

**PLANO CITY COUNCIL
PRELIMINARY AND REGULAR MEETING
May 8, 2001**

COUNCIL MEMBERS

Jeran Akers, Mayor
Rick Neudorff, Mayor Pro tem
Phil Dyer, Deputy Mayor Pro tem
Shep Stahel
Pat Evans
Steve Stovall
John R. Roach, Jr.
Ken Lambert

STAFF

Thomas H. Muehlenbeck, City Manager
Frank Turner, Executive Director
Bruce Glasscock, Executive Director/Police Chief
Rod Hogan, Executive Director
Diane C. Wetherbee, City Attorney
Elaine Bealke, City Secretary

Mayor Akers called the meeting to order at 5:05 p.m., Tuesday, May 8, 2001, in the Council Chambers of the Municipal Center, 1520 K Avenue. All Council Members were present.

PRELIMINARY OPEN MEETING

Resolution No. 2001-5-1(R): To canvass the election returns of the Joint General Election of May 5, 2001, for the election of four members of Council (Places 1, 3, 5, and 7) for a term of two years; declaring the results; and resolving other matters on the subject.

Mayor Akers stated that he has asked Mayor Pro tem Neudorff and Council Member Evans to canvass the votes. City Secretary Bealke read the resolution caption into the record and advised that the records include a memo from Collin County Elections Administration stating that 10,967 ballots were cast in the May 5, 2001 election; a statement from Collin County Elections verifying the tabulated results; and accumulated totals. She advised that the resolution to canvass the results of the candidates' election does include a change with a section added which recognizes that a recount petition has been filed with regard to Place 5.

Ms. Bealke read the canvassing record reflecting votes cast for early voting and election day for Council Member Places one, three, five, and seven. Ms. Bealke advised that the last page was a memo from the Collin County Elections Administrator explaining incorrect early voting numbers provided by Collin County throughout the early voting process that were different from election night figures and further that Denton County voters other than the City of Plano were added into the Plano totals and therefore resulted in an incorrect figure. Ms. Rowe stated that the figure received election night was correct.

Council Member Lambert requested an update of exactly what happened with regard to the electronic voting, the current status surrounding existing problems and how they are being solved.

Collin County Elections Administrator Sharon Rowe stated incorrect information is being generated with regard to what actually occurred on election night and stated that the County's Southwestern Bell server for the internet website is what actually went down (crashed). She stated that Southwestern Bell informed them it would be Monday morning before things were fixed and further advised that Collin County communicated to Southwestern Bell the need to have the problem corrected that night and to the current situation of voters waiting on totals. Ms. Rowe stated that as far as the voting systems that were in place, the systems went very well, and that the only issue would be a formatting issue on reports done differently for one vendor in particular.

Council Member Lambert asked the question of Ms. Rowe "Then am I to understand that you do have individual totals for every proposition and every position for each of the ballot places?"

Ms. Rowe responded that "they are identified", and stated she would give specific examples. She spoke to the vendors used, the punch card system and to Global's electronic recording and report mechanisms and stated that they were generated precinct by precinct for early voting by itself, and early voting and election day combined.

Ms. Rowe stated that "looking at the way that the vendor created the report aspect is still precinct by precinct but it's specifically each precinct in Plano. My precinct by precinct totals encompass actually a polling location which is a consolidated grouping. We can take then the individual precinct groupings from Global's numbers, add those back together and then compare apples to apples". Ms. Rowe advised Council Member Lambert that the detailed breakdown is not in the canvassing package that is here tonight but that the City Secretary "has the information, it's about five pounds of paper". The City Secretary held up the paperwork to be viewed by the Council and stated that "this is the information. It's not put together in one report. It's as Sharon (Ms. Rowe) said precinct by precinct."

Council Member Lambert asked the question of Ms. Rowe “Is it precinct or polling place? The election code refers to precincts but when you have combined precincts in one polling place do you get one set of numbers out of Wilson Middle School for instance or do you have the four precincts that are all voting there?”

