

**PLANO CITY COUNCIL  
PRELIMINARY OPEN MEETING  
SEPTEMBER 24, 2012**

**COUNCIL MEMBERS PRESENT**

Phil Dyer, Mayor  
Lissa Smith, Mayor Pro Tem  
Ben Harris, Deputy Mayor Pro Tem  
Pat Miner  
André Davidson  
Jim Duggan  
Patrick Gallagher  
Lee Dunlap

**STAFF PRESENT**

Bruce Glasscock, City Manager  
Frank Turner, Deputy City Manager  
LaShon Ross, Deputy City Manager  
Diane Wetherbee, City Attorney  
Diane Zucco, City Secretary

Mayor Dyer called the meeting to order at 5:01 p.m., Monday, September 24, 2012, in Training Room A of the Municipal Center, 1520 K Avenue. A quorum was present. Mayor Dyer then stated that the Council would retire into Executive Session in compliance with Chapter 551, Government Code, Vernon's Texas Codes, Annotated, in order to consult with an attorney and receive Legal Advice, Section 551.071; receive information regarding Economic Development, Section 551.087 and to discuss Personnel, Section 551.074 for which a certified agenda will be kept in the office of the City Secretary for a period of two years as required.

Mayor Dyer reconvened the meeting back into the Preliminary Open Meeting at 6:47 p.m.

**Consideration and action resulting from Executive Session discussion – Personnel:  
Appointments/Reappointments**

Board of Adjustment

Upon a motion made by Council Member Gallagher and seconded by Deputy Mayor Pro Tem Harris, the Council voted 8-0 to appoint Carolyn Kalchthaler as Chair, move William E. Gibson and Peter Krause to regular positions and appoint Ban Alali, Enghlab Eftekhari, and Anthony Barragan Salas as alternate members.

Building Standards Commission

Upon a motion made by Council Member Dunlap and seconded by Council Member Duggan, the Council voted 8-0 to reappoint Arthur Stone as Chair.

### DART Board of Directors

Upon a motion made by Mayor Dyer and seconded by Mayor Pro Tem Smith, the Council voted 8-0 to appoint Paul N. Wageman as the City of Plano representative. Upon a motion made by Mayor Dyer and seconded by Mayor Pro Tem Smith, the Council voted 8-0 to reappoint Faye Moses Wilkins as a shared representative.

### Heritage Commission

Upon a motion made by Council Member Dunlap and seconded by Mayor Pro Tem Smith, the Council voted 8-0 to appoint Michael Edward Coleman, Lisa Ann Fox and Donna Jane Wenger as members and to appoint Gary J. Graley as Chair.

### Planning and Zoning Commission

Upon a motion made by Council Member Miner and seconded by Council Member Dunlap, the Council voted 8-0 to appoint William Grant Hilburn, Terri R. Murray, and Mark Christopher Pittman as members and to reappoint Christopher J. Caso as Chair.

### The Arts Center of North Texas Board of Directors

Upon a motion made by Mayor Dyer and seconded by Deputy Mayor Pro Tem Harris, the Council voted 8-0 to reappoint Dr. Betty Muns as a City of Plano Director.

## **Personnel - Appointments**

### Animal Shelter Advisory Committee

Upon a motion made by Council Member Miner and seconded by Council Member Gallagher, the Council voted 8-0 to appoint Tamatha Hawley as the Animal Welfare Representative, and Lisa Ann Moore and Lynn Theresa Wolfe as citizen members and to reappoint Sunny Ruth as Chair.

### Community Relations Commission

Upon a motion made by Council Member Davidson and seconded by Deputy Mayor Pro Tem Harris, the Council voted 8-0 to appoint Michael Patrick Caranfa and Barbara Oldenburg as members and to appoint Alfonso Valente as Chair.

### Cultural Affairs Commission

Upon a motion made by Council Member Davidson and seconded by Council Member Gallagher, the Council voted 8-0 to appoint Sandy W. Yeh as a member for an interim term and to appoint Allen B. Safir, OD as Chair.

