

PLANO CITY COUNCIL
August 17, 2004

COUNCIL MEMBERS

Pat Evans, Mayor
Shep Stahel, Mayor Pro Tem
Ken Lambert, Deputy Mayor Pro Tem
Steve Stovall
Phil Dyer
Scott Johnson
Sally Magnuson
Jean Callison

STAFF

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

Mayor Evans convened the meeting into open session on Tuesday, August 17, 2004, at 7:16 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 Larry Murray of Plano Bible Chapel.

The Pledge of Allegiance was led by the Chiefs from Cub Scout Pack 287.

Mayor Evans recognized the Dallas Asian American Youth Orchestra, City of Plano Swimmers, "13U Plano Texas" – National Baseball Championship Honor recipients and "American Payroll Week." A presentation of a donation to the Plano Fire Department and Plano Police Department was made by Gerald Brooks.

The Council resumed discussion of the Preliminary Meeting Agenda.

Mayor Evans and Council Member Callison stepped down from the bench on the following item due to a possible conflict of interest.

Discussion and Direction Regarding Request for Funding from Sci-Tech Discovery Center

Jeri Chambers, of Sci-Tech Discover Center, spoke regarding delivering dynamic science, math and technology experiences and requested \$40,000 in funding for a Fall 2005 exhibit. She advised regarding a current exhibit at the Shops at Willow Bend and its status as a "destination" as well as plans to build a facility. She responded to Council Member Stovall regarding plans to bring in two exhibits, the resultant increase in costs and possible contributions from other sources.

Ms. Chambers advised that the exhibit would be hands-on and that a presentation was made before the Cultural Affairs Commission. She advised that a 501(c)(3) designation was received in March 2004 but that research and development has been in place since November of 1999. Deputy Mayor Pro Tem Lambert spoke to possibly waiving the two-year requirement for designation and in favor of having requests reviewed by a board who would then bring forward a recommendation. Ms. Chambers spoke to approaching the school district as a partner.

Council Member Dyer spoke to receiving a business plan and any other information provided to the Commission. Deputy Mayor Pro Tem Lambert spoke regarding the level of funding and Ms. Chambers advised that the request represents ten percent of their budget. Mayor Pro Tem Stahel spoke regarding possible endorsements and Ms. Chambers responded that some sponsors would be providing donations "in-kind."

Laura Curran, representing the Sci-Tech Board of Directors, spoke regarding positive indications of sponsorships received from private foundations and corporations. Council Member Stovall requested review of the budget and business plan. City Manager Muehlenbeck advised that if the Council gives direction to include funding or allow the money to remain in the unallocated budget, this would be effective October 1 and the item could be brought back.

Upon a motion made by Council Member Stovall and seconded by Mayor Pro Tem Stahel, the Council voted 6-0 to leave monies in the budget and directed Staff to bring back the item with business and financial plans.

Mayor Evans and Council Member Callison resumed their places on the bench.

Council Items for Discussion/Action on Future Agendas

Deputy Mayor Pro Tem Lambert requested an agenda item to discuss the possibility of having the Planning and Zoning Commission consider expanding the requirement for single big-box tenants to have a specific use permit to districts other than neighborhood retail areas. Council Member Stovall spoke in support of the request.

Consent and Regular Agendas

No items were discussed.

Council Reports

Deputy Mayor Pro Tem Lambert spoke regarding the Texas Transportation Summit and the funding needed between now and 2025 in the North Central Council Area to address traffic levels.

GENERAL DISCUSSION

Randy Jennings, citizen of the City, spoke regarding City of Plano residents utilizing S.H. 121 and stated concern regarding the North Central Texas Council of Government and Texas Department of Transportation Metropolitan Mobility Plans for conversion to a tollroad with revenues being used for projects in Denton County and the precedent it sets for other roadways. He spoke to the Mobility Plan taking monies from southwest Collin County, southeast Denton County and North Dallas to fund highways elsewhere, the negative impact on the cost of living in the area and attracting businesses. Mr. Jennings requested the Council schedule an agenda item, hold public forums regarding S.H. 121 and not support the plan until more public input is received. He requested the Council use their votes on the Regional Transportation Council against the Mobility Plan as it stands.