Ms. Rowe responded to Mr. Lambert “The one location would be considered a precinct and for the canvass purposes I wanted the record to accurately reflect the documents coming from both of the vendors’ sides so you can see what was generated on both sides. I have pulled together an accumulated total that was easier for Elaine (City Secretary) to read to you tonight but as far as the reporting aspects, there are things that can certainly be tweaked on that end but you do have all the documentation needed for the precinct by precinct.”

The City Secretary stated that what the Council is used to receiving is a location-by-location printout and that this is not here tonight.

Council Member Lambert spoke to efforts made today and previously of being unable to obtain results on the Collin County web site stating that “it was never there all weekend or all day yesterday or all day today.” Ms. Rowe stated that she has been working around the clock on this and that it will be available and will be posted. She advised Mayor Akers that she did not know why the site (web) went down, and that it most likely was not due to the “hits” but was related to other factors.

Council Member Lambert asked Ms. Rowe how she arrived at the numbers on the three polling places that used the electronic touch screens, if and how they were downloaded, and further asked if she did a manual count of the tapes. Ms. Rowe stated that “On election night the judges returned the diskettes from each of the individual voting machines. They locked them in a transfer case and sealed them like they would the punch card ballots along with the tapes from the machines. Those are then uploaded in our tabulation center and the reports are generated there. So the statement of votes cast was reflected from that unit. Now what we are doing now is in preparation for a manual count is actually printing a hard copy of those ballots.”

Ms. Rowe advised Mayor Akers that the rumors or statements that were made that they (discs) remained in the voting machines and were put in the warehouse were incorrect and false and offered to address this matter further. She spoke to a conversation with Ms. Flick and her campaign manager and to discussing where the machines were, what the procedures were and stated that she was asked the question “where were the machines and then where were the tapes and because I had not personally seen where the tapes were I couldn’t answer at that time. After a few minutes I did discover that the tapes were sealed in the transfer case on election night with the diskettes and they are wire sealed and sealed by the deputy constable that was our security guard in the tabulation room and those will be opened as we move into the recount.”

“Those are together. The machines were brought back to my office. I felt that – Joy (Ms. Flick) had requested she would like them brought back to the office and just not knowing the full recount procedure with this type of equipment, I thought let’s just get it back into our location. It was my deputy and then two other workers – they moved it to the early voting room and it’s been secured in there and it will be secured until we begin our recount.”

Mayor Pro tem Neudorff stated that he and Council Woman Evans have canvassed the returns of the election and find that all ballot cards are accounted for, with a total of 10,967 City ballots cast and further do move to adopt a resolution canvassing the returns of the Joint General Election and declaring that Shep Stahel was elected to Place 1, Phil Dyer was elected to Place 3, Steve Stovall was elected to Place 5 and John R. Roach, Jr. was elected to Place 7. Council Member Evans made a second to this motion. The Council voted eight (8) to zero (0) and further adopted Resolution No. 2001-05-01(R).

Resolution No. 2001-5-2(R): To canvass returns and declaring the results of a Bond Election held in the City of Plano on May 5, 2001; resolving other matters related thereto; and providing an effective date.

City Secretary Bealke referenced using the same first two documents from the previous canvass and read the canvassing document reflecting votes cast for early voting and election day for Proposition 1 - Street Improvements, Proposition 2 - Fire Fighting Facilities and Equipment, Proposition 3 - Police Facilities, Proposition 4 – Parks and Recreation Facilities, Proposition 5 – New Recreation Center, Proposition 6 Parking Facilities, Proposition 7 Expanding the Haggard Library, Proposition 8 Overpass Project, and Proposition 9 Arts Facility.

