and

WHEREAS, Chapter 109, Subchapter C of the Texas Alcoholic Beverage Code authorizes the governing body of an incorporated city or town to enact regulations prohibiting the retail sale of alcoholic beverages within 300' of a church, public or private school, or public hospital; and

WHEREAS, Chapter 3 (Alcoholic Beverages) of the City of Plano Code of Ordinances does not address the sale of alcoholic beverages by mixed beverage permit and should be updated; and

WHEREAS, the City Council of the City of Plano has determined that it is in the best interest of the City of Plano and its citizens to prohibit the sale of alcoholic beverages within 300' of a church, public or private school, or public hospital; and

WHEREAS, the City can best enforce these distance regulations by requiring that all establishments in Plano desiring to sell alcoholic beverages under a mixed beverage permit apply to the City of Plano for a city permit

authorizing mixed beverage sales with food & beverage certificate at each proposed location; and

WHEREAS, the City will incur costs in administering the permitting program and may charge an appropriate fee for the permit to offset these costs in accordance with Section 11.38 Tex.Alcoh.&Bev.Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

Section II. Section 3-2 (Sale or manufacture of beer or wine near church, school, hospital) of Chapter 3 (Alcoholic Beverages) of the City of Plano Code of Ordinances is hereby amended to read in its entirety as follows:

"Section 3-2. Sale of Alcoholic Beverages Near Church, School or Public Hospital.

No person shall sell alcoholic beverages if the place of business is within three-hundred feet (300') of a church, public or private school, or public hospital except as provided by the Texas Alcoholic Beverage Code. The sale of alcoholic beverages is also prohibited within one-thousand feet (1000') of a private school if the City Council adopts by resolution a request for the 1000' separation from the governing body of a private school. The measurement of the distance between the place of business where alcoholic beverages are sold and the church or public hospital shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections. The measurement of the distance between the place of business where alcoholic beverages are sold and the public or private school shall be:

- (a) in a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections; or
- (b) if the permit or license holder is located on or above the fifth story of a multistory building, in a direct line from the property line of the public or private school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located.

X-4

Section III. Section 3-3 (Manufacturing, importing, transporting, selling, etc. – unlawful in districts zoned residential).

"Section 3-3. Manufacturing, importing, transporting, selling, etc.—Unlawful in districts zoned residential.

It shall be unlawful for any person to manufacture, distill, brew, import, transport, store for purposes of sale, distribute or sell any alcoholic beverages in any residentially zoned district within the City of Plano.

Section IV. Section 3-4 (Same – Fees; receipt; length of validity) of Chapter 3 (Alcoholic Beverages) of the City of Plano Code of Ordinances is hereby amended to read in its entirety as follows:

"Section 3-4. Permit Required; Fees.

No person shall sell alcoholic beverages within the city without first paying the appropriate fee to the City Secretary and obtaining a city permit to sell alcoholic beverages at a specific location. The fee shall be equal to one-half of the fee charged by the State for the particular license issued by the Texas Alcoholic Beverage Commission, except when said fee is waived according to the provisions of the Texas Alcoholic Beverage Code. Following payment of the fee and approval of the permit application, as set forth herein, the City Secretary shall issue a permit for that location for a period of one year."

Section V. Section 3-5 (License application reviewed by department of code enforcement) of Chapter 3 (Alcoholic Beverages) of the City of Plano Code of Ordinances shall be amended to read in its entirety as follows:

"Section 3-5. Permit Application Review; Certificate of Wet/Dry Status

Prior to issuing a city permit to applicant for the proposed location, the city secretary shall certify whether the location is located in an area that is wet and that the sale of alcoholic beverages at this location is not prohibited by Charter or ordinance. The City Secretary shall keep a record of all permits and certificates issued under this Chapter."

Section VI. Any person, firm or corporation found to be violating any term or provision of this Ordinance shall be subject to a fine in accordance with Section 1-4(b) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section VII. All provisions of the Ordinances of the City of Plano, codified or uncoded, in conflict with the provisions of these Ordinances are hereby

X-5

repealed, and all other provisions of the Ordinances of the City of Plano, codified or uncodified, not in conflict with the provisions of these Ordinances, shall remain in full force and effect.

Section VIII. The repeal of any ordinance or part of ordinances affected by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinances at the time of passage of this ordinance.

Section IX. It is the intention of the City Council that this Ordinance, and every provision thereof, shall be considered severable, and the invalidity or unconstitutionality of any section, clause, provision or portion of this Ordinance shall not affect the validity or constitutionality of any other provision of this Ordinance.

Section X. This Ordinance shall become effective immediately upon its passage and publication as required by law.

DULY PASSED AND APPROVED this ____ day of _____, 2005.

Pat Evans, MAYOR

ATTEST:

Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

X-6

April 12, 2005

MEMO

TO: Frank F. Turner, Executive Director
FROM: Phyllis M. Jarrell, Director of Planning
SUBJECT: Alcoholic Beverage Regulations

You had asked about the effect of changing the private club status for the sale of alcoholic beverages might have on our existing ordinances. On the May 7th ballot, the voters are being asked to legalize "the legal sale of mixed beverages in restaurants by food and beverage certificate holders only". Approval of this ballot initiative would give restaurants and other operations that wish to serve alcohol for on-premise consumption a permit option other than the private club permit. A food and beverage certificate holder must demonstrate to the state comptroller that the annual gross receipts of the mixed beverages sold are 50% or less of the total gross receipts. A food and beverage certificate holder must have facilities for the preparation and service of multiple entrees. (Over half of the private clubs now in Plano also hold food and beverage certificates.)

