MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL
December 12, 2011
City of Richardson, Texas

A Regular Meeting of the City Council was held at 7:30 p.m., Monday, December 12, 2011 with a quorum of said Council present, to-wit:

Bob Townsend	Mayor
Laura Maczka	Mayor Pro Tem
Mark Solomon	Council member
Scott Dunn	Council member
Kendal Hartley	Council member
Steve Mitchell	Council member
Amir Omar	Council member

City staff present:

Bill Keffler	City Manager
Dan Johnson	Deputy City Manager
Michelle Thames	Assistant City Manager Administrative Services
David Morgan	Assistant City Manager Community Services
Cliff Miller	Assistant City Manager Development Services
Samantha Woodmancy	Management Analyst
Pamela Schmidt	City Secretary
Michael Spicer	Director of Development Services
Sam Chavez	Asst. Director of Development Services - Planning

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1. INVOCATION – MARK SOLOMON

2. PLEDGE OF ALLEGIANCE: U.S. AND TEXAS FLAGS – MARK SOLOMON

3. MINUTES OF THE NOVEMBER 28, 2011 MEETING

ACTION TAKEN: Mr. Omar moved approval of the minutes as presented; second by Ms. Maczka and the motion was approved with a unanimous vote.

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4. VISITORS. *(THE CITY COUNCIL INVITES CITIZENS TO ADDRESS THE COUNCIL ON ANY TOPIC NOT ALREADY SCHEDULED FOR PUBLIC HEARING. PRIOR TO THE MEETING, PLEASE COMPLETE A "CITY COUNCIL APPEARANCE CARD" AND PRESENT IT TO THE CITY SECRETARY. THE TIME LIMIT IS FIVE MINUTES PER SPEAKER.)*

Ms. Schmidt advised receipt of an appearance card from Murat, 426 Bedford. The speaker was not in attendance.

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5. ADMINISTER THE OATH OF OFFICE TO NEWLY APPOINTED MEMBERS OF THE LIBRARY BOARD, PARKS AND RECREATION COMMISSION, AND SIGN CONTROL BOARD.

Ms. Schmidt administered the Oath of Office to William J. McCalpin, member of the Library Board; Pam Krause and Monica Weinman, members of the Parks & Recreation Commission; and Alicia Marshall and Scott Petty, Alternates on the Sign Control Board.

ACTION TAKEN: None.

PUBLIC HEARING ITEMS:

6. PUBLIC HEARING, ZONING FILE 11-18: A REQUEST BY HOWARD L. LAWSON, REPRESENTING THE LAWSON CO., FOR A CHANGE IN ZONING FROM C-M COMMERCIAL WITH SPECIAL CONDITIONS TO I-M(1) INDUSTRIAL WITH A SPECIAL PERMIT FOR SELF-SERVICE WAREHOUSE WITH ASSOCIATED OUTDOOR VEHICLE STORAGE FOR A PORTION OF 528 W. ARAPAHO ROAD (NORTH SIDE OF ARAPAHO ROAD, WEST OF CUSTER ROAD).

Mr. Keffler advised that the Plan Commission reviewed the request at their November 15, 2011 meeting when they recommended approval of the request with special conditions with a 6-1 vote. He asked Sam Chavez, Asst. Director of Development Services, to brief City Council.

Mr. Chavez stated the request is to rezone 3.5 acres of a 4.7 acre lot from C-M Commercial to I-M(1) Industrial with a special permit for an indoor self service warehouse with outdoor vehicle storage. The reason for the Industrial District zoning is because it is the only District that a self service warehouse can be approved with a special permit. The balance of the site would retain the C-M Commercial zoning. He advised that the site is designated on the Comprehensive Plan as the West Arapaho Enhancement or Redevelopment area, which is one of seven sites set aside for future study. The existing building is 65,000 sf and would house the indoor component of the request. Minor modifications to the building include a cut stone wainscoting applied to the exterior of the building. Vehicle storage included 30 spaces on the west side of the building. The Plan Commission recommendation included a condition that would limit the height of any vehicle stored along the eastern property line to a maximum height of 8 ft to match the height of the existing masonry wall and the maximum height of any vehicle adjacent to the building would be set at a maximum of 13 ft. He advised there was one letter of support of the request from the Northrich Baptist Church.

