

PLANO CITY COUNCIL
May 26, 2009

COUNCIL MEMBERS

Phil Dyer, Mayor
Harry LaRosiliere, Mayor Pro Tem
Lee Dunlap, Deputy Mayor Pro Tem
Pat Miner
Ben Harris
Mabrie Jackson
Lissa Smith
Jean Callison

STAFF

Thomas H. Muehlenbeck, City Manager
Frank Turner, Deputy City Manager
Bruce Glasscock, Deputy City Manager
Rod Hogan, Deputy City Manager
Mark Israelson, Assistant City Manager
LaShon Ross, Assistant City Manager
Diane C. Wetherbee, City Attorney
Diane Zucco, City Secretary

Mayor Dyer convened the Council into the Regular Session on Tuesday, May 26, 2009, at 7:11 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present.

The invocation was led by Pastor Charles Terry, Sr. with Greater New Birth Baptist Church. The Pledge of Allegiance was led by Boy Scout Troop 999 of Grace Presbyterian Church

Mayor Dyer presented a proclamation recognizing National Historic Preservation Month; and made presentations to the 2009 Outdoor Air Quality Poster Contest Winners and PISD Students Traveling to Plano's Sister City, Hsinchu, Taiwan.

Mayor Dyer administered an oath of office to incoming Cultural Affairs Commission member Allen B. Safir, OD.

COMMENTS OF PUBLIC INTEREST

No one appeared to speak.

CONSENT AGENDA

Mayor Dyer requested that Consent Agenda Item "N" be removed for individual consideration.

Council Member Dunlap requested that Consent Agenda Item "F" be removed for individual consideration due to a possible conflict of interest.

Upon a motion made by Mayor Pro Tem LaRosiliere and seconded by Council Member Jackson, the Council voted 8-0 to approve and adopt all remaining items on the agenda as recommended and as follows:

Approval of Minutes (Consent Agenda Item "A")

May 11, 2009

May 18, 2009

Approval of Expenditures

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

CSP No. 2009-102-C for annual contract for Summer Arts Program to Art Centre of Plano in the estimated annual amount of \$57,000. This will establish an annual fixed price contract with three optional one-year renewals. (Consent Agenda Item "B") [See Exhibit (A)]

CSP No. 2009-94-C for an annual contract for Median and Right-of-Way Landscape Maintenance to VMC Landscape Services in the estimated annual amount of \$250,000. This will establish an annual fixed price contract with three optional one-year renewals. (Consent Agenda Item "C") [See Exhibit (B)]

Bid No. 2009-99-C for an annual contract for Concrete Mix to RediMix Concrete, LLC, a US Concrete Company in the estimated annual amount of \$257,100. This is for an annual contract with renewals. (Consent Agenda Item "D") [See Exhibit (C)]

Bid No. 2009-108-B for McDermott Road at Robinson Road Intersection Improvements to JRJ Paving, L.P. in the amount of \$301,335. The project consists of construction of paving improvements to complete the intersection of McDermott Road at Robinson Road to a median divided roadway on McDermott Road. (Consent Agenda Item "E") [See Exhibit (D)]

Bid No. 2009-113-B for the Mapleshade Sanitary Sewer and Force Main to W.R. Hodgson Co., LP, in the amount of \$1,268,929. The project consists of the construction of about 6,050 feet of 18-inch gravity sewer line and 2,000 feet of 18-inch force main along Mapleshade Drive, Ohio Drive and north of Mapleshade Drive to the Highlands Lift Station. This project will abandon three existing lift stations. (Consent Agenda Item "G") [See Exhibit (E)]

Purchase from an Existing Contract

To approve the purchase of Equipment Services Bay Area Painting in the amount of \$68,393 from Kellogg Brown and Root Services, Inc. through an existing contract/agreement with The Cooperative Purchasing Network (TCPN), and authorizing the City Manager to execute all necessary documents. (TCPN Contract No. R4895) (Consent Agenda Item "H")

To authorize the purchase and installation of Raritan Solution Software for server rooms in the amount of \$106,834 from M & A Technology, through an existing contract/agreement with The Cooperative Purchasing Network (TCPN) contract, and authorizing the City Manager to execute all necessary documents. (TCPN Contract No. R4721) (Consent Agenda Item "I")