I consulted with Jeff Gladden in the McKinney office of TABC as to whether or not we would be able to continue our present regulations that apply to private clubs. While we would have to adopt new regulations specific to restaurants with mixed beverage permits, Mr. Gladden recommended that we keep our existing regulations for private clubs, since some operators will continue to sell alcohol with a private club permit rather than a mixed beverage permit. While many of our private club regulations do not conform to state law, our ordinance is considered "grandfathered" by the state since it was in place before 1987. We can continue to enforce these requirements for private club permit holders. It is anticipated that most private club permit holders will transition over time to the mixed beverage with food and beverage certificate type of permit as their permits come up for renewal.

X-7

Distance Requirements

If the city wishes to enforce distance requirements for holders of mixed beverage permits, we must enact new ordinances to do so. The minimum distance requirements allowed by statute are as follows:

- Within 300 feet of a church, public school, private school or public hospital. This distance requirement does not apply to a holder of a food and beverage certificate that is located within 300 feet of a private school.
- Within 1000 feet of a private school if the school's governing board requests the city to expand the distance requirement from 300 feet. This distance requirement does not apply to the holder of a retail off-premise consumption permit if less than 50% of the gross receipts for the business, excluding the sale of gasoline, are from alcoholic beverages.

A private school is defined as a private or parochial school that offers a course of instruction for students in one or more grades from kindergarten through grade 12 and has more than 100 students enrolled and attending courses at a single location.

The numerous exclusions from the distance requirements make it difficult for a city to determine exactly when the requirements should apply. For example, a city will not know if a convenience store has gross receipts that exceed 50% for alcohol sales. Oddly, the statute does not allow a 1000 foot distance separation from public schools except in a municipality of 900,000 population or greater.

While not wanting to predict the outcome of the May 7th election, I would recommend that the city be prepared to enact new distance requirements for mixed beverage permits as quickly as possible. I would suggest asking the Planning & Zoning Commission or City Council to go ahead and call a public hearing to amend the Zoning Ordinance for this purpose. If the Commission calls a public hearing at its meeting on April 18th, the ordinance amendment would come back to them on June 6th, then on to City Council on June 27th.

Local Regulations

Plano's existing private club regulations contain a number of requirements that the city will not be able to impose on holders of mixed beverage permits. A matrix is attached to this memo that outlines these regulations.

X-8

Late Hours Permits

With the approval of mixed beverage permits, the city may allow by ordinance the sale of alcohol through late hours permits. This would allow the sale of alcohol until 2:00 am. Presently, alcohol sales must end at midnight on all days, with the exception of Saturdays, when sales are extended past midnight to 1:00 am (Sunday morning).

Local Fees

The city may collect fees from alcoholic beverage permit applicants for providing certification that the location of the business complies with local ordinances. The City Secretary's office must certify that each location is "wet" (for off-premise consumption) and that the location meets all distance requirements. The Alcoholic Beverage Code allows cities to collect up to one-half of the fee levied by the state for permits. One caveat is that the city may not collect a local fee for mixed beverage permits during the three year period following issuance of the permit. Presently, the City Secretary's office collects a \$30 processing fee for off-premise beer and wine permits. The City could collect up to \$375 (one-half of the state's \$750 fee) for each mixed beverage permit renewal after the initial three year permit period. The city may wish to consider adding this fee to cover administrative costs of determining distance requirements and wet/dry status.

Please let me know if you need additional information.

XC: Kent McIlyar, Assistant City Attorney
Tom Elgin, Development Review Manager
Elaine Bealke, City Secretary

X-9

REGULATION	EXISTING ORDINANCE FOR PRIVATE CLUBS	WITH MIXED BEVERAGE OPTION
SUP Requirement	SUP required for all private clubs	Not authorized by statute
Restriction on Zoning Districts That Allow On-Premise Consumption	Private clubs not allowed in LI-1 and LI-2 districts	On-premise consumption allowed in any zoning district where restaurants are allowed
Distance requirement from churches	1000 feet	300 feet
Distance requirement from public schools	1000 feet	300 feet
Distance requirement from hospitals	1000 feet; may be waived by City Council	300 feet; only applicable to public hospitals
Distance requirement from public parks	1000 feet; may be waived by City Council	Not authorized by statute
Distance requirement from residential zoning districts	300 feet; may be waived by City Council	Not authorized by statute
Distance requirement from private schools	Not addressed	300 feet; 1000 feet if requested by school's governing board
Limitations on number of permits based on contiguous zoning	Minimum of 30 acres required for any permits; 30-44 acres – two permits; 45-59 acres – three permits; 60-74 acres – four permits; 75-89 acres – five permits; 90 or greater acres – unlimited number of permits	Not authorized by statute
Food-to-beverage ratio	65%/35% ratio	The gross receipts for alcohol sales by holders of food and beverage certificates may not exceed 50%
Size limitations on restaurants	Must have 80 dining chairs with a minimum of 12 square feet per chair	Not authorized by statute

X-10