### Library Advisory Board

Upon a motion made by Council Member Miner and seconded by Mayor Pro Tem Smith, the Council voted 8-0 to appoint Syed Arshad Ali, Sneh Lata Goyal, Satish Nagarajan and Jane T. Yancey to full terms, appoint Dustin N. Kolb to an interim term and to appoint John G. Pillow as Chair.

### Parks and Recreation Planning Board

Upon a motion made by Council Member Miner and seconded by Council Member Duggan, the Council voted 8-0 to appoint Richard Dennis Horne and Eralyn McLarty and to reappoint Kayci Brooks Prince as Chair.

#### Photographic Traffic Signal Advisory Committee

Upon a motion made by Council Member Gallagher and seconded by Council Member Davidson, the Council voted 8-0 to reappoint Doug A. Bender as Chair and Robert B. Drotman as Vice Chair.

#### Retirement Security Plan Committee

Upon a motion made by Council Member Dunlap and seconded by Council Member Davidson, the Council voted 8-0 to appoint Robert Marin Gehbauer as a member and to reappoint Casey Srader as Chair, thus confirming City Manager Glasscock's recommendations.

#### Self Sufficiency Committee

Upon a motion made by Council Member Davidson and seconded by Council Member Duggan, the Council voted 8-0 to appoint Pat Hartman as Chair.

#### Senior Citizens Advisory Board

The Council deferred consideration of appointments.

#### Tax Increment Financing Reinvestment Zone No. 2 Board

Upon a motion made by Council Member Miner and seconded by Council Member Gallagher, the Council voted 8-0 to appoint Thomas William Buning to an interim term.

### **Discussion and Direction Regarding Fidelity Express and Upcoming Ordinance Changes**

Customer and Utility Services Manager Han spoke to the department's goal to provide multiple payment options which are easy and convenient. He spoke to establishment of an office at the Joint Use Facility (2004), installation of the automatic payment kiosk (2008) and consideration of taking payments through Fidelity Express (2012). Mr. Han spoke to challenges related to the kiosk including its reliability, costs, annual maintenance and vendor issues and to Fidelity Express's experience in taking payment from a variety of vendors and implementation in other area municipalities. He spoke to the proposal including no recurring costs to the City with a minimal convenience fee for customers and some in-house data integration and benefits including savings resulting from the discontinuation of kiosk use, consolidation and closing of offices at the Joint Use Facility and offering seven payment locations. Mr. Han reviewed the process of receiving payments and the timeline for implementation. He spoke to the potential for expansion of payment options and inclusion of other departmental payments. The Council stated a consensus in directing Staff to move forward.

Director of Policy and Governmental Relations Israelson reviewed several ordinance revisions that will be coming forward to the Council including consideration of a pro-rata billing process, eBill/bank draft deposit waiver incentives, reduced sewer charges for multi-family residences, and a supplemental deposit process.

### **Athletic Oriented Community Park Management**

Director of Parks and Recreation Fortenberry spoke to the variety of park land in the City of Plano including 31 neighborhood parks, linear parks, trail systems, nature preserves, golf courses and community park sites and the high demand for services. She spoke to 2012 as the largest fall sports season on record with 2,274 teams, 34,110 participants and 139 fields in use at 16 sites and the transition of sports to regional participation including those from other cities. Ms. Fortenberry spoke to park land as a living asset and managing the impact of wear and tear. She advised that the rules for park use have not been revised for reserved fields and spoke to retaining a “buffer zone” to limit the impact of noise/litter on neighboring homes. She requested teams reserve fields so that traffic can be monitored and limited, thus preventing overuse and degradation. Ms. Fortenberry advised that using spaces between fields impacts the reconfiguration of boundaries for future seasons or multiple sports and requested teams utilize neighborhood parks for practice sessions. She advised that citizens and their children can use athletic oriented community parks, but that more intense uses should be moved to neighborhood locations. Ms. Fortenberry spoke to exploring possible additional locations for practice space at Russell Creek Community Park, an upcoming information session at Davis Library, conducting an athletic study to understand the impact of regionalism in sports and improvements planned for the field reservation system. Mayor Dyer requested Staff provide an update following the Davis Library session.

