

PLANO CITY COUNCIL
August 25, 2003

COUNCIL MEMBERS

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

STAFF

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

Mayor Evans convened the meeting into open session on Monday, August 25, 2003, at 7:00 p.m., in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present.

The invocation was led by President Hal Kendrick of the Plano Stake of the Church of Jesus Christ of Latter Day Saints.

The Pledge of Allegiance was led by Boy Scout Troop 999 of Grace Presbyterian Church.

PROCLAMATIONS AND SPECIAL RECOGNITION

Mayor Evans presented a proclamation to Sai Gunturi “National Spelling Bee Award Winner” and received a presentation from DART recognizing “20 Years of Partnership with DART.” Mayor Evans presented the “Mayor and City Council’s Public Service Appreciation Award.”

Pamela Sue Farmer was not in attendance to receive a Certificate of Appreciation for service on the Cultural Affairs Commission.

The Council resumed discussion of the Preliminary Open Meeting agenda.

Comprehensive Monthly Financial Report

Director of Finance McGrane advised that the report includes revised budget figures and stated that the General Fund, Environmental Waste Services Fund and Hotel/Motel tax revenue are ahead of last year. He advised that the capital outlay re-estimate increased primarily due to carryforwards and encumbered funds. Mr. McGrane spoke to a slight decrease in the Environmental Waste Services fund and positive news regarding retailers.

GENERAL DISCUSSION

No one appeared to speak.

Receive City Manager's response to comments of public interest made at a previous Council meeting. Council may discuss and provide direction on the following item(s):

A. Sign Ordinance Enforcement

City Manager Muehlenbeck spoke regarding concerns expressed at a previous meeting related to enforcement of restrictions on signs in rights-of-way and advised that the Building Inspection Department monitors the situation on weekends. He stated that signs are picked up on Saturdays and Sundays and immediately disposed of and encouraged citizens to call and request enforcement.

CONSENT AGENDA

Council Member Magnuson advised she would be stepping down on Regular Agenda Items 2 and 3 due to possible conflicts of interest.

Upon a motion made by Council Member Dyer and seconded by Council Member Johnson, the Council voted 8-0 to approve and adopt all items on the Consent Agenda as recommended and as follows:

Approval of Minutes [Consent Agenda Item (A)]

August 9, 2003
August 11, 2003
August 14, 2003

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. B102-03 for construction of the Independence Square Water Renovation and Fire Hydrants Project in the amount of \$1,024,403. [Consent Agenda Item (B)] (See Exhibit “A”)

Bid No. B067-03 for (1) 80hp Interstate Design Mower in the amount of \$67,665. [Consent Agenda Item (C)] (See Exhibit “B”)

Adoption of Resolutions

Resolution No. 2003-8-16(R): To establish a Public Art Master Plan for the City of Plano; providing goals and objectives for public art in Plano; charging the Public Art Committee with administration of the plan; and providing an effective date [Consent Agenda Item (D)]

Resolution No. 2003-8-17(R): To approve the terms and conditions of an Advance Funding Agreement with the Texas Department of Transportation and by and between the Cities of Plano and Frisco, Collin County and Texas Department of Transportation providing funding for the SH 121 Improvements from the Dallas North Tollroad to Custer Road; authorizing execution by the City Manager and providing an effective date. [Consent Agenda Item (E)]

Adoption of Ordinances

Ordinance No. 2003-8-18: To annex to the City of Plano, Texas, a total of 32.2± acres of land located at the northeast corner of Hebron Parkway and Marsh Lane and extending the boundary limits of said City so as to include said hereinafter described property within said City Limits; adopting a service plan providing for the extension of municipal services to the area so annexed and granting to all inhabitants and owners of said property all of the rights and privileges of other citizens and binding all inhabitants by the acts, ordinances and regulations of said City; and providing a severability clause and an effective date. Public Hearings held 07-28-03 and 08-04-03 (Annexation Case A2003-01) [Consent Agenda Item (F)]

Ordinance No. 2003-8-19: To amend Sections 11-221, Definitions; Section 11-222(d), Fee, Term, Renewal; Section 11-224 Responsibilities of Permit Holders, and Section 11-229, Same Fees of Article VI, Alarm Systems, of Chapter 11, Licenses and Business Regulations of the Code of Ordinances of the City of Plano so as to add a definition for permitted site; providing a fee for reinstatement of an expired or cancelled permit; increasing the fees for excessive alarms; reducing the number of free alarms allowed to two for the life of the permit; and providing a severability clause and an effective date. [Consent Agenda Item (G)]

Approval of Agreement

To approve the terms and conditions of a professional services contract between the City of Plano and Family Services of Plano wherein Family Services of Plano will provide services to the Police Department to combat juvenile delinquency and authorizing execution of such agreement by the City Manager, and providing an effective date. [Consent Agenda Item (H)]

Approval of Reimbursement of Oversize Participation

To approve and authorize reimbursement to Fairfield Parker Road, Ltd. for oversize participation for paving improvements in Parker Road in the amount of \$53,166. [Consent Agenda Item (I)]

END OF CONSENT:

Review of Community Development Block Grant Annual Report for 2002-03
[Regular Agenda Item (1)]

Neighborhood Services Manager Buffington advised the Council that federal funds received by the City and the Housing Authority were used to achieve the annual Housing and Community Development Goals and spoke to progress made in the areas of rehabilitation, homeownership, and provision of new affordable housing construction. He stated that assistance has been provided to 500 families and individuals in the area of housing and 8,510 people through non-profit agencies.