Mayor Pro tem Neudorff stated that he and Council Woman Evans have again canvassed the returns of the election and find that all ballot cards are accounted for and that 10,967 City ballots were cast and further do move to adopt a resolution canvassing the returns and declaring that Proposition 1 passed authorizing the issuance of \$48,835,000 in General Obligation Bonds for Street Improvements, Proposition 2 passed authorizing the issuance of \$5,250,000 in General Obligation Bonds for Fire Fighting Facilities and Equipment, Proposition 3 passed authorizing the issuance of \$4,100,000 in General Obligation Bonds for Police Facilities, Proposition 4 passed authorizing the issuance of \$35,050,000 in General Obligation Bonds for Parks and Recreation Facilities, Proposition 5 passed authorizing the issuance of \$10,500,000 in General Obligation Bonds for a New Recreation Center, Proposition 6 passed authorizing the issuance of \$1,650,000 in General Obligation Bonds for Downtown and Municipal Center Parking Facilities, Proposition 7 passed authorizing the issuance of \$3,530,000 in General Obligation Bonds for expanding the Haggard Library, Proposition 8 passed authorizing the issuance of \$3,500,000 in General Obligation Bonds to Provide Grade Separation at Preston Road and Legacy Drive.

Mayor Pro tem Neudorff further stated that Proposition 9 to issue an additional \$15,600,000 in General Obligation Bonds to Complete the Funding for the Creative and Performing Arts Facilities to be located in the vicinity of Spring Creek Parkway and Ohio Drive failed. Council Member Evans made a second to this motion. The Council voted eight (8) to zero (0) and further adopted Resolution No. 2001-5-2(R).

OATHS OF OFFICE FOR NEWLY ELECTED COUNCIL MEMBERS

Mayor Akers administered the oath of office to newly elected Council Members Stahel, Dyer, Stovall and Roach.

Mayor Akers advised that the Council would continue with the Preliminary Open Meeting with Executive Session to follow.

PRELIMINARY OPEN MEETING

DART Status Report

City Manager Muehlenbeck advised that this item has been pulled.

Discussion re Setting Public Hearing re Renaming Parker Road to Martin Luther King Drive

MLK Street Committee Member Fred Moses spoke to celebrating Martin Luther King Day and the progress made in getting the City involved in the celebration. He stated a request that a street be renamed after Dr. Martin Luther King to recognize the progress that the City has made as a diverse city, Dr. King's work as a great humanitarian, and to support the principals for which he devoted his life. Mr. Moses spoke to the committee's recommendation that the street involve the entire City, be visible and reach all the diversity of the community and to the renaming being done with vigor and vitality. He further stated that the proposal is to rename Parker Road to Martin Luther King Drive because it best meets the criteria established by the committee.

Mayor Akers requested Deputy Mayor Pro tem Dyer and Council Member Roach meet with the committee and Staff to review the process.

Discussion and Public Hearing re Transportation Systems for Senior Citizens

Transportation Engineering Manager Lloyd Neal addressed the Council regarding public transportation services available to senior citizens living in Plano and spoke regarding the guidelines used in the development of the programs which include diverse mobility options and transportation services and fees coinciding with user needs.

Mr. Neal advised regarding CCART (Collin County Area Rural Transportation), Senior Trans which is a City-sponsored service to any Plano destination via the CCART services where clients have no other means of transportation and the Senior Center offering rides to and from the center on a daily basis to senior citizens on the membership list. Mr. Neal spoke regarding DART bus routes, senior citizens discounts, monitoring new bus services, evaluation of the "DART On-Call for North Central Plano" service and Paratransit for the physically challenged. He spoke to Staff looking for ways to provide low-cost and responsive services to the citizens, working with DART and CCART, increasing public awareness of the transit services, making facilities accessible and regarding the age to qualify for services.

Mayor Akers spoke to placing the item on the next agenda.

Mayor Akers opened the Public Hearing. Ellie Thomas, citizen of the City, spoke regarding frustrations of older citizens in getting around the City. She stated that DART only goes to limited areas in town and that CCART requires days of notice and may not guarantee transportation. Ms. Thomas spoke to additional funding being needed for existing systems so they might be expanded to provide more adequate and reliable transportation and regarding concerns of assisted living and retirement centers who provide transportation but experiencing growing demands. She responded to Council Member Lambert that her proposal is to expand current services or run more efficiently so that they are more accessible and on call and her interest in working with Staff. Mary R. Scarborough, citizen of the City, spoke regarding her use of CCART and the restrictions of the program as well as taxi service in the City and the rates charged.