### **Comprehensive Monthly Financial Report**

Director of Finance Tacke advised that the August 2012 report finds General Fund revenues up as a percentage of budget as compared to last year while Water and Sewer revenues are down slightly. She stated that actual General Fund revenues are up \$12.1 million, primarily due to an increase in ad valorem taxes and an increase in sales tax resulting from an audit adjustment. Ms. Tacke also stated revenues are up in court fines, cable franchises, and ambulance services. She advised that General and Golf Course Fund expenditures are up as a percentage of budget while Water and Sewer expenditures are down. Ms. Tacke advised that personnel services are up due to the timing and number of pay periods in August as compared to the prior year. She advised that the unemployment rate remains at 6.7% and that sales tax collections for the month are up by \$665,000.

### **Council items for discussion/action on future agendas**

No items were discussed.

### **Consent and Regular Agendas**

No items were discussed.

Nothing further was discussed. Mayor Dyer adjourned the Preliminary Meeting at 7:25 p.m.

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**Phil Dyer, MAYOR**

ATTEST

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Diane Zucco, City Secretary

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Diane Wetherbee, City Attorney  
Diane Zucco, City Secretary

Mayor Dyer convened the Council into the Regular Session on Monday, September 24, 2012, at 7:25 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. A quorum was present.

Sr. Pastor Gene Wilkes of Legacy Church led the invocation and Cadette Girl Scout Troop 1861 of Armstrong, Bowman, Haggard and Otto Middle Schools led the Pledge of Allegiance.

**COMMENTS OF PUBLIC INTEREST**

Citizen Abby Huff invited the Council to visit an exhibit related to the Girls Scouts of America's 100<sup>th</sup> Anniversary at the State Fair of Texas.

**CONSENT AGENDA**

Upon a motion made by Deputy Mayor Pro Tem Harris and seconded by Council Member Miner, the Council voted 8-0 to approve and adopt all items on the Consent Agenda as recommended and as follows:

**Approval of Minutes** (Consent Agenda Item "A")

August 27, 2012  
September 5, 2012  
September 10, 2012

**Approval of Expenditures**

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

**Bid No. 2012-288-B** for the purchase of two (2) Trucks from Caldwell Country Automotive in the amount of \$65,176 for Fleet Services, to be utilized by Special Waste, and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “B”)

**Bid No. 2012-267-B** for Gladys Harrington Library Restroom Renovation to Tegrity Contractors, Inc. in the amount of \$174,777 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “C”)

### **Purchase from an Existing Contract**

To approve the purchase of Haggard Library Interior Improvements in the amount of \$70,855 from Williams and Thomas, L.P. d/b/a Jamail & Smith Construction through an existing contract/agreement with TCPN, and authorizing the City Manager to execute all necessary documents. (TCPN Contract #R5086) (Consent Agenda Item “D”)

To approve the purchase of six (6) Pick-Up Trucks for Fleet Services to be utilized by Ground Maintenance, Compost Operations, Utility Maintenance, Backflow Operations, & Police, in the amount of \$133,326 from Caldwell Country Automotive through an existing contract/agreement with TASB/BuyBoard, and authorizing the City Manager to execute all necessary documents. (TASB/BuyBoard Contract #358-10) (Consent Agenda Item “E”)

To approve a one (1) year contract with four (4) City optional renewals for the purchase of Blauer Police Uniforms for the Police Department in an estimated amount of \$100,000 from GST Public Safety Supply through an existing contract/agreement with Tarrant County (Tarrant County Contract #2011-041), and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “F”)

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

To approve a Professional Services Agreement by and between the City of Plano and J. Volk Consulting, Inc., in the amount of \$100,260 for the Standard Details project; and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “G”)

### **Adoption of Resolutions**

**Resolution No. 2012-9-19(R):** To approve the appointment of the Health Authority for the City of Plano in accordance with Section 121.033 of the Texas Health and Safety Code; approving the Agreement between the City of Plano and Allan R. deVilleneuve, M.D. for Professional Services; and providing an effective date. (Consent Agenda Item “H”)

**Resolution No. 2012-9-20(R):** To approve the terms and conditions of an Advance Funding Agreement for project using funds held in the State Highway 121 Sub-account – City Street Improvements – Off System Project; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “I”)