To authorize the purchase of Telephone Hardware and Software for the Emergency Operations Center complex in the amount of \$350,295 from Affiliated Communications, Inc., through a Department of Information Resources contract, and authorizing the City Manager to execute all necessary documents. (DIR-SDD-289) (Consent Agenda Item "J")

To approve an expenditure for a Service Agreement between Motorola and the City of Plano in the amount of \$457,193 through an existing contract with the Houston-Galveston Area Council, and authorizing the City Manager to execute all necessary documents. (HGAC Contract No. RA-01-08) (Consent Agenda Item "K")

To authorize the renewal and upgrade of Technical Support Services for JD Edwards Software License Applications, in the amount of \$164,454 from Mythics, through a Department of Information Resources (DIR) contract, and authorizing the City Manager to execute all necessary documents. (DIR-VPC-03-018) (Consent Agenda Item "L")

Approval of Change Order

To C & P Engineering, Ltd., increasing the Professional Services Contract by \$79,000 for Meadows Addition, Contract Modification No. 1. Additional design services are required for storm drainage in Rigsbee Drive and the splitting of the project into two phases. (Consent Agenda Item "M")

Adoption of Resolutions

Resolution No. 2009-5-20(R): To approve the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano, City of Allen and North Texas Municipal Water District concerning the improvements to Chaparral Road from K Avenue to east of Cottonwood Creek; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item "O")

Resolution No. 2009-5-21(R): To approve the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano and Collin County, Texas, for Intersection Improvements at McDermott Road and Robinson Road; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item "P")

Resolution No. 2009-5-22(R): To approve the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano and Collin County, Texas, for Ridgeview Drive Widening from Coit Road to Independence Parkway; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item "Q")

Resolution No. 2009-5-23(R): To ratify the termination of a contract by and between Hisaw and Associates General Contractors, Inc., and the City of Plano for the Animal Shelter Addition; approving its execution by the City Manager; and providing an effective date. (Consent Agenda Item "R")

Resolution No. 2009-5-24(R): To ratify the termination of a contract by and between Hisaw and Associates General Contractors, Inc., and the City of Plano for Plano Fire Station No. 12/Emergency Operations Center Complex; approving its execution by the City Manager; and providing an effective date. (Consent Agenda Item "S")

Resolution No. 2009-5-25(R): To approve the settlement of a claim filed by Michael Turner against the City of Plano; authorizing the City Manager to execute any and all documents necessary to settle such claim; and providing an effective date. (Consent Agenda Item “T”)

Adoption of Ordinances

Ordinance No. 2009-5-26: To repeal Ordinance No. 2009-2-14, entitled “Health Categories and Fees”; and replacing with this Ordinance, to be entitled “Health Categories and Fees” to provide the addition of Industrial User Fees for Permitted Industries; providing a repealer clause, a severability clause, and an effective date. (Consent Agenda Item “U”)

Ordinance No. 2009-5-27: To abandon all right, title and interest of the City, in and to that portion of water line and sewer easement recorded in Volume 3919, Page 1064, of the Land Records of Collin County and being situated in the William Brown Survey, Abstract No. 66, which is located within the City limits of Plano, Collin County, Texas, quitclaiming all right, title and interest of the City in such easement to the abutting property owner, Headquarters II, L.P., to the extent of its interest, authorizing the City Manager to execute any documents deemed necessary, and providing an effective date. (Consent Agenda Item “V”)

END OF CONSENT

Due to a possible conflict of interest, Deputy Mayor Pro Tem Dunlap stepped down from the bench on the following item.

Bid No. 2009-105-B for Ridgeview Drive from Independence Parkway to Coit Road to Jim Bowman Construction Company, L.P. in the amount of \$890,177. The project consists of widening from four lanes to six lanes, landscaping and irrigation improvements to Ridgeview Drive from Independence Parkway to Coit Road. (Consent Agenda Item “F”) [See Exhibit (F)]

Upon a motion made by Council Member Callison and seconded by Council Member Miner, the Council voted 7-0 to approve Bid No. 2009-105-B for Ridgeview Drive from Independence Parkway to Coit Road to Jim Bowman Construction Company, L.P. in the amount of \$890,177.