Due to possible conflicts of interest Council Member Magnuson stepped down from the bench on the following two items.

Public Hearing and consideration of an ordinance as requested in Zoning Case 2003-34 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, so as to rezone 7.0± acres located on the northwest corner of Chase Oaks Boulevard and future Seabrook Drive in the City of Plano, Collin County, Texas, from Planned Development-107-Office-2 to 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 #67 Applicant: Mockingbird Properties [Regular Agenda Item (2)]

Director of Planning Jarrell spoke to issues of whether or not there should be a continuous residential development along Chase Oaks Boulevard and the appropriateness of leaving a parcel of land zoned Office between two residential properties. She spoke regarding the future extension of Seabrook Drive and advised that the Planning and Zoning Commission recommends approval as submitted.

Zoning Case 2003-34 (cont'd)

Mayor Evans opened the Public Hearing. Mitch Vexler, representing the applicant, advised that he is available for questions. No one else spoke either for or against the request. The Public Hearing was closed.

A motion was made by Mayor Pro Tem Stovall and seconded by Council Member Lambert to approve the request.

Council Member Dyer stated support for the zoning, but expressed concerns regarding the Plano Independent School District's (PISD) position on removing Seabrook Drive from the Thoroughfare Plan. Mr. Vexler responded to Council Member Dyer stating his understanding of PISD's position. Deputy Mayor Pro Tem Stahel spoke to tabling Regular Agenda Items 2 and 3 until clarification is received from the school district.

Mayor Pro Tem Stovall and Council Member Lambert withdrew their motions.

Director of Planning Jarrell responded to Mayor Evans stating that a plan has been submitted but not yet approved by the Planning and Zoning Commission and that it might need to be redrawn. She advised that the Council could consider Regular Agenda Items 2 and 3 together but take separate actions and City Attorney Wetherbee advised that the Public Hearing would need to be called for Item 3.

Mayor Evans reopened the Public Hearing. Mr. Vexler spoke to the removal of Seabrook Drive being approved by the Planning and Zoning Commission and a joint utility easement containing a 30-inch water line and a 12-inch sanitary sewer line. He spoke to eliminating Seabrook Drive so that there would be no maintenance or stadium traffic passing through the residential subdivision. Mr. Vexler spoke to responses received from PISD, increased landscape possibilities if thru traffic is prevented, the cost of expanding Seabrook Drive and looking for the best interest of the City. No one else spoke either for or against the request. The Public Hearing was closed.

Upon a motion made by Deputy Mayor Pro Tem Stahel and seconded by Council Member Johnson, the Council voted 7-0 to table the request of consideration of an ordinance as requested in Zoning Case 2003-34 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, so as to rezone 7.0± acres located on the northwest corner of Chase Oaks Boulevard and future Seabrook Drive in the City of Plano, Collin County, Texas, from Planned Development-107-Office-2 to 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 until September 2, 2003.

Public Hearing and Consideration of a request to amend the Transportation Element of the Comprehensive Plan to consider and adopt changes to the Thoroughfare Plan removing Seabrook Drive east of Stadium Drive to Chase Oaks Boulevard. Applicant: City of Plano [Regular Agenda Item (3)]

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

Council Member Lambert requested the Council be provided with cost numbers involved.

Upon a motion made by Deputy Mayor Pro Tem Stahel and seconded by Mayor Pro Tem Stovall, the Council voted 7-0 to table the request to amend the Transportation Element of the Comprehensive Plan to consider and adopt changes to the Thoroughfare Plan removing Seabrook Drive east of Stadium Drive to Chase Oaks Boulevard until September 2, 2003.

Council Member Magnuson resumed her place on the bench.

Public Hearing and adoption of Ordinance No. 2003-8-20 as requested in Zoning Case 2003-35 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, granting Specific Use Permit No. 502 so as to allow the additional use of a Private Club on 0.6± acre of land located on the west side of Bishop Road, 345± feet south of Legacy Drive in the City of Plano, Collin County, Texas, presently zoned Planned Development-65-Central Business-1; 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 #16 Applicant: The Shops at Legacy, LP [Regular Agenda Item (4)]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission recommended approval as submitted.

Mayor Evans 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 Stovall and seconded by Council Member Johnson, 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. 502 so as to allow the additional use of a Private Club on 0.6± acre of land located on the west side of Bishop Road, 345± feet south of Legacy Drive in the City of Plano, Collin County, Texas, presently zoned Planned Development-65-Central Business-1 as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2003-35; 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. 2003-8-20.