**Resolution No. 2012-9-21(R):** To approve the terms and conditions of Agreements between the City of Plano and various community organizations, providing for the expenditure of Buffington Community Services funds in the amount of \$263,500 for the provision of various community services; authorizing its execution by the City Manager; and providing the effective date. (Consent Agenda Item “J”)

**Resolution No. 2012-9-22(R):** To approve the terms and conditions of Agreements between the City of Plano and various community organizations, providing for the expenditure of Community Development Block Grant funds in the amount of \$183,344 and HOME funds in the amount of \$276,533 for the provisions of various community services and developments; authorizing the execution by the City Manager; and providing the effective dates. (Consent Agenda Item “K”)

**Resolution No. 2012-9-23(R):** To approve the terms and conditions of agreements between the City of Plano, Texas and various heritage preservation organizations which render services that are beneficial to the public and serve a valid public purpose in the total amount of \$735,583; authorizing the City Manager to execute such agreements with these organizations for the provision of support of heritage preservation; and providing an effective date. (Consent Agenda Item “L”)

**Resolution No. 2012-9-24(R):** To approve the terms and conditions of a technical services contract with Motorola Solutions, Inc.; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “M”)

**Resolution No. 2012-9-25(R):** To rescind prior Resolution No. 2012-5- 11(R) which approved the Agreement with TT Holdings I, Inc., d/b/a TriTech Software Systems for the purchase of Stratus ft6300 fault tolerant server and one year maintenance on May 29, 2012; approving a new Agreement for the purchase of Stratus ft6300 fault tolerant server and one year maintenance from TriTech Software Systems for a total \$91,200 and maintenance service for five (5) additional years in an amount not to exceed \$66,724.00; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “N”)

**Resolution No. 2012-9-26(R):** To ratify the terms and conditions of a Consent to Assignment Agreement by and between the City of Plano, Texas, 15th and I, LLC, and Comerica Bank to authorize assignment of the Development Agreement between Southern Land Company, LLC and the City of Plano as security for financing of the development project at the southeast corner of 15th Street and I Avenue; ratifying its execution by the City Manager; and providing an effective date. (Consent Agenda Item “O”)

**Ordinance No. 2012-9-27:** To repeal in its entirety Ordinance No. 2011-9- 27, codified as Section 18-34 of Article II, Commercial Container Rates, of Chapter 18, Solid Waste of the Code of Ordinances of the City of Plano, Texas and enacting this new Section 18-34 of Article II, Commercial Container Rates, of Chapter 18, Solid Waste, of the Code of Ordinances of the City of Plano, establishing a revised schedule of rates and charges for solid waste disposal and collection applicable to commercial accounts; providing a repealer clause, a severability clause, and providing an effective date. (Consent Agenda Item “P”)

**Ordinance No. 2012-9-28:** To repeal Ordinance No. 2011-9-31; establishing the number of certain classifications within the Fire Department for fiscal year 2012-13; establishing the authorized number and effective dates of such positions for each classification; establishing a salary plan for the Fire Department effective September 24, 2012; and providing a repealer clause, a severability clause and an effective date. (Consent Agenda Item “Q”)

**Ordinance No. 2012-9-29:** To repeal Ordinance No. 2012-4-9; establishing the number of certain classifications within the Police Department for fiscal year 2012-13; establishing the authorized number and effective dates of such positions for each classification effective September 24, 2012; establishing a salary plan for the Police Department effective September 24, 2012; and providing a repealer clause, a severability clause and an effective date. (Consent Agenda Item “R”)

**Ordinance No. 2012-9-30:** To repeal Ordinance No. 2011-3-17; establishing a certification pay plan for classified members of the Plano Fire and Police Departments; establishing an assignment pay plan for members of the Plano Fire Department serving in the capacity of paramedic; establishing a Paramedic Preceptor pay plan for members of the Plano Fire Department; establishing an assignment pay plan for members of the Plano Police Department serving in the capacity of Field Training Officers; and providing a repealer clause, a severability clause and an effective date. (Consent Agenda Item “S”)