Mayor Townsend opened the public hearing and invited the applicant to make a presentation.

Howard Lawson, owner and operator of six self storage facilities in the Metroplex, stated he conducted a feasibility study that indicates the need for a self storage facility on the west side of Central Expressway. He stated that the request is to strictly limit the use of the building and its site exclusively to interior self storage units along with RV and boat storage on the east side of the building. He stated it would have a new masonry wall with a solid screen gate. Mr. Lawson advised that the building has been vacant for a long time and has occasionally been vandalized. He stated it is fully air conditioned and is ideal for the self storage business. He described the stone work, fencing and landscaping.

Ms. Maczka stated concerns about the outside storage and asked if he would consider deleting that portion of the application. Mr. Lawson stated he would consider it because it was not part of the core use but asked why it would be offensive since it would be completely screened. Ms. Maczka stated the City planned to study the area for future redevelopment and asked the time frame he would need to recoup the investment and he replied approximately 30 years. The

hours of operation would typically be 8:00 am to 6:00 p.m. and under special circumstances individuals would be allowed to enter the gate through a key pad. He noted there would be cameras recording all entries and exits.

Mr. Mitchell asked about longevity of the business and noted that the Council would need to consider the best use for the area. He asked how the applicant plans to address vehicle alarms being a problem for the adjacent neighborhood and also asked about security. Mr. Lawson stated vehicle alarms have not been a problem in his other facilities and advised that approximately 16 security cameras would be located in various indoor and outdoor areas monitored by a security company.

Mr. Omar stated he was in favor of using the land for an interim use, but felt there will be a point when there will be a better use for the property and asked how much time the applicant would need to reach the break even point for the investment. Mr. Lawson replied that the break even point is dependent on various things such as market and economy. Mr. Omar asked if a 10 year revisit requirement would be okay and Mr. Lawson stated he wouldn't consider less than 30 years.

Mr. Omar asked what would happen if someone wanted to redevelop the area and Mr. Keffler responded that the Council could stipulate a time period for the permit and Council could also limit the uses.

Mr. Lawson agreed to limit the use to no other Industrial use except self storage.

Ms. Maczka stated she would like to know if there had been other interests in the property and the particulars of the interests.

Richard Ramey, 707 E. Arapaho, representing Legacy Texas Bank, stated that in the last 10 months, the property has three new owners; Jack-In-The-Box, Arby's and the retail side has been sold to retail operators, with a total of six property owners in the entire area. In response to Ms. Maczka, he stated there have been three other interested entities and the uses included an indoor mall with a food court, a nursing facility and churches.

Mr. Solomon asked which of the uses mentioned by Mr. Ramey could be there by right and Mr. Keffler stated the nursing facility would need a SUP, but the others would be allowed by right.

Mr. Mitchell noted that the Retail Committee has talked about ways to better utilize such properties and asked if there had been a determination on when the area would be studied for revitalization. Mr. Keffler stated a final determination has not been made at this time.

Mr. Ramey referred to photo illustrations of the area with regard to outside storage of recreational vehicles. He stated that they suggested an 8 ft masonry wall be erected which would exceed the 6 ft requirement. He also noted that it would be limited to 30 RVs and/or boats. He noted that various iterations have been studied resulting in the reduced number of outside storage proposed. He advised that Mr. Lawson maintains his properties extremely well, provided further description of use of the property and spoke in favor of the request.

Mr. Mitchell asked about future parking and voiced Mr. Chavez stated as a stand alone retail facility, it would need all of the parking. As proposed, the parking required is on the shaded area. There are a total of 196 parking spaces over the entire lot. Mr. Mitchell asked if it did

develop separately, then it would be under parked and could never be a retail area again and Mr. Chavez responded affirmatively.

Mr. Solomon moved to close the public hearing; second by Ms. Maczka and the motion was approved with a unanimous vote. Mayor Townsend opened the floor for discussion.