CONSENT AGENDA

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

Bid No. B142-04 for residential pavement repairs on the 2003-2004 Residential Slab Replacement Project, Zones L3, L4, J3 within the City of Plano in the amount of \$630,263. This project involves the replacement of street, sidewalk and alley pavement and construction of barrier free ramps in the residential areas bounded by Parker Road on the north, Central Expressway on the east, 15th Street on the south and Independence Parkway on the west. [Consent Agenda Item "A"] (See Exhibit "A")

Rejection of Bid

To reject bid received for Jack Carter Pool Renovation (Project No. 5411) (Bid No. 153-04). [Consent Agenda Item "B"] (See Exhibit "B")

Adoption of Resolutions

Resolution No. 2004-8-24(R): To approve and authorize refunds of property tax overpayments; and providing an effective date. [Consent Agenda Item "C"]

Resolution No. 2004-8-25(R): To authorize the use of quarterly updates to the certified municipal tax roll to be used as the most recently approved municipal tax roll for providing notification to property owners of public hearings for zoning and development cases; and providing an effective date. [Consent Agenda Item "D"]

Resolution No. 2004-8-26(R): To approve the terms and conditions of a Local Transportation Project Advance Funding Agreement between the State of Texas and the City of Plano for construction of McDermott Road from Coit Road to Ohio Drive; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item "E"]

Resolution No. 2004-8-27(R): To approve the terms and conditions of a Local Transportation Project Advance Funding Agreement between the State of Texas and the City of Plano for construction of intersection improvements at Preston Road (SH 289) and Plano Parkway; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item “F”]

Resolution No. 2004-8-28(R): To approve the terms and conditions of a Local Transportation Project Advance Funding Agreement between the State of Texas and the City of Plano for construction of intersection improvements Jupiter Road and Plano Parkway and at Jupiter Road and President George Bush Turnpike frontage road; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item “G”]

Resolution No. 2004-8-29(R): To ratify the terms and conditions of an agreement by and between Northrup Grumman Public Safety, Inc. and the City of Plano for maintenance and support of the Police Records Management System; and providing an effective date. [Consent Agenda Item “H”]

Resolution No. 2004-8-30(R): To seek approval to renew an agreement with PeopleSoft USA, Inc., a sole source vendor, for the maintenance and support of PeopleSoft Time & Labor, Enterprise Portal, and Government Portal Applications; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item “I”]

Adoption of Ordinances

Ordinance No. 2004-8-31: To abandon all right, title and interest of the City, in and to a portion of that certain temporary drainage easement recorded in Volume 2278, Page 22 of the Land Records of Collin County, Texas and being situated in the Legacy Town Center South Addition which is located at the northeast corner of Tennyson Parkway and Hansell Road intersection in the City Limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in a portion of such easement to the abutting property owner, Legacy PT Multi-Family Associates 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 “J”]

Purchase off Existing Contract

To authorize the purchase of two (2) automated side-load bodies and three (3) rear-load bodies in the amount of \$291,521 from Heil Environmental, through the Texas Association of School Board Cooperative Purchasing Program, Contract No. 155-02 and authorizing the City Manager to execute any and all documents necessary to effectuate this purchase. [Consent Agenda Item “K”]

END OF CONSENT:

Ordinance No. 2004-8-32 to amend the Code of Ordinances of the City of Plano by amending Chapter 12, to add Article X. Automated Traffic Signal Enforcement; providing a repealing clause; providing a severability clause; providing for the imposition of civil penalties and providing an effective date. [Regular Agenda Item “1”]

Chief Rushin advised that at Council’s direction, Staff has researched, evaluated and brought back an ordinance for consideration regarding automated traffic signal enforcement. He spoke to work done with the City of Richardson and stated that the ordinance would provide authority to monitor intersections utilizing cameras. He reviewed the civil penalties, enforcement procedures, administrative adjudication hearing, appeal process and defenses to liability. Chief Rushin advised that the penalties and fees collected shall be deposited in the Traffic Safety Fund account and be utilized for costs of the automated red light enforcement program, public traffic safety programs, pedestrian traffic safety programs, traffic enforcement and intersection improvements.