#### **END OF CONSENT**

**Resolution No. 2012-9-31(R):** To approve the terms and conditions of an Economic Development Incentive Agreement by and between Collin Creek Mall, LLC and the City of Plano, Texas; authorizing its execution by the City Manager; and providing an effective date. (Regular Agenda Item “1”)

Deputy City Manager Turner spoke to Collin Creek Mall’s development in the 1980’s, contributions to the community and continuing the City’s relationship. Rouse Properties VP of Development Steve Backman spoke to his firm’s focus on a tailored approach in redevelopment of regional malls, the impact of other centers on Collin Creek Mall and partnering with the City for revitalization.

Upon a motion made by Council Member Miner and seconded by Council Member Davidson, the Council voted 8-0 to approve the terms and conditions of an Economic Development Incentive Agreement by and between Collin Creek Mall, LLC and the City of Plano, Texas; and further to adopt Resolution No. 2012-9-31(R).

**Consideration of an Appeal of the Heritage Commission's Denial** of a Certificate of Appropriateness to reinstall a non-permanent retractable cover on the roof top patio located at 1006 E. 15th Street. Zoned Downtown Business/Government (BG); Heritage Resource #26 Designation (H-26). Applicant: Blackgold Partners/Nathan & Bonnie Shea (Tabled 08/13/12) (Regular Agenda Item “2”)

Upon a motion made by Deputy Mayor Pro Tem Harris and seconded by Council Member Duggan, the Council voted 8-0 to remove the item from the table.

### **Consideration of an Appeal (cont'd)**

Director of Planning Jarrell advised that the applicant is appealing a denial from the Heritage Commission related to the replacement of a cover over a portion of a rooftop patio. She spoke to the original cover which had begun to show wear and the Commission's denial based on the height, mass and visibility of the new structure. Ms. Jarrell advised that, since tabling, Staff has met with the applicant to discuss potential modifications and finds that doing so would require total dismantling. She further advised that Building Inspections has determined that it meets building code requirements. Applicant Nathan Shea spoke to the new structure's ability to withstand high winds and Ms. Jarrell advised that the new structure is two feet taller than the original. Council Member Dunlap spoke to the applicant having prior knowledge of the permitting process; and, stated a preference for the new cover.

Upon a motion made by Council Member Dunlap and seconded by Council Member Miner, the Council voted 8-0 to approve the appeal of the Heritage Commission's Denial of a Certificate of Appropriateness to reinstall a non-permanent retractable cover on the roof top patio located at 1006 E. 15th Street.

**Public Hearing and adoption of Ordinance No. 2012-9-32 as requested in Zoning Case 2012-12** to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to amend Planned Development-374-Retail on 6.9± acres of land located at the northeast corner of Plano Parkway and Independence Parkway, in the City of Plano, Collin County, Texas, to modify the development standards of the district including amending or repealing the limitation on the hours of operation; 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, a publication clause, and an effective date. Applicant: RaceTrac (Tabled 09/10/12) (Regular Agenda Item "3")

Upon a motion made by Deputy Mayor Pro Tem Harris and seconded by Council Member Miner, the Council voted 8-0 to remove the item from the table.

Planning Manager Firgens advised that the applicant is requesting to remove stipulations, originally approved in 1987 through a planned development, which limit the hours of operation stating that the City typically addresses issues related to retail zoning through noise/lighting ordinances and adjacency standards. She advised that the Planning and Zoning Commission recommended approval expanding the hours of operation from 17 to 19 as follows: (Proposed additions are indicated by underlined text; deletions are indicated by strikethrough text.)

#### Restrictions:

1. Maximum Square Footage: 118,701 square feet of building area
2. Maximum Retail: 100% - Neighborhood Support Retail.  
In addition to those uses permitted in the Retail districts, the following uses shall be permitted:
  - Office - showroom/warehouse

**Ordinance No. 2012-9-32 (cont'd)**

- Office - technical
  - Scientific and research labs
3. Truck docks for these uses shall be located at grade level.
  4. Maximum Floor Area Ratio: 0.5:1
  5. Maximum Floor Area Ratio on any Given Lot: 0.75:1
  6. Maximum Lot Coverage: 40% (inclusive of parking structures)
  7. Maximum Building Height: 2 story (36 feet) - all heights shall include mechanical/penthouse
  8. Maximum Parking Structure Height: 2 levels above grade (20 feet)
  9. Setback Requirements: 50 feet from north property line and 50 feet from Plano Pkwy.