Ed Casper, Executive Director of the Collin County Committee on Aging, spoke regarding services provided within the county including "Meals on Wheels" and CCART transportation and providing services to those areas that do not have transportation already, the inability to provide transportation within the City from an origination to destination standpoint, and the willingness to consider options to expand services. He responded to the Council regarding consideration of fixed-route service, services provided by DART and Senior Trans, and stated that trips that start and finish in the City of Plano are provided by "DART on Call."

Glenn Cox, Transit Director for the Collin County Committee on Aging, spoke to working with the City to continue providing and to increase services. He spoke regarding the cost of transportation and the number of citizens served. No one else spoke either for or against the request. The Public Hearing was closed.

Mayor Akers spoke to Mr. Neal meeting with citizens to address the situation. Council Member Stovall spoke in support of additional Public Hearings and a matrix to get a better idea of the different aspects, costs, origins/destinations, and individuals services apply to. City Manager Muehlenbeck responded to Council Member Roach that publicity is done through the Senior Center and through some publications that jointly go out from DART and that the Public Hearing would be continued on at the May 14 Council meeting.

Discussion and Direction re Changes to Telecommunications Fees Based Upon Allocation Ratio and Access Line Fees

Assistant to the City Manager Julie Fleischer spoke to the Council regarding the telecommunications municipal fee and the allocation ratio issues established in March of 2000 which was a result of the passage of House Bill 1777. She spoke to the allocation ratio being based on the access line counts submitted by telecommunications providers and the impact to residential, small business and category 3 customers. Ms. Fleischer spoke to advisement from Verizon regarding changes in their access line counts.

City Manager Muehlenbeck spoke to being revenue neutral and to having as little impact as possible on residential customers. Ms. Fleischer spoke to recommending Option 3 because it minimizes the impact to residential customers, regarding her contacts with the Chamber of Commerce and citizens, getting information out to the public and the impact on small businesses. She spoke regarding efforts to be sure counts are correct and discussions with the Public Utility Commission regarding compensation related to fiber lines.

Mayor Akers stated the Council's consensus to reluctantly move forward with Option 3.

Spotlight on Police Department

Mayor Akers advised that this item would be held over until the second meeting in June and would be scheduled for the regular meeting to provide more exposure to the public for informational purposes.

Discussion and Direction re Results of Vote on Proposition No. 9 (Creative and Performing Arts Facilities to be located in the vicinity of Spring Creek Parkway and Ohio Drive)

Mayor Akers spoke to discussing the vote and the mandate of the people authorizing almost \$20 million for an arts hall.

Council Member Lambert spoke to discussions with citizens who are expecting to spend approximately \$19 million, looking very diligently to see if there are partnerships, forming a small group with individuals from both sides of the issue and two Council Members to bring forward ideas. He spoke to the Council's commitment for a performing arts center and looking at alternative methods of finance.

Council Member Roach spoke to having \$19.4 million and to moving cautiously and deliberately but quickly. He spoke regarding the divisiveness of the issue and to unifying the City behind a performing arts center whether it is through cooperation with other governmental entities or another means and to doing so quickly. Mr. Roach spoke regarding the election indicating voters' priorities such as roads, parks, etc. and moving forward on those items.

Council Member Stovall spoke to moving forward with deliberate speed and having one or more public hearings with ideas being presented by those who objected to the plan Council had agreed upon prior to the bond election.

Deputy Mayor Pro tem Dyer spoke to appointing a small group, efforts of the Performing Arts Center Advisory Committee and to moving quickly but prudently.

Mayor Pro tem Neudorff spoke to the Council uniting on an idea and moving ahead and that community support will follow.