Chief Rushin clarified that enforcement will be called for when a vehicle is entering an intersection where the signal is red, spoke regarding review of images prior to mailing notice of violation and advised that officers observing a violation would still issue a citation. Council Member Dyer clarified that a civil violation does not appear on a driver’s record or affect their insurance rates. Chief Rushin stated it would take several months for implementation.

Randy Jennings, citizen of the City, requested inclusion of an “accident avoidance” clause as an affirmative defense and Council consideration that some of the listed defenses could be difficult for motorists to prove, what the rules of discovery will be for violators in the hearing process and the affect of yellow-light timing. He requested that minimum yellow-light timing be put in place if the item is approved and requested the Council not approve contracts in which red-light camera contractors prohibit engineering modifications to intersections or signals that would reduce the number of violations.

Chief Rushin spoke regarding follow-up review of images, warning tickets and implementation of this in the City of Garland. Deputy Mayor Pro Tem Lambert advised that the timing of yellow lights in the City is based on national design standards. Chief Rushin spoke regarding considerations in the request for proposal process and issues of providing public education.

Upon a motion made Deputy Mayor Pro Tem Lambert and seconded by Council Member Magnuson, the Council voted 8-0 to amend the Code of Ordinances of the City of Plano by amending Chapter 12, to add Article X. Automated Traffic Signal Enforcement; providing a repealing clause; providing a severability clause; providing for the imposition of civil penalties and providing an effective date; and further to adopt Ordinance No. 2004-8-32.

Public Hearing to consider disbursement of grant funds awarded through the Local Law Enforcement Block Grants Program established under the 2004 Omnibus Appropriations Act (Pub. L. 108-7). This grant provides the Police Department with \$38,004 towards the purchase of equipment resources. [Regular Agenda Item “2”]

Chief Rushin advised the Council that the grant would be used to purchase equipment resources for the Police Department, that as part of the process a Public Hearing must be held to receive input concerning possible use of monies, that the grant cannot be used to supplant existing budgeted items and that prior to expenditure an advisory board should meet to discuss the proposed use of funds.

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

Resolution No. 2004-8-33(R) to authorize the City of Plano to participate in and receive funding through the Local Law Enforcement Block Grants Program established under the 2004 Omnibus Appropriations Act (Pub. L. 108-7) for the purpose of purchasing equipment resources for the Plano Police Department; authorizing the City Manager to execute any and all documents necessary to effectuate the action taken; and providing an effective date. [Regular Agenda Item "3"]

Upon a motion made by Council Member Stovall and seconded by Council Member Dyer, the Council voted 8-0 to authorize the City of Plano to participate in and receive funding through the Local Law Enforcement Block Grants Program established under the 2004 Omnibus Appropriations Act (Pub. L. 108-7) for the purpose of purchasing equipment resources for the Plano Police Department; authorizing the City Manager to execute any and all documents necessary to effectuate the action taken; and providing an effective date; and further to adopt Resolution No. 2004-8-33(R).

Resolution No. 2004-8-34(R) to direct TXU Electric Delivery Company to file certain information with the City of Plano; setting a procedural schedule for the gathering and review of necessary information in connection therewith; setting dates for the filing of the City's analysis of the company's filing and the company's rebuttal to such analysis; ratifying the hiring of legal counsel and consultants; reserving the right to require the reimbursement of the City of Plano's rate case expenses; setting a Public Hearing for the purposes of determining if the existing rates of TXU Electric Delivery Company are unreasonable or in any way in violation of any provision of law and the determination by the City of Plano of just and reasonable rates to be charged by TXU Electric Delivery Company. Tabled 08-09-04 [Regular Agenda Item "4"]

Upon a motion made by Mayor Pro Tem Stahel and seconded by Deputy Mayor Pro Tem Lambert, the Council voted 8-0 to remove the request from the table.