The zoning granted above is granted subject to the following additional stipulations:

1. Regulatory provisions of the Zoning Ordinance pertaining to additional setbacks from residential zoning districts (Sections 3.500, 3.600, and 3.700) shall apply to this tract.
2. A study of Plano Pkwy., from Jupiter Rd. to Preston Rd., shall be conducted by the city to evaluate standards and plans for driveway spacing, median breaks, acceleration/deceleration lanes, signalization, and intersection design. The objective of the study is to enhance the parkway's capacity without adding additional through lanes. The cost of the study shall be borne by the petitioners for zoning. The closing of Longworth Dr. north of Plano Pkwy. shall be a major consideration in the Plano Parkway Study.
3. All landscape areas required by the Design Guidelines (referenced after PD-393-R/O-2) shall be irrigated by an underground, automatic sprinkler system.
4. All subsequently approved preliminary site plans and site plans for this tract shall conform to the Design Guidelines for the Plano Pkwy./S.H. 190 Corridor as adopted by the City Council and as placed by the owner as Restrictive Covenants on the tract binding both the current and future owners to such guidelines.
5. This tract shall be deed restricted to limit the hours of operation to ~~17~~ 19 total hours, preferably ~~11:00 p.m.~~ 12:00 a.m. to 5:00 a.m. being ~~be the closing~~ closed hours.
6. No access to any tract shall be gained from the existing alley or alleys serving the residential area.
7. Truck docks and trash containers shall be to the interior of constructed buildings and at grade.

**Ordinance No. 2012-9-32 (cont'd)**

8. There will be no dedicated street adjacent and parallel to the residential district.
9. Parking structures shall be screened from view of the residential district through the use of natural screens.
10. Sodium vapor lights shall not be used for parking lots and other exterior lighting. All lighting shall meet the requirements of the Plano Lighting Ordinance.

Refer to Design Guidelines after PD-393-R/O-2 for additional stipulations.

Ms. Firgens advised that the applicant is requesting removal of all restrictions to permit 24-hour operation and that due to letters received in opposition, the Council must record a three-quarter vote of approval to effect the revision in zoning. She clarified that the request includes two lots in addition to the corner owned by RaceTrac and that any changes would apply to uses on all three and further that this is the only such regulated retail location.

Mayor Dyer opened the Public Hearing. Tommy Mann, Winstead PC, representing the applicant, spoke to residential adjacency standards absent in 1987 to protect homeowners, requested 24 hour operating hours and stated that current limitations on operating hours are deed restrictions and do not include either the City or the neighborhood as "benefited parties." He spoke to noise/lighting regulation through ordinances, lost revenues and responded to the Council, advising that the other two property owners in the planned development district are in agreement with the proposed revisions. Ms. Firgens advised that the current ordinance provides a total number of hours of operation; but includes the term "preferably" when referencing exact times, which creates enforcement challenges. City Attorney Wetherbee spoke to issues related to enforcing deed restrictions and recommended including specific language in regulatory ordinances. Director of Planning Jarrell spoke to rezoning of the Plano Parkway corridor in 1987 and work with homeowners to craft the existing language.

Robert Miller, representing the Dallas North Estates Homeowners Association, spoke to this property being the only one zoned Retail along the Plano Parkway corridor, zoning in place on the property when purchased by RaceTrac, other service stations in the area, and the potential for noise/traffic. Mr. Mann responded that service stations do not generate new trips, but offer a convenience for those in the area. No one else spoke for or against the request. The Public Hearing was closed.

Ms. Wetherbee recommended specifying the hours of operation to address enforcement issues and Council Member Miner made a motion to amend Planned Development-374-Retail on 6.9± acres of land located at the northeast corner of Plano Parkway and Independence Parkway, in the City of Plano to modify the development standards of the district to include limiting the hours of operation for uses to 5:00 a.m. to 12:00 a.m. (19 hours). Council Member Dunlap seconded the motion. (No vote was taken at this time.)