Ms. Maczka expressed her appreciation for the applicant's desire to invest in the site. She reiterated that the site is located in an enhancement redevelopment area and stated that her utmost desire for the site is not self storage. She understood the need for self storage but did not feel the site was appropriate for the use although she would like to see something there now. She voiced concern about setting a precedent for the area.

Mr. Solomon stated that the interest that has been expressed to Mr. Ramey for the site thus far was not desirable and noted that the self storage use would serve a need in the community.

Mr. Dunn commented on the requirements that must be met in order to store an RV on home property and noted another storage facility that was given an SUP for 20 years without outside storage. He stated he spoke with residents in the area who did not express concern with the use.

Mr. Hartley asked about parking on private property and Mr. Morgan stated they must be parked behind the front building line and must be screened with a 6 ft fence/wall or it can be a living screen. Mr. Hartley suggested a stipulation that the other property could not be sold because of the need to be able to park the site should the use return to retail. Mr. Keffler stated Council could require a special condition that would be attributed to the ordinance and noted the property was not advertised for rezoning. Mr. Chavez stated the zoning application is for the entire lot, but the new zoning and the special permit would only apply to the subject area and the balance of the property would maintain its current C-M zoning.

Mr. Mitchell reiterated that the site was in the middle of an area that the Council is very interested in studying for redevelopment. He stated it was troubling to him that many of the neighbors further to the east and north probably aren't aware of the application; stated he is not convinced that a self storage facility is the best use for the property, and he felt the use was the wrong direction for the area. He expressed his appreciation for the interest in investing in the property but would vote against the request.

Mr. Omar felt it will be a while before there is any major redevelopment in the area and again asked the applicant the absolute minimum to have the site and Mr. Lawson stated 30 years and if the Council put a 10 year restriction, he would not proceed.

Mayor Townsend stated he is also torn because he does not like the property being vacant but did not feel that self storage was the right use for the site. He felt it was unfair to put a time frame on a use. Mr. Dunn stated he would not like to see something like an indoor courtyard mall being developed. Mr. Mitchell felt that the indoor courtyard concept would have minimal investment and would not have a true impact on future redevelopment. Mr. Omar stated he was okay with storage on the outside and the inside, but wanted a stipulation earlier than 30 years. He brought up the option of amortization and Mr. Keffler stated it would depend on the investment made in the property and a variety of other issues would have to be examined. He felt a time stipulation was a better option. He also noted that Richardson has not used the amortization option in the past. Mr. Chavez felt that language could be placed in the ordinance that restricts the use of the 1.2 acre track so that it is maintained in its current configuration so

that it doesn't hamper future development of the building. He also explained that the Council can review and revoke if necessary any special permit and that the applicant takes a risk when requesting the special permit. In response to Mr. Mitchell, Mr. Keffler stated he did not have information about the number of special permits revoked in the past. Mr. Dunn asked if a revitalization strategy is determined for the area, would that be sufficient reason to revoke the special use permit and Mr. Chavez replied that it would be enough to reconsider the permit.

> *ACTION TAKEN*: Mr. Mitchell moved to deny the Agenda Item Number 6 without prejudice; second by Ms. Maczka and the motion was approved 4-3. Mayor Townsend, Mr. Omar, Mr. Mitchell, and Ms. Maczka voting in favor and Mr. Solomon, Mr. Dunn and Mr. Hartley voting opposed.

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7. PUBLIC HEARING, ZONING FILE 11-20: A REQUEST BY AUBREY ELLINGTON, A&S ELLINGTON PROPERTIES, LLC, REPRESENTING CHICKEN EXPRESS TO AMEND THE ZONING TO DELETE THE REQUIREMENT FOR A RETAIL BUILDING ON A 1.29-ACRE SITE AND APPROVAL OF A REVISED CONCEPT PLAN AND BUILDING ELEVATIONS FOR A DRIVE-THRU RESTAURANT AT 1240 W. CAMPBELL ROAD (NORTHWEST CORNER OF CAMPBELL ROAD & LAKE PARK WAY). THE PROPERTY IS CURRENTLY ZONED LR-M(1) LOCAL RETAIL.