City Manager Muehlenbeck stated that the item was tabled in order for the Council to receive additional information from TXU Electric Delivery Company.

Resolution No. 2004-8-34(R) (cont'd)

Steve Matthews of TXU Electric Delivery Company, spoke regarding the goals of providing reliable and high-quality service, being a good corporate citizen and operating a financially viable and healthy company. He spoke to the effects of de-regulation, stated that no matter which retail electric provider is utilized, power is delivered through TXU Electric Delivery infrastructure and further that this is their only role. Mr. Matthews stated that basic wire charges are less than 25% of an average monthly bill, the basic wires charges are the lowest of any service provider in the Electric Reliability Council of Texas (ERCOT), distribution wire costs per customer are low and that reliability is high. He spoke regarding upward cost pressures including those for vegetation management, the effect of storms, employee medical/pension accounts and system growth. Mr. Matthews spoke regarding cost-control efforts including outsourced support services, voluntary retirement programs and asset management strategies. He spoke to improving service quality and financial health being the foundation for reliable high-quality services and the impact this item would have. Mr. Matthews spoke regarding the company's cost fluctuating due to storm-related issues.

Assistant to the City Manager Israelson advised the Council that transmission and distribution tariffs are charged system-wide, that several cities have passed similar resolutions, that no new information has been provided and that Staff recommends approval of the request. He spoke to the statutory timeframe for the company to file their rate package and advised that of the approximately 25 cities in the coalition, 8 have adopted resolutions.

Mr. Matthews spoke to managing costs by outsourcing and the possibility that passage of the resolution would allow cities to remove the flexibility to respond to issues.

Upon a motion made by Mayor Pro Tem Stahel and seconded by Council Member Stovall, the Council voted 8-0 to direct TXU Electric Delivery Company to file certain information with the City of Plano; setting a procedural schedule for the gathering and review of necessary information in connection therewith; setting dates for the filing of the City's analysis of the company's filing and the company's rebuttal to such analysis; ratifying the hiring of legal counsel and consultants; reserving the right to require the reimbursement of the City of Plano's rate case expenses; setting a Public Hearing for the purposes of determining if the existing rates of TXU Electric Delivery Company are unreasonable or in any way in violation of any provision of law and the determination by the City of Plano of just and reasonable rates to be charged by TXU Electric Delivery Company; and further to adopt Resolution No. 2004-8-34(R).

Public Hearing and Ordinance No. 2004-8-35 as requested in Zoning Case 2004-30 – to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, granting Specific Use Permit No. 545 so as to allow the additional use of a Regional Theater and Specific Use Permit No. 546 so as to allow the additional use of an Arcade on one lot on 14.4± acres of land located on the northeast corner of Coit Road and Mapleshade Lane 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. Neighborhood #72. Applicant: Coit 190 Texas, LP and Harkins Theaters [Regular Agenda Item “5”]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission recommended approval of the request as submitted and that a Traffic Impact Analysis found the thoroughfares can accommodate anticipated traffic volumes at an acceptable level of service.

Mayor Evans opened the Public Hearing. Charles McKinney of Jones & Boyd, Inc., representing the applicant, responded to the Council that there would be approximately 9-10 arcade games. Ms. Jarrell advised regarding the location of the nearest school and residential district, stated that a stipulation could be included to permit arcades only in conjunction with a theater and that the request does not include a maximum number of machines. Brett Williams, representing the applicant, advised that the number of arcade machines would be no more than what is currently in the marketplace. City Attorney Wetherbee advised the Council that if they were to reference the theater that they should clarify that it is a “regional” theater and stated that when machines are disbursed in a facility compliance with square footage requirements is difficult to ascertain. Ms. Jarrell advised the Council regarding access to the site that the Council could provide additional direction to pursue acquisition of right-of-way. No one else spoke either for or against the request. The Public Hearing was closed.