Council Member Evans spoke to the expertise of the Performing Arts Center Advisory Committee, to not building just a civic auditorium, moving quickly, and having the committee chair take it back to the architects to see what can be gotten for the \$19.4 million.

Council Member Stahel spoke to the variables of site, money and what can be built. He spoke to arts groups wanting a facility to accommodate 1,500 and agreement with Council Member Evans regarding phasing in peripheral items. Mr. Stahel spoke to agreement on April 1 to trying to raise money for the Nelson site and if it failed that the location was Plano Centre or Legacy and his understanding that Legacy is no longer available. He spoke regarding a decision being made on the site and his agreement to finding additional money and what can be gotten in the way of a more affordable central hall.

City Attorney Wetherbee spoke regarding the expiration of the option on the Nelson site and that an agenda item will be scheduled for May 14 to consider whether or not to continue with the option or exercise the right to terminate. She spoke to the City being responsible for a portion of taxes, the thirty months to build the arts site upon closing and obligations to fulfill if the City does not go forward.

Alan Johnson, representing the “There’s a Better Way Committee,” spoke to the failure of the bond item citing reasons of location, costs associated with the site, and the total amount of the request. He spoke to the Council addressing the issues and coming up with a new approach to building the facility at a reasonable cost to the taxpayers.

Mr. Johnson spoke regarding the original intent to build on publicly owned land in east Plano, that Council not spend “significantly” more than \$19.4 million and no objection as long as the “lion’s share” comes from other public or private sources. He recommended moving forward quickly and encouraged a small team of Council Members to review.

Mayor Akers summed up speaking to the Council’s continued commitment to the arts hall, that the people paying the bill have spoken, to move ahead with deliberate caution thinking “outside the box” and that the Council has a challenge to try to find a way to fulfill its commitment working cooperatively in developing an arts hall within the parameters. He spoke to visiting with Performing Arts Center Advisory Committee Chair John Van Maele and reporting the progress back to the Council at its next meeting.

City Manager Muehlenbeck spoke regarding the Request for Proposal out for a hotel and planned expansion at Plano Centre along with the resultant density and need for parking in response to the Council. Council Member Lambert spoke to a hotel having structured parking and not needing as much surface parking. Council Member Evans spoke regarding the cost of parking. Council Member Roach spoke regarding the contract for services outstanding for the Spring Creek/Ohio site and City Manger Muehlenbeck advised that would be coming forward on May 14. Council Member Stovall spoke to receiving public input.

Mayor Akers spoke to working up the agenda following his meeting.

Council items for discussion/action on future agendas

Mayor Akers requested Council Member Roach contact the Sister Cities Committee for criteria they would recommend in the selection and for maintaining relationships with sister cities. Council Member Roach stated that the committee is working on this item and that he would bring it forward on a future agenda. Mayor Akers spoke to reviewing the current sister cities.

Consent Agenda

Council Member Roach requested that Consent Agenda Item “C,” consideration of a resolution to support the improvements and request for funding for the McKinney Municipal Airport, be pulled for individual consideration.

Council Committee Reports

No reports were presented

CONSENT AGENDA

Upon a motion made by Council Member Lambert and seconded by Mayor Pro tem Neudorff, the Council voted 8-0 to approve and adopt all remaining items on the Consent Agenda as recommended and as follows:

Award, Rejection of Bids/Proposals, Conditional Acceptance of Lowest Responsible Bid/Proposal and Designation of Alternate Lowest Responsible Bid/Proposal when applicable on the following

Bid No. B086-01 for renovation of Fire Station No. 4 in the amount of \$375,229. [Consent Agenda Item (A)] (See Exhibit "A")

Bid No. B116-01 for construction of Alley Reconstruction No. 1 consisting of the total reconstruction of the alleys south of Williamsburg Drive and Fairfield Drive between Avenue N and Avenue P; the alley along the west and south of Sparrows Point Drive; a portion of the alley along the north side of Sparrows Point Drive and a portion of the alley along the north of Bass Drive in the amount of \$516,086. [Consent Agenda Item (B)] (See Exhibit "B")