Mr. Keffler stated the area was rezoned from Office to Local Retail in 2008. He reported that the City Plan Commission voted 7-0 to recommend approval of the request with special conditions and he asked Mr. Chavez to brief the Council.

Mr. Chavez stated the property is located at the northwest corner of Campbell Road and Lake Park Way and is currently zoned LR-M(1). The 1.29 acre site is a portion of a larger 2.4 acre site that was rezoned in 2008 to LR-M(1) to allow a maximum of two retail buildings with one having a drive through window. In 2010, Ordinance 3801 was approved to allow an additional drive through window with an approved concept plan and building elevation for a 4,500 sf building that included a 3,000 sf drive through restaurant which was to be the Schlotzsky's. The request before the Council is for an amendment to Ordinance 3801 to delete the requirement for a retail building and approval of a revised concept plan and building elevations for a 3,100 sf stand alone drive through restaurant for Chicken Express. The proposed restaurant is compatible with the architecture of Lake Park Phase I townhomes in that it uses a lot of the same architectural themes as well as some design elements, materials and colors of the Braum's facility. It would be 100% masonry, and include metal roofing and wainscoting. He reported that no correspondence has been received and the Plan Commission recommended approval with the special condition that a driveway be added at Lake Park Way to provide an access and exit for southbound on Lake Park Way.

Mr. Solomon asked about the driveway and Mr. Chavez replied that the proposed location meets the City's requirements whereas a drive closer to Jonnson Blvd. would not meet the City's minimum standards for a driveway opening and interior, it would cause loss of parking spaces. He also talked about the circulation on site stating that the proposed driveway reduces the number of turning movements.

Mayor Townsend opened the public hearing and invited the applicant to make a presentation.

Eric Seeley, Pogue Engineering & Development, stated the reason for losing parking spaces with the mid-block movement is because there would be a dual radius. Mr. Solomon asked

about the seating capacity and Mr. Seeley stated it would approximately 100. The façade of the facility would be similar to the Braum's building and multi family units. Mr. Chavez stated there is a note on the elevation that the facility would mimic the stone on the Braum's building. With regard to the pattern of the sidewalk, Mr. Solomon stated he would like to see some type of design with the sidewalk to give it some character and Mr. Seeley stated they would be willing to consider it.

Ms. Schmidt advised there were no speakers regarding the request.

Mr. Maczka moved to close the public hearing; second by Mr. Hartley and the motion was approved with a unanimous vote.

> *ACTION TAKEN*: Mr. Solomon moved to approve ZF 11-20, request by Aubrey Ellington, A&S Ellington Properties, LLC, representing Chicken Express to amend the zoning to delete the requirement for a retail building on a 1.29-acre site and approval of a revised concept plan and building elevations for a drive-thru restaurant at 1240 W. Campbell Road (Northwest corner of Campbell Road & Lake Park Way); second by Mr. Hartley and the motion was approved with a unanimous vote.

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8. PUBLIC HEARING, ZONING FILE 11-21: A REQUEST BY EYAL AVNON, REPRESENTING DAVID WEEKLEY HOMES, FOR A CHANGE IN ZONING FROM O-M OFFICE ZONING WITH SPECIAL CONDITIONS TO RP-1500-M PATIO HOME ZONING WITH MODIFIED DEVELOPMENT STANDARDS ON A PROPERTY LOCATED AT THE NORTHWEST CORNER OF LAKE PARK WAY AND JONSSON BOULEVARD. THE PROPERTY IS CURRENTLY ZONED O-M OFFICE.

Mr. Keffler stated the City Plan Commission reviewed the request at the November 15 meeting and voted 7-0 to recommended approval with special conditions.