Deputy Mayor Pro Tem Dunlap resumed his seat at the bench.

Approval of Contract Modification - To approve a Second Modification to the Agreement between the City of Plano and Redflex Traffic Systems, Inc. for the Photo Red Light Enforcement Program that establishes that the contract will expire on January 30, 2012 and providing a severability clause. (Consent Agenda Item “N”)

Deputy City Manager Glasscock spoke to the legislative background of red-light camera implementation and the goals of increasing awareness of violations and reducing crashes. He advised that during the 2009 session, legislation was introduced removing authority of local jurisdictions and those in place prior to June 1, 2009 would operate until their contract expiration with no extension or new installations.

Mr. Glasscock spoke to the bill moving to conference committee for agreement on differences and the request to consolidate the extensions for the current contract. Police Chief Rushin responded to the Council regarding the decrease in intersection accidents since implementation of the red-light cameras and Lieutenant Cavin spoke regarding the serious nature of side-impact crashes. Mr. Glasscock advised the Council that municipalities are addressing the legislators rather than citizens and Deputy Mayor Pro Tem Dunlap spoke to the revenue added to regional trauma centers from fines collected.

Upon a motion made by Deputy Mayor Pro Tem Dunlap and seconded by Council Member Miner, the Council voted 8-0 to approve a Second Modification to the Agreement between the City of Plano and Redflex Traffic Systems, Inc. for the Photo Red Light Enforcement Program that establishes that the contract will expire on January 30, 2012 and providing a severability clause.

Public Hearing and adoption of Resolution No. 2009-5-28(R) to amend the 2008-09 Action Plan, including proposed uses of \$332,930 in additional Grant Funds for Program Year 2008-09; and declaring an effective date. (Regular Agenda Item “1”)

Community Development Coordinator Brown spoke to additional allocations, newspaper notification and the lack of comments received regarding spending and requested approval of the request as it would spur economic development and improve infrastructure.

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

Upon a motion made by Deputy Mayor Pro Tem Dunlap and seconded by Mayor Pro Tem LaRosiliere, the Council voted 8-0 to amend the 2008-09 Action Plan, including proposed uses of \$332,930 in additional Grant Funds for Program Year 2008-09; and declaring an effective date; and further to adopt Resolution No. 2009-5-28(R).

Resolution No. 2009-5-29(R) to authorize the filing of applications for Federal Funds in an amount not to exceed \$332,930 under the American Recovery and Reinvestment Act; designating Thomas H. Muehlenbeck as Chief Executive Officer and authorized representative of the City for the purpose of giving required assurances and acting in connection with said application and providing required information; and declaring an effective date. (Regular Agenda Item “2”)

Upon a motion made by Mayor Pro Tem LaRosiliere and seconded by Deputy Mayor Pro Tem Dunlap, the Council voted 8-0 to authorize the filing of applications for Federal Funds in an amount not to exceed \$332,930 under the American Recovery and Reinvestment Act; designating Thomas H. Muehlenbeck as Chief Executive Officer and authorized representative of the City for the purpose of giving required assurances and acting in connection with said application and providing required information; and declaring an effective date; and further to adopt Resolution No. 2009-5-29(R).

Public Hearing and consideration of an Ordinance as requested in Zoning Case 2009-01 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 599 so as to allow the additional use of Arcade on 2.3± acres of land located on the south side of Chase Oaks Boulevard, 300± feet west of U.S. Highway 75 in the City of Plano, Collin County, Texas, presently zoned Corridor Commercial; 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: GBRE, LLC (Tabled 3/23/09) (Regular Agenda Item “3”)

Director of Planning Jarrell advised that the applicant has requested the item remain tabled until the June 22, 2009 meeting.

Upon a motion made by Deputy Mayor Pro Tem Dunlap and seconded by Council Member Miner, the Council voted 8-0 to leave consideration of an Ordinance as requested in Zoning Case 2009-01 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 599 so as to allow the additional use of Arcade on 2.3± acres of land located on the south side of Chase Oaks Boulevard, 300± feet west of U.S. Highway 75 in the City of Plano, Collin County, Texas remain on the table until June 22, 2009.