Public Hearing and consideration of an ordinance as requested in Zoning Case 2003-39 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, granting Specific Use Permit No. 503 so as to allow the additional use of a Used Car Dealer on 0.2± acre of land located on the northwest corner of K Avenue and 20th Street in the City of Plano, Collin County, Texas, presently zoned Light 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 #60 Applicant: G & R Auto [Regular Agenda Item (5)]

Director of Planning Jarrell advised the Council regarding an error made in issuing a Certificate of Occupancy for this location and stated that Staff notified the applicant that a specific use permit was required. She stated that the Planning and Zoning Commission recommended approval of the request as submitted and stated that due to letters in opposition received from more than 20% of property owners within the 200-foot notice boundary that a three-quarter vote would be needed for approval.

Mayor Evans opened the Public Hearing. William Manchee, representing the applicant, spoke to effects as a result of the error, the compatibility of the use with the neighborhood, and requested approval of the request. No one else spoke either for or against the request. The Public Hearing was closed.

Ms. Jarrell responded to Council Member Lambert stating that a similar case immediately to the north was denied by the Planning and Zoning Commission and will come forward to the Council as an appeal on September 8, 2003. She responded to Council Member Dyer that the zoning exhibit was not submitted as a site plan for review and would not have a regulatory effect on the property. Deputy Mayor Pro Tem Stahel spoke to prior discussions of used car lots on K Avenue and the feeling that they do not fit the image of the downtown area.

A motion was made by Deputy Mayor Pro Tem Stahel and seconded by Mayor Pro Tem Stovall to deny the request.

Mayor Pro Tem Stovall requested information on the timeframe for removal of the use from the property. Mayor Evans stated at 8:11 p.m. that the Council would retire into Executive Session in compliance with Chapter 551, Government Code, Vernon's Texas Codes, Annotated, in order to consult with an attorney and receive Legal Advice, Section 551.071. A certified agenda is no required to receive legal advice, but is on record for other items on this agenda.

The Council reconvened back into the open meeting at 8:41 p.m.

Zoning Case 2003-39 (cont'd)

Council Member Magnuson spoke to applicants relying on information they receive, the use not being incompatible with the area and advised that she could not support the motion to deny.

Mayor Evans restated the motion to deny the request to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, granting Specific Use Permit No. 503 so as to allow the additional use of a Used Car Dealer on 0.2± acre of land located on the northwest corner of K Avenue and 20th Street in the City of Plano, Collin County, Texas, presently zoned Light Commercial as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2003-39; as stated by Deputy Mayor Pro Tem Stahel and seconded by Mayor Pro Tem Stovall. The Council voted 5-3 to approve the motion with Mayor Evans and Council Members Magnuson and Callison voting in opposition. The motion carried.

Public Hearing and adoption of Ordinance No. 2003-8-21 as requested in Zoning Case 2003-40 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, granting Specific Use Permit No. 504 so as to allow the additional use of a Private Club on 222.1± acres of land located on the north side of 14th Street, 1,250± feet east of Bradshaw Drive in the City of Plano, Collin County, Texas, presently zoned Agricultural; 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. Neighborhoods #51 and #62. Applicant: City of Plano [Regular Agenda Item (6)]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission recommended approval as submitted. Development Review Manager Elgin spoke to the private club being separated from an adjacent residential area.

Mayor Evans 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 Stahel and seconded by Council Member Magnuson, 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. 504 so as to allow the additional use of a Private Club on 222.1± acres of land located on the north side of 14th Street, 1,250± feet east of Bradshaw Drive in the City of Plano, Collin County, Texas, presently zoned Agricultural as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2003-40; 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. 2003-8-21.

Public Hearing and adoption of Ordinance No. 2003-8-22 as requested in Zoning Case 2003-41 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, granting Specific Use Permit No. 505 so as to allow the additional use of a Private Club on 3.1± acres of land located on the northwest corner of Spring Creek Parkway and Des Moines Drive in the City of Plano, Collin County, Texas, presently zoned Retail; 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 #22 Applicant: Conti Partners [Regular Agenda Item (7)]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission recommended approval subject to the Council waiving the 300-foot distance requirement from residentially zoned property and stated that the apartment complex is gated with wrought iron fencing.

Mayor Evans opened the Public Hearing. Penny Story, representing the applicant, advised that the facility would be an upscale wedding and reception facility and spoke to an outside area being fully fenced. She responded to Council Member Dyer that the facility would accommodate 200-300 patrons. No one else spoke either for or against the request. The Public Hearing was closed.

A resolution to nominate a candidate for election to the Collin County Central Appraisal District Board of Directors; and providing an effective date. [Regular Agenda Item (8)]

Upon a motion made by Mayor Pro Tem Stovall and seconded by Council Member Dyer, the Council voted 8-0 to table the item.

There being no further discussion, Mayor Evans adjourned the meeting at 8:53 p.m.

Pat Evans, **MAYOR**

ATTEST:

Elaine Bealke, City Secretary