Mr. Chavez stated the request is to rezone a 5.8 acre tract from O-M Office to RP-1500-M Patio Home with modified development standards. As proposed the site will be developed as a 37 single family lot, private gated subdivision with two points of access. The main entrance is on Lake Park Way and an exit only is located on Jonsson Boulevard. Other features include 10 additional guest parking spaces, a masonry screening wall and wrought iron fencing along Jonsson and Lake Park Way as well as a landscaped storm water control detention area at the southeast corner of the property. He noted there would also be pedestrian gates at the controlled access points for homeowners. The development standards include increasing the dwelling unit size from 1500 to 1800, reduction in the lot width and area, modification to the setbacks to accommodate a larger home. The request included making the decision about which setback to use at the time of platting, stating it would end up with an all 0-10 ft setback or a 5-5 setback and there would not be a mix. The applicant also requesting an increase in the density from 5.5 units / acre to 6.3 unit / acre, as well as a waiver of the alley requirement and the sidewalk. He advised that the HOA would be responsible for the maintenance and reconstruction of public improvements. The request includes a request to allow the homes to back up to Lake Park and Jonsson with less than 100 ft of right-of-way. Lastly there is a request to allow non-radial lot lines. To date no public input has been received. He stated that the Plan Commission recommended approval of the request with a unanimous vote.

Mayor Townsend asked about the amount of open space and Mr. Chavez replied there would be a detention area and some green space along Lake Park Way for the residents. In response to Mr. Mitchell, the streets would be maintained by the HOA and would be private streets.

Mayor Townsend opened the public hearing and invited the applicant to make a presentation.

Bill Grant, Axton Land, 5700 W. Plano Parkway, land developers for the project, stated his company developed a six acre townhouse subdivision at the southeast corner of Belt Line and Grove that was developed at 10 units / acre and included front entry garages and a detention pond, for which they received a community design award from the City. He stated the proposed development was basically the same development, but more upscale. He stated that walking proximity to the restaurants and retail was a key element. He noted there would be no sidewalks in the gated community and the lack of sidewalks is part of the culture. He stated the lots would be 40 ft lots, talked about the problems associated with rear entry patio homes and stated that the front entry concept is part of the walking environment. He described the landscaping that would be in front of the wall and talked about the proposed wrought iron fencing that would gate the community. He stated the proposed sidewalk would be 7 ft wide and would be adjacent to the curb.

Eyal Avnon, David Weekley Homes, 3301 N IH-35, stated a broad price point would be high $200,000 to mid $300,000 and the average square footage of the homes is expected to be 2,000 to 3,000 sf. He stated they are still studying the market, but they are planning on having a number of floor plans with a master suite on the first floor and noted that first floor master suites are foot print drivers. Mr. Mitchell voiced concern with front entry, but did not think it was a huge obstacle. Mr. Avnon stated the City code limits the homes to two-story homes on the site with a 40 ft maximum height. Mr. Mitchell stated he would not be opposed to three-story homes. Mr. Grant explained the purpose of the wrought iron fence and the design of the solid wall. Mr. Avnon stated they are in favor of adding landscaping to boost the aesthetics of the subdivision. Mr. Omar voiced a desire to add visual interest with the sidewalk design. Mr. Chavez explained that the 7 ft wide sidewalk was part of the new policy when the sidewalk is directly adjacent to the back of the curb to provide a safer path. Mayor Townsend suggested they include options for an elevator could be added and Mr. Grant stated most of the homes would be constructed where the upstairs closet is directly above the first floor closet making it possible to convert the area to an elevator.

Colleen Clark, 1204 Emerald Glen Trail, stated she was concerned about density and traffic flow. She asked about the construction period and what would be done to mitigate the dust and noise. She also asked about landscaping with regard to privacy.

Mr. Chavez stated the minimum rear yard setback being requested is 10 ft. The homes noted at 16 – 20 will face the internal roadway. As part of the townhome development, the developer was required by ordinance to erect an existing wrought iron fence with brick columns with landscaping to screen it from this property. With regard to entry and exit, he stated the main entrance is from Lake Park Way and the subdivision is gated. He also used the site plan to illustrate the screening and noted the screening is for privacy of the property owner than the town home development. The code of ordinances controls the hours of construction and clean up and are addressed through the Community Services Department. With regard to the condition by the Plan Commission regarding screening, it states "a landscape buffer shall be provided along the rear lot lines of Lots 16-20 and along the west property lines of Lots 20 and 37. The buffer shall include a single row of evergreen shrubs which shall grow to a minimum of 6 ft in height at maturity."