Public Hearing and adoption of Ordinance No. 2009-5-30 to amend the Subdivision Ordinance of the City of Plano, as heretofore amended, by amending Introduction and Procedural Overview, Article I (General Provisions), Article II (Definitions), Article III (Platting Procedures), Article IV (Assurance for Completion and Maintenance of Improvements), Article V (Requirements for Public Improvements, Reservation and Design), and Article VII (Replatting Procedures) of the Subdivision Ordinance of the City of Plano, to change the Development Review Process for Single-Family Detached Residential Development from a Land Study Review Process to a Concept Plan Process, and delete the Land Study Process, 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 “4”)

Director of Planning Jarrell advised that the City currently utilizes two development review processes; one commercial and another for single family which includes preparation of a land study. She stated that due to the shift in development trends and to maintain a streamlined development process, this item replaces the land study requirement with a concept plan. Ms. Jarrell advised that the Planning and Zoning Commission has recommended approval as submitted.

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

Ordinance No. 2009-5-30 (cont'd)

Upon a motion made by Deputy Mayor Pro Tem Dunlap and seconded by Council Member Jackson, the Council voted 8-0 to amend the Subdivision Ordinance of the City of Plano, as heretofore amended, by amending Introduction and Procedural Overview, Article I (General Provisions), Article II (Definitions), Article III (Platting Procedures), Article IV (Assurance for Completion and Maintenance of Improvements), Article V (Requirements for Public Improvements, Reservation and Design), and Article VII (Replatting Procedures) of the Subdivision Ordinance of the City of Plano, to change the Development Review Process for Single-Family Detached Residential Development from a Land Study Review Process to a Concept Plan Process, and delete the Land Study Process 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. 2009-5-30.

Public Hearing and adoption of Ordinance No. 2009-5-31 as requested in Zoning Case 2009-03 to amend Subsection 2.822 (CB-1 – Central Business-1) and Subsection 2.823 (CE – Commercial Employment) of Section 2.800 (District Charts) of Article 2 (Zoning Districts), Subsection 3.103 (Construction Yards, Field Offices, Model Homes, and other Temporary Buildings), Subsection 3.104 (Multifamily Residence), and Subsection 3.115 (Retirement Housing) of Section 3.100 (Supplementary Regulations for Principal Permitted Uses and Specific Uses), Section 3.1200 (Landscaping Requirements), Subsection 3.1703 (Development Incentives and Alternative Standards) and Subsection 3.1704 (Site-Specific Storm Water Management Plan) of Section 3.1700 (Storm Water Management) of Article 3 (Supplementary Regulations), Subsection 4.110 (Initial Plan Review) of Section 4.100 (Planned Development District) of Article 4 (Special District Regulations) and related sections of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, to change the Development Review Process for Single-Family Detached Residential Development from a Land Study Review Process to a Concept Plan Process and delete the Land Study Process; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, a publication clause, and an effective date. Applicant: City of Plano (Regular Agenda Item “5”)

Director of Planning Jarrell advised that the Planning and Zoning Commission recommended approval as follows:

- 2.822 CB-1 - Central Business-1
 - (5) Special District Requirements
 - (a) *Miscellaneous*
 - (iv) A general phasing plan for the total development of the property shall be approved at the time of ~~land study~~ concept plan approval.
 - (v) The general allocation of permitted density levels of development on the various sections of the property shall be approved at the time of ~~land study~~ concept plan approval.
- 2.823 CE – Commercial Employment
 - (6) Special District Requirements (ZC 2002-33; Ordinance No. 2002-8-14)
 - (a) *Miscellaneous*
 - (vi) A general phasing plan for the total development of the property shall be approved at the time of ~~land study~~ concept plan approval.

Ordinance No. 2009-5-31 (cont'd)

(vi) The general allocation of permitted density levels of development on the various sections of the property shall be approved at the time of ~~land study~~ concept plan approval.