Deputy Mayor Pro Tem Lambert made a motion to approve the request subject to the arcade being in conjunction with a regional theater. Council Member Johnson requested consideration of revising the motion to include a maximum number of machines. No vote was taken at this time.

Paul Gardner, representing the applicant, spoke to changing technology and requested this location receive the same zoning as other theaters in the City. Mayor Evans spoke to tying the arcade permit to the operation of the theater. Deputy Mayor Pro Tem Lambert spoke to tabling the request to gather information. Ms. Jarrell advised regarding the status of other theaters with arcades within the City. Deputy Mayor Pro Tem Lambert spoke to bringing back the ordinance with modified language reflecting a regional theater. Council Member Johnson spoke to limiting the number of machines.

Ordinance No. 2004-8-35 (cont'd)

Upon a motion made by Deputy Mayor Pro Tem Lambert and seconded by Council Member Callison, the Council voted 8-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, granting Specific Use Permit No. 545 so as to allow the additional use of a Regional Theater and Specific Use Permit No. 546 so as to allow the additional use of an Arcade on one lot on 14.4± acres of land located on the northeast corner of Coit Road and Mapleshade Lane in the City of Plano, Collin County, Texas, presently zoned Corridor Commercial as requested in Zoning Case 2004-30; directed 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; and with the following stipulations;

1. The arcade is permitted only in conjunction with an operational regional movie theater.
2. The arcade is limited to a maximum number of 25 machines.

The Council further adopted Ordinance No. 2004-8-35 as modified.

Public Hearing and Ordinance No. 2004-8-36 as requested in Zoning Case 2004-31 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, so as to rezone 15.8± acres located north of Ridgeview Drive, 955± feet east of Independence Parkway, in the City of Plano, Collin County, Texas, from Planned Development-477-Multi-Family-2 to Planned Development-151-Multi-Family-2/Single Family-Attached; 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. Neighborhood #3 Applicant: Cobb-2600 Delk Associates, Ltd. [Regular Agenda Item “6”]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission recommended approval of the request, Planned Development-Multi-Family-2/Single-Family-Attached subject to:

1. The site shall be developed in its entirety as either Multi-Family-2 or Single-Family-Attached uses subject to the following.
 - a. If developed as Multi-Family-2, the following shall apply:
 - i. A maximum density of 18 units per acre on net usable land (excluding the golf course, 100 year floodplain, and right-of-way dedications).
 - ii. No single family, duplex or patio home development is allowed.
 - iii. Maximum height as defined per the Multi-Family-3 district standards.
 - iv. Minimum front yard as defined per the Multi-Family-3 district standards.
 - v. A 30-foot wide landscape area measured from the property line shall be provided along Ridgeview Drive.
 - b. If developed as Single-Family-Attached, the following shall apply:
 - i. A 10-foot wide landscape area measured from the property line shall be provided along Ridgeview Drive.

Ordinance No. 2004-8-36 (cont'd)

Deputy Mayor Pro Tem Lambert stated that the request eliminates approximately 240 rental units. Director of Planning Jarrell advised the Council that height and setback requirements are due to the site's adjacency to a golf course.

Mayor Evans opened the Public Hearing. Kirk Williams, representing the applicant, responded to Council Member Dyer, stating that once the property has "closed" the zoning could be revised to Single-Family-Attached. No one else spoke either for or against the request. The Public Hearing was closed.

Upon a motion made by Deputy Mayor Pro Tem Lambert and seconded by Council Member Dyer, the Council voted 8-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, so as to rezone 15.8± acres located north of Ridgeview Drive, 955± feet east of Independence Parkway, in the City of Plano, Collin County, Texas, from Planned Development-477-Multi-Family-2 to Planned Development-151-Multi-Family-2/Single Family-Attached as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2004-31; 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; and further to adopt Ordinance No. 2004-8-36.

There being no further discussion, Mayor Evans adjourned the meeting at 9:17 p.m.

Pat Evans, **MAYOR**

Shep Stahel, **MAYOR PRO TEM**

ATTEST:

Elaine Bealke, City Secretary