Ms. Schmidt advised there were no other speaker cards submitted.

Ms. Maczka moved to close the public hearing; second by Mr. Solomon and the motion was approved with a unanimous vote.

Mr. Mitchell felt the product was needed and encouraged David Weekley to be a good neighbor to the adjacent townhome development. Mr. Solomon asked if the homes would be built as purchased or pre-built. Mr. Avnon stated it would be a combination of build to suit and pre built. He anticipated starting construction in about four months.

ACTION TAKEN: Mr. Hartley moved to approve ZF 11-21 as presented by staff; second by Mr. Dunn and the motion was approved with a unanimous vote.

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9. PUBLIC HEARING, ZONING FILE 11-26: A REQUEST BY THE CITY OF RICHARDSON TO AMEND THE CODE OF ORDINANCES, APPENDIX A, COMPREHENSIVE ZONING ORDINANCE, ARTICLE I, SECTION 2, DEFINITIONS, BY ADDING THE DEFINITION OF SMOKING ESTABLISHMENT AND BY AMENDING ARTICLE XXII-A, SECTION 2, TO ALLOW SMOKING ESTABLISHMENTS UPON APPROVAL OF A SPECIAL PERMIT IN THE LR-M(1) AND LR-M(2) LOCAL RETAIL DISTRICTS, AND THE C-M COMMERCIAL DISTRICT.

Mr. Keffler stated the effort was initiated by the City Council interest with the Near Term Action Items. At a recent work session, Council voiced interest in defining smoking establishments and provide for a special use permit where applications could be reviewed on a case by case basis and was the subject of the legal advertisement. He explained that the City Plan Commission heard the request after the legal advertisement and added a stipulation that dealt with a time context that was not part of the legal advertisement. Therefore, any consideration of the time constraint would have to be addressed at a later time once the proper legal advertisement has been made. He stated the Council has the ability to address the first directed interest. He asked Michael Spicer to brief the Council.

Mr. Spicer stated the origin of the request was based on the City Council's Near Term Action Items where the Council voiced a desire to regulate the placement of hookah lounges. In consultation with the City Attorney, it was noted that the context had to be broadened to comparable businesses that provide for on-premise smoking of tobacco and tobacco like products and therefore was broadened to smoking establishments. The request is to amend the Comprehensive Zoning Ordinance and stated the current smoking Ordinance, Chapter 10 of the Code of Ordinances, does not define or regulate the location of smoking establishments. Smoking establishments would be defined as a business dedicated, in whole or in part, to the smoking of tobacco or other substances and includes any establishment that allows both the payment of consideration by a customer to the establishment in exchange for on-site delivery of tobacco, tobacco accessories or similar substances and products to the customer, and on-site smoking of tobacco or other substances. He explained that special permits does not preemptively deselect any properties that are zoned retail; provides for a case by case evaluation; and in those cases where special conditions are appropriate, it affords the opportunity and ability to do so, and it provides an open forum for all stakeholders to express their opinion. He explained that existing smoking establishments would become legal, non-conforming uses and may continue to operate "as is" but cannot expand. He provided an illustration of the location of existing smoking establishments and areas that smoking establishments would be limited as proposed. Mr. Spicer advised that the City Plan

Commission recommended approval of the definition as presented, to limit the perspective location of smoking establishments to the three districts identified exclusively as it relates to smoking establishments that would operate after 9:00 p.m.

Mr. Dunn asked about the number of existing establishments and Mr. Spicer stated that at the last briefing there were 14 establishments and one in process. Since that time, another application was submitted.

Mr. Mitchell asked for clarification about the meaning of expansion. Mr. Spicer stated it would be an increase in floor area dedicated to the use. A remodel that does not increase floor space or square footage would not be prohibited.

Ms. Maczka asked about the reasoning for the 9:00 p.m. limitation and voiced concern about the ability to enforce the restriction. Mr. Spicer stated it was his understanding that the Commission felt the more desirable smoking establishments would keep more standard retail hours while other are more inclined to operate until the early hours of the morning.

Mayor Townsend opened the public hearing.