3.103 Construction Yards, Field Offices, Model Homes, and Other Temporary Buildings

(2) Homebuilder Marketing Centers (ZC 92-99)

(d) A center located in a residential district shall be limited to an area where a ~~Phase II land study~~ concept plan or preliminary site plan for a residential development has been approved for the site, and the center is sponsored by the developer(s) of the residential development. The temporary structure shall be removed after the center is abandoned. However, if the building is to be reused, the building shall be designed and constructed as a permanent structure.

3.104 Multifamily Residence

(3) The minimum setback from the zoning district boundary for an apartment building adjacent to land proposed (as shown on an approved ~~land study~~ concept plan or preliminary site plan), developed, or zoned for single-family, patio home, or two-family shall be: (ZC 2000-83; Ordinance No. 2000-11-30)

One Story	20 feet
Two Story	60 feet
Three Story	150 feet

3.115 Retirement Housing

(3) Minimum Residential Setback

The minimum setback from the zoning district boundary line and/or property line of land proposed (as shown on an approved ~~land study~~ concept plan or preliminary site plan), developed or zoned for single-family, patio home, or two-family to independent living, assisted living, long-term care, and/or continuing care facilities shall be:

One Story	20 feet
Two Story	60 feet
Three Story	150 feet

3.1200 Landscaping Requirements

(7) Tree Preservation and Protection

(c) *Exemptions*

(i) This section does not apply to individual single-family, duplex, and single-family attached lots after initial development and final inspection of the dwelling units by the Building Inspection Department or to properties for which an approved site plan, ~~phase II land study~~ concept plan, preliminary site plan, preliminary plat, or preliminary replat is in effect on the date of adoption of this ordinance.

Ordinance No. 2009-5-31 (cont'd)

(e) *Tree Survey and Preservation Plan Required*

(i) Preliminary Development Plans

A general survey of natural vegetation showing tree groupings and anticipated tree losses shall be submitted with all preliminary site plan ~~and phase II land study~~ applications. Required data includes approximate locations and species of individual trees eight inches or larger in caliper and a range of sizes and species for tree groupings. Photographs of the site showing tree cover are also required.

3.1703 Development Incentives and Alternative Standards

Development incentives and alternative standards listed below may be used provided the development complies with associated nonstructural storm water controls, such as storm water conservation areas and/or structural storm water controls, such as permeable pavement, grassy swales/buffer strips, storm water ponds, and bioretention areas. The intent of a storm water conservation area is to reduce impervious surfaces; to allow natural infiltration of storm water runoff; to preserve floodplain, wetlands, and other undisturbed natural areas; and to provide space for other nonstructural or structural storm water controls. The intent of permeable pavement, grassy swales/buffer strips, storm water ponds, bioretention areas, and other structural controls is to provide infiltration, filtration, and pollutant removal of storm water runoff.

Developments that propose to use the development incentives and alternative standards shall follow the site plan review process in Article 5 (Site Plan Review) and the plat review process in Article III (Platting Procedures) of the Subdivision Ordinance. The areas proposed for nonstructural and/or structural storm water controls shall be shown as a storm water conservation area on any site plan ~~and/or land study~~ associated with the development and shall be designated as a storm water quality easement on any plat associated with the development. In addition to the site plan and plat review process, developments shall follow the site-specific storm water management plan procedures in 3.1704 below.

3.1704 Site-Specific Storm Water Management Plan

A site-specific storm water management plan shall be submitted for review as part of any site plan, ~~land study~~, or plat application for a development that proposes to use storm water development incentives and/or alternative standards. The purpose of the site-specific storm water management plan is to evaluate the design, appropriate, and effectiveness of proposed nonstructural or structural storm water controls.

4.110 Initial Plan Review

A concept plan ~~or land study~~ shall be normally required as part of an application for establishing or amending a PD district. Additional information, studies, and plans may be required by the Planning & Zoning Commission or the City Council to determine the merit of establishing a PD district and as required to develop regulations to be incorporated in the ordinance establishing or amending a PD district.