**Ordinance No. 2012-9-32 (cont'd)**

Mayor Pro Tem Smith and Council Member Duggan stated concern that this ordinance singles out one retail property to establish and enforce hours of operation. Council Member Miner spoke to RaceTrac's awareness of the restrictions when purchasing the property. Council Member Davidson stated concern related to expanding the hours of operation to 24 hours for all three lots within the planned development. Deputy Mayor Pro Tem Harris spoke to the RaceTrac site being more than 150 feet from residential zoning and Council Member Dunlap spoke to the zoning applicable to the three properties and RaceTrac's agreement with conditions upon purchase.

The motion was restated by Council Member Miner and seconded by Council Member Dunlap to amend Planned Development-374-Retail on 6.9± acres of land located at the northeast corner of Plano Parkway and Independence Parkway, in the City of Plano to modify the development standards of the district to include limiting the hours of operation for uses to 5:00 a.m. to 12:00 a.m. (19 hours). The Council voted 5-3 with Mayor Pro Tem Smith, Deputy Mayor Pro Tem Harris and Council Member Duggan voting in opposition. The motion failed.

A motion was made by Council Member Miner and seconded by Council Member Dunlap to amend the "hard corner" of Planned Development-374-Retail located at the northeast corner of Plano Parkway and Independence Parkway, in the City of Plano to modify the development standards of the district to include limiting the hours of operation for uses to 5:00 a.m. to 12:00 a.m. (19 hours). Council Member Davidson stated concern related to singling out the "hard corner." The Council voted 5-3 with Deputy Mayor Pro Tem Harris, Council Member Duggan and Council Member Davidson voting in opposition. The motion failed.

Mr. Mann restated the request for 24 hours of operation; but, advised that 19 with hours of operation from 5 am to 12 midnight would be acceptable.

A motion was made by Council Member Miner and seconded by Council Member Dunlap, to amend Planned Development-374-Retail on 6.9± acres of land located at the northeast corner of Plano Parkway and Independence Parkway, in the City of Plano to modify the development standards of the district including amending or repealing the limitation on the hours of operation to include opening from 5 am to midnight seven days a week; as requested in Zoning Case 2012-12 and as recommended by the Planning and Zoning Commission with the following revision:

5. ~~This tract shall be deed restricted to limit the hours of operation to 17 total hours, preferably 11:00 p.m. to be the closing hour.~~ The hours of operation for uses located within this district are limited to 5:00 a.m. to 12:00 a.m. (19 hours).

The Council voted 8-0, the motion carried, and Ordinance No. 2012-9-32 was adopted as revised.

**Resolution No. 2012-9-33(R):** To appoint a board member to serve on the Dallas Area Rapid Transit Authority (DART) Board of Directors as provided in Chapter 452 of the Texas Transportation Code and providing an effective date. (Regular Agenda Item “4”)

Upon a motion made by Mayor Dyer and seconded by Mayor Pro Tem Smith, the Council voted 8-0 to appoint Paul N. Wageman as a board member to serve on the Dallas Area Rapid Transit Authority (DART) Board of Directors and further to adopt Resolution No. 2012-9-33(R).

**Resolution No. 2012-9-34(R):** To affirm the appointment of a shared board member with the City of Farmers Branch to serve on the Dallas Area Rapid Transit Authority (DART) Board of Directors as provided in Chapter 452 of the Texas Transportation Code and providing an effective date. (Regular Agenda Item “5”)

Upon a motion made by Mayor Dyer and seconded by Council Member Miner, the Council voted 8-0 to affirm the appointment of Faye Moses Wilkins as a shared board member with the City of Farmers Branch to serve on the Dallas Area Rapid Transit Authority (DART) Board of Directors and further to adopt Resolution No. 2012-9-34(R).

Nothing further was discussed. Mayor Dyer adjourned the meeting at 8:38 p.m.

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**Phil Dyer, MAYOR**

ATTEST

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Diane Zucco, City Secretary