

PLANO CITY COUNCIL
January 9, 2006

COUNCIL MEMBERS

Pat Evans, Mayor
Ken Lambert, Mayor Pro Tem
Scott Johnson, Deputy Mayor Pro Tem
Shep Stahel
Sally Magnuson
Jean Callison
Loretta L. Ellerbe
Harry LaRosiliere

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 Preliminary Open Meeting directly into the Regular Session on Monday, January 9, 2006, 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 Dr. Leon Aduddell with First Baptist Church of Plano.

The Pledge of Allegiance was led by Cub Scout Pack 280, Den 2.

Mayor Evans recognized the 2006 Texas Secondary Teacher of the Year – Karen Shepherd and the 2006 Plano Family of the Year – Chris and Martha Teague. She further recognized organizations that provided Hurricanes Rita/Katrina Community Support. Council Member Stahel spoke to those individuals who provided support as well.

Mayor Evans presented a Certificate of Appreciation to Sharon L. Kite for her service on the Heritage Commission.

The Council resumed discussion of the Preliminary Open Meeting at this time.

Council Items for Discussion/Action on Future Agendas

Mayor Evans requested an agenda item be scheduled to discuss concerns and controls related to dangerous dogs.

Consent and Regular Agenda

Mayor Pro Tem Lambert and citizens Sonja Hammar and Jack Lagos requested Consent Agenda Item "Q," ordinance to revise Section 2-107 Appearance by Past Officer or Employee, Article IV. Code of Conduct, be removed for individual consideration.

Council Member Stahel advised that he would be stepping down on Consent Agenda Items "B," Bid for Telecom Expense Management Software and "K," resolution to approve the purchase of software and hardware maintenance for the Plano Public Library System, due to possible conflicts of interest.

City Manager Muehlenbeck requested that Consent Agenda Item "P," resolution to approve the terms and conditions of a real estate contract for the purchase of land for the construction of Fire Station No. 12 be pulled and held.

Citizen Sonja Hammar requested Consent Agenda Item "T," ordinance to transfer the sum of \$1,326,000 from the Water and Sewer Fund Unappropriated Fund Balance to the Environmental Waste Fund Operating Appropriation for the Environmental Education Building, be removed for individual consideration.

Council Reports

Deputy Mayor Pro Tem Johnson advised the Council of his attendance at the Plano West Choir Alumni Association and spoke of their accomplishments.

Mayor Evans spoke to her attendance at the Dallas Regional Mobility Committee Joint meeting and to issues of clean air compliance. She spoke regarding the recent change in federal guidelines requiring compliance with eight-hour standards by 2009 and the difficulties of this compliance including pollutants coming to the area from the south. Mayor Evans spoke to the penalty including the cutting off of federal highway funds which in turn would aggravate the problem. She spoke to some of the solutions proposed which include municipalities utilizing non-polluting fleets and possibly extending this to off-road construction equipment. Mayor Evans spoke regarding the effect of the state legislature diverting monies from the highway fund.

Mayor Evans spoke to a meeting with north Texas legislators to discuss regional transportation and the need to provide a seamless connection for transit encompassing the whole metroplex. She spoke to finding a way for other cities to participate and to adding a one-half cent sales tax rather than increasing the gasoline taxes. Council Member Stahel spoke to the possibility of single drivers of fuel-efficient vehicles utilizing HOV lanes. Mayor Evans stated that she would offer that recommendation and spoke to a state-wide committee appointed to address transportation issues.

GENERAL DISCUSSION

Jack Lagos, citizen of the City, spoke to the need for leadership and accountability and stated that a certified audit of the Arts of Collin County Commission has not yet been completed. He questioned whether this is a case of criminal negligence and whether or not the City is culpable. City Attorney Wetherbee stated that because the Commission is not fully appointed by the Council, the ethics code does not apply and spoke to the audit being underway. She stated that the responsibility of the Commission to keep their financial records is within their jurisdiction.

Karen Marks, citizen of the City, requested consideration of September 11 as a day to honor police and firefighters. Council Member Magnuson advised that each spring an event is held honoring the police and Ms. Marks requested the date be changed and firefighters be recognized as well.

BOARD/COMMISSION REPORTS

Senior Citizens Advisory Board

Chair Celso spoke to a survey of seniors done by the Board and the need for communication of information. He spoke to methods of distribution including the Senior Center newsletter, Plano Profile, a utility bill insert, the City's web site or an informational magnet. Mr. Celso spoke to considering the cost of alternatives and the maintainability of information. He spoke to possibly changing the roles and responsibilities of the Board to include providing updates on the City's web site. Mayor Evans spoke to citizen use of the web site and Mr. Celso requested information be placed at an easily accessed level. City Manager Muehlenbeck advised that Staff will look into utilizing the web site.

CONSENT AGENDA

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

Approval of Minutes [Consent Agenda Item (A)]

December 20, 2005

Approval of Expenditures

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

Bid No. 2006-36-C for Tire Re-Capping Service to Southern Tire Mart in the amount of \$75,575. [Consent Agenda Item (C)] (See Exhibit "B")

Bid No. 2