Adoption of Ordinances

Ordinance No. 2001-5-3: To amend the Plano Code of Ordinances, Art. IV, Chapter 12, Section 12-73(b) entitled "School zones designated: 7:15 a.m. – 8:15 a.m., and 2:30 p.m. – 3:15 p.m. on school days," to clarify the reference point for the beginning of the school zone located on Park Boulevard between the eastern-most driveway of Bob Woodruff Park and continuing in an easterly direction on Park Boulevard to its intersection with Concho Drive; and to provide a repealer clause, severability clause, a penalty clause, and an effective date. [Consent Agenda Item (D)]

Ordinance No. 2001-5-4: To amend Section 19-59(C), Applicability, and Section 19-67(A), Permit Application, Permit Contents, of Article IV, Right-of-way Management Ordinance, of Chapter 19 of the Code of Ordinances of the City of Plano to clarify that only new residential service connections are exempted from the requirements of the Right-of-way Management Ordinance; amending Section 19-62(B), Violations, and Section 19-63, Penalties, of Article IV, Right-of-way Management Ordinance, of Chapter 19 of the Code of Ordinances to clarify the types of penalties that may be assessed for violations; and providing a repealer clause, a severability clause, a savings clause, a penalty clause, and an effective date. [Consent Agenda Item (E)]

Authorize Payment

To authorize payment to Texas Department of Transportation, in the amount of \$154,796, for the abandonment and purchase of 1.2343 acres of land referred to as the “Old Custer Road right-of-way.” [Consent Agenda Item (F)]

END OF CONSENT

Consideration of a resolution to support the improvements and request for funding for the McKinney Municipal Airport; and providing an effective date. [Consent Agenda Item (C)]

Council Member Roach spoke to having reservations regarding this item. He spoke regarding the dispute between the cities of Fairview and McKinney regarding the support of the improvements and the request for funding of the McKinney Municipal Airport and moved to deny the request. Council Member Evans seconded the motion. (No vote was taken at this time.)

Council Member Lambert stated that the benefit of this item would be improved regional air transportation and Mayor Akers spoke regarding the request being made by McKinney’s mayor.

The Council discussed deferring the request until after the lawsuit is settled. Council Member Stahel spoke to the benefits of having another airport that might be derived over time.

Council Member Roach withdrew his initial motion and upon a motion made by Council Member Roach and seconded by Council Member Evans, the Council voted eight (8) to none (0) to remove the item considering a resolution to support the improvements and request for funding for the McKinney Municipal Airport from the Consent Agenda indefinitely and to take no action.

Mayor Akers advised that the Council will recess and convene into Executive Session in the Council Conference Room in compliance with Chapter 551, Government Code, Vernon’s Texas Codes, Annotated, to discuss legal matters, litigation and receive advice, Section 551.071; discuss matters of Real Estate, Section 551.072; and to discuss matters of 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 Akers advised that the Council will reconvene back into open session in the Council Conference Room at the conclusion of Executive Session to address Preliminary Item No. One, Consideration and Action resulting from Executive Session after which time the meeting will finally adjourn. Mayor Akers stated that the Council will not return to the Council Chambers and recessed the open meeting at 6:48 p.m.

Mayor Akers reconvened the meeting back into open session at 7:40 p.m.

Consideration and Action Resulting From Executive Session Discussion: Personnel

Mayor Pro tem and Deputy Mayor Pro tem

A motion was made by Council Member Lambert and seconded by Deputy Mayor Pro tem Dyer to reappoint Rick Neudorff as the Mayor Pro tem. No appointment was made for the Deputy Mayor Pro tem at this time. Nothing further was discussed. Mayor Akers adjourned the meeting at 7:41 p.m.

Jeran Akers, MAYOR

ATTEST:

Elaine Bealke, CITY SECRETARY