Matthew Bedosky, 1805 Park Meadow Lane, owner of Calypso Products Inc., which includes a premium cigar shop located at 1401 E. Arapaho (intersection of E. Arapaho and N. Plano Road), felt the Commission thought it was more of a late night issue because that's when problems were occurring. He stated that he does not have a problem being classified as a smoking establishment; he has an issue with the costs for making an application for a special permit and stated it creates a financial hardship. He advised that his lease is up and he chose not to renew his current lease and to move to another area. He stated there is a big difference between a tobacco shop and a hookah lounge, noting the thousands of dollars invested in inventory. He also noted that his establishment closes around 9:00 and 10:00 p.m.

Ms. Schmidt advised there were no other speaker cards submitted.

Mr. Harley moved to close the public hearing; second by Mr. Solomon and the motion was approved with a unanimous vote.

Mr. Omar stated he was unclear about the urgency for the regulation. He felt that there were other businesses that were not good for retail such as dollar stores and churches that restrictions were not being considered for. He stated he would be against the proposed ordinance.

Mr. Mitchell voiced concern about the proliferation of the businesses and understands the difference between a business with a significant amount of product and a smoking lounge. He felt the issues are the late night activity and a proliferation of the type of business. He stated he would like a caveat added that would include the Council consider the time frame limitation. Mr. Keffler stated the direction to advertise to include a time restriction could be added to a motion on the item or it could be a separate motion.

Mr. Hartley asked about grandfathering the current businesses and Mr. Spicer explained that a non-conforming status runs with the property. The Council could declare them to be continuing legal and valid uses as opposed to non-conforming, which would allow them to expand on site within the confines of whatever zoning district they are located in, but the Council could not transfer a non-conforming right to another property.

Mr. Omar asked if a restriction or delineation could be made based on the amount of inventory and Mr. Spicer replied that legal counsel made it very clear that each would have fundamentally the same use and consequently, they need to be regulated similarly. Mr. Omar asked what time restriction would be appropriate because many ball games go beyond 10:00 p.m. He likened the smoking establishments to dollar stores with regard to proliferation of the business.

Mr. Dunn stated he has heard many complaints from residents about hookah lounges and the activity it generates, and no complaints about dollar stores. Ms. Maczka felt the Council was struggling with discouraging free enterprise and businesses, but are trying to discourage hookah lounges that want to locate close to a school. She felt it was different. She asked if Mr. Bedosky could appeal fee and Mr. Keffler stated the fees that are in place is the costs to do business, but Council could waive the fee if it so desired. Ms. Maczka stated she was not concerned about the application fee; she was concerned about managing the number of businesses. She did not want the City to become the destination for hookah bars and felt it was important to regulate the business. She understood it was trendy at this time and didn't want to discourage it, but since there are already 14 located in Richardson, and the way to avoid going beyond the saturation point is to provide that new business must apply for a permit. Mr. Chavez confirmed that the application fee was $1,500. Discussion was held regarding the assessment of the application fee.

> *ACTION TAKEN*: Mr. Solomon moved to approve Public Hearing ZF 11-26, request of the City of Richardson to amend the Code of Ordinances, Appendix A, Comprehensive Zoning Ordinance, Article I, Section 2, Definitions, by adding the definition of smoking establishment and by amending Article XXII-A, Section 2, to allow smoking establishments upon approval of a Special Permit in the LR-M(1) and LR-M(2) Local Retail Districts, and the C-M Commercial District. Mr. Mitchell asked him to add wording to address the 7:00 a.m. - 9:00 p.m. stipulation noted by the Plan Commission. Mr. Solomon stated he would prefer it be a separate motion. In response to Mr. Mitchell about the mechanism needed to put the item on the agenda, Mr. Keffler stated that if four of the council members request the item be brought forward, it would be placed on the agenda. The motion was seconded by Mr. Dunn. Mr. Omar spoke in favor of adding a stipulation that waives the application fee for existing businesses. Mr. Solomon felt it was a bad precedent to set and Mr. Mitchell felt it could be addressed with the next hearing. Ms. Maczka stated she would like staff to bring back an item to discuss a way to make it more palatable to existing businesses and felt the hours of operation restriction proposed would be a problem to enforce. Mr. Mitchell felt it is important to delineate between the high end cigar shops and other businesses. Mr. Omar suggested the Council wait until they have a full solution. The motion was approved with a 5-2 vote with Mayor Townsend, Mr. Solomon, Mr. Dunn, Ms. Maczka, and Mr. Mitchell in favor and Mr. Hartley and Mr. Omar opposed.