Ordinance No. 2009-5-31 (cont'd)

The requirement for submitting a concept plan ~~or land study~~ may be waived by the Planning & Zoning Commission or the City Council if they determine sufficient information exists to evaluate the proposed establishment or amendment of a PD district. Where this requirement is waived at the time of establishing a PD, approval of a concept plan ~~or land study~~ shall be required prior to the approval of any plan, plat, or permit related to development of the property. (See Section 5.200 for concept plan requirements and ~~Subdivision Ordinance, Section 3.2 for land study requirements.~~)

Mayor Dyer 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 Jackson and seconded by Council Member Harris the Council voted 8-0 to amend Subsection 2.822 (CB-1 – Central Business-1) and Subsection 2.823 (CE – Commercial Employment) of Section 2.800 (District Charts) of Article 2 (Zoning Districts), Subsection 3.103 (Construction Yards, Field Offices, Model Homes, and other Temporary Buildings), Subsection 3.104 (Multifamily Residence), and Subsection 3.115 (Retirement Housing) of Section 3.100 (Supplementary Regulations for Principal Permitted Uses and Specific Uses), Section 3.1200 (Landscaping Requirements), Subsection 3.1703 (Development Incentives and Alternative Standards) and Subsection 3.1704 (Site-Specific Storm Water Management Plan) of Section 3.1700 (Storm Water Management) of Article 3 (Supplementary Regulations), Subsection 4.110 (Initial Plan Review) of Section 4.100 (Planned Development District) of Article 4 (Special District Regulations) and related sections of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, to change the Development Review Process for Single-Family Detached Residential Development from a Land Study Review Process to a Concept Plan Process and delete the Land Study Process as requested in Zoning Case 2009-03 and as recommended by the Planning and Zoning Commission; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, a publication clause, and an effective date; and further to adopt Ordinance No. 2009-5-31.

Public Hearing and adoption of Ordinance No. 2009-5-32 to amend the Subdivision Ordinance of the City of Plano, as heretofore amended, by amending Section 1.12 (Waivers from Development Exactions) of Article I (General Provisions) and related sections of the Subdivision Ordinance of the City of Plano, pertaining to procedures and requirements for waivers of exactions for dedications and public improvements, and providing a penalty clause, a repealer clause, a savings clause, a severability clause, a publication clause, and an effective date. Applicant: City of Plano (Regular Agenda Item “6”)

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission Recommended approval as follows:

1.12 Waivers from Development Exactions

The property owner or applicant for preliminary plat approval may file a petition for relief from a dedication or construction requirement that is applied or imposed as a condition of approval of a ~~Phase II land study~~, conveyance plat, preliminary plat or final plat. Waiver requests shall be considered in accordance with the following procedures:

Ordinance No. 2009-5-32 (cont'd)

- a. Petition for Relief – The property owner or applicant must submit a written petition for relief to the Planning Department at least 10 days prior to the Planning & Zoning Commission’s consideration of a ~~Phase II land study~~, conveyance plat, preliminary plat, or final plat. The petition shall set forth the reasons for the waiver request and must indicate the dedication and/or construction requirements for which relief is being requested. An applicant may also submit a petition for relief from conditions of plat approval added by the Commission in its consideration of a ~~Phase II land study~~, conveyance plat, preliminary plat or final plat. This petition must be submitted no later than 10 days following the Commission’s action.

- b. Consideration of Plat – After receipt of a petition for relief, the Planning Department shall schedule consideration of the plat only, within the 30 day time frame required by state law. The Planning & Zoning Commission shall approve the plat subject to future consideration of the applicant’s petition for relief from a dedication or construction requirement, or disapprove the plat.

- c. Study Requirements: ~~The petitioner city shall provide a study in support of the dedication or construction requirements. The petitioner may provide a study in support of the waiver request for petition for relief within 14 days of filing their petition for relief. The Director of Planning may extend the time for submitting the study for an additional 14 days upon the request of the applicant.~~ The city’s study shall include the following information:
 1. Total capacity of the city’s public infrastructure system or improvements to be dedicated to the city to be utilized by the proposed subdivision, employing standard measures of capacity and equivalency tables that relate the type of development proposed to the quantity of system capacity. In no case shall the calculation of the capacity used by a proposed commercial or multifamily development be based on development intensities less than the mid-point of intensity allowed by the particular zoning for the property. If the proposed subdivision is to be developed in phases, such information shall be provided for the entire development, including any phases already developed.
 2. Total capacity to be supplied to the city’s public infrastructure system by the proposed dedication of an interest in land or construction of capital improvements. If the development application is part of a phased development, the information shall include any capacity supplied by prior dedications or construction of capital improvements.
 3. Comparison of the capacity of the city’s public facilities system to be consumed by the proposed subdivision with the capacity to be supplied by the proposed dedication of an interest in land or construction of capital improvements. In making this comparison, the impacts on the city’s public facilities system from the entire development shall be considered.