Mr. Mitchell reiterated the request to very quickly be briefed on ways to address the issue and Mr. Keffler stated he understood.

ALL ITEMS LISTED UNDER ITEM 10 OF THE CONSENT AGENDA ARE CONSIDERED TO BE ROUTINE BY THE CITY COUNCIL AND WILL BE ENACTED BY ONE MOTION IN THE FORM LISTED BELOW. THERE WILL BE NO SEPARATE DISCUSSIONS OF THESE ITEMS. IF DISCUSSION IS DESIRED, THAT ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND WILL BE CONSIDERED SEPARATELY:

10. CONSENT AGENDA:

Mr. Omar requested that Item 10 E be removed for separate discussion.

ACTION TAKEN: Mr. Solomon moved approval of Consent Agenda Items 10 A – D; second by Mr. Hartley and the motion was approved with a unanimous vote.

A. Approve the following resolutions:

1. Resolution No. 11-38, approving the terms and conditions of the Advance Funding Agreement for a Safe Routes to School Project for pedestrian walkway improvements at Yale Elementary School, by and between the City of Richardson, Texas, and the State of Texas, acting through the Texas Department of Transportation, and authorizing its execution by the City Manager.

2. Resolution No. 11-39, approving the terms and conditions of the Advance Funding Agreement for a Safe Routes to School Project for pedestrian walkway improvements at Richland Elementary School, by and between the City of Richardson, Texas, and the State of Texas, acting through the Texas Department of Transportation, and authorizing its execution by the City Manager.

3. Resolution No. 11-40, adopting the City of Richardson investment Policy.

B. Authorize advertisement of the following bids:

1. Bid #16-12 – 2012 City Hall Cooling Tower replacement. Bids to be received by Wednesday, January 4, 2012 at 2:00 p.m.

2. Bid #17-12 – 2010 Sidewalk Repair Program Phase III (Regions 5 & 6). Bids to be received by Thursday, January 5, 2012 at 2:00 p.m.

C. Award of Bid #62-11 – authorization to issue an annual requirements contract to Naztec, Inc. for traffic signal cabinets pursuant to unit prices.

D. Award of Competitive Sealed Proposal CSP#902-12 to Digitech Computer, Inc., for EMS Billing and Collection services at the annual fee of 4.95% of collections pursuant to the City of Plano CSP #2011-36-C.

E. Cancellation of the Monday, December 26, 2011 City Council meeting and the January 2, 2012 Work Session.

Removed for separate discussion and action.

ITEMS REMOVED FROM THE CONSENT AGENDA

10 E. Cancellation of the Monday, December 26, 2011 City Council meeting and the January 2, 2012 Work Session.

Mr. Omar voiced a concern with cancelling the meetings because of the number of Near Term Action Items that need discussion. Mr. Keffler stated the calendar for Near Term Action Items

would be brought to Council at the January 9 meeting; stated his appreciation for the anxiousness to move as quickly as possible; and advised that Council could decide at that time the aggressiveness of the schedule. He noted that after discussion of the items, the Council may decide to move forward, but might also decide not to move forward. Mayor Townsend asked Mr. Omar if it was his intention that the Council meet on December 26 and January 2 and Mr. Omar replied that he was voicing concern about the amount of items that need Council's attention. Mr. Keffler reiterated that the staff has been working to group like subjects together and bring the Council a calendar that makes sense and respects the whole term of office.

ACTION TAKEN: Mr. Solomon moved to approve Item 10 E; second by Mr. Omar and the motion was approved with a unanimous vote.

The meeting adjourned at 10:44 p.m.

S. L. Townsend
MAYOR

ATTEST:

Pamela Schmidt
CITY SECRETARY