Ordinance No. 2009-5-32 (cont'd)

4. The effect of any city participation in the costs of oversizing the capital improvements to be constructed in accordance with the city's requirements.
- d. Processing of Petition – The City Engineer shall evaluate the petition and any supporting study provided by petitioner and make a recommendation to the Planning & Zoning Commission based upon the city's study, any submitted petitioner's study and his own analysis. The City Engineer may utilize any reasonable methodology and information in evaluating the ~~petitioner's study~~ information.
- e. Consideration of Petition for Relief – The petition for relief will be considered by the Planning & Zoning Commission no later than 30 days after receipt of a ~~complete supporting study~~ an applicant's petition for relief. Based upon the application, the city's study, any submitted petitioner supporting study and the City Engineer's report, the Commission shall determine whether the application of the regulations for dedication or public improvements is roughly proportional to the nature and impact created by the development. The Planning & Zoning Commission shall take one of the following actions in considering the petition for relief:
 1. Deny the petition for relief, and impose the standard or condition requiring dedication or construction of capital improvements in accordance with the regulations contained within this ordinance.
 2. Grant the petition for relief, and waive in whole or in part any dedication or construction requirement necessary to meet the criteria for approval.
 3. Accept alternative designs for the public infrastructure system or improvements to be dedicated to the city.
 4. Delay the imposition of the requirement until a future phase of development. If a delay is granted, the future phase of development must be clearly defined.
 5. Reduce the applicant's cost of the dedication or construction requirement.
- f. Criteria for Approval – The Planning & Zoning Commission shall determine whether the application of the regulations requiring dedication of an interest in land for public improvements or construction of capital improvements is roughly proportional to the nature and extent of the impacts created by the proposed development on such water, wastewater, roadway, or drainage system, and reasonably benefits the development. The Commission shall take into account the evidence submitted by the city, the petitioner and the City Engineer's report and recommendation.
- g. Appeals – The decision of the Planning & Zoning Commission on a petition for relief may be appealed in accordance with Article III, Section 3.9 of this ordinance. An appeal constitutes authorization for the plat to also be placed on the City Council's agenda for consideration and action.

Ordinance No. 2009-5-32 (cont'd)

After hearing any testimony and reviewing the evidence, the City Council shall make a determination within 30 days following the final submission of any testimony or evidence by the developer in accordance with Section 212.904 of the Texas Local Government Code.

- h. Lapse of Plat Approval – If relief is granted to the petitioner, it shall remain in effect for the time period specified in Article III for each type of plat, and shall end upon expiration of the plat. Plat approvals may be extended as provided in Article III.

Plat Modification – If a plat for which relief was granted is modified to increase the number of residential units or the intensity of nonresidential uses, the City Engineer may ~~require~~ prepare a new study to validate the relief. The petitioner may file for relief and the new application and study shall be submitted and processed according to the procedures outlined in Sections 1-5 above.

Mayor Dyer 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 LaRosiliere and seconded by Council Member Callison the Council voted 8-0 to amend the Subdivision Ordinance of the City of Plano, as heretofore amended, by amending Section 1.12 (Waivers from Development Exactions) of Article I (General Provisions) and related sections of the Subdivision Ordinance of the City of Plano, pertaining to procedures and requirements for waivers of exactions for dedications and public improvements as recommended by the Planning and Zoning Commission, and providing a penalty clause, a repealer clause, a savings clause, a severability clause, a publication clause, and an effective date; and further to adopt Ordinance No. 2009-5-32.

There being no further discussion, Mayor Dyer adjourned the meeting at 8:02 p.m.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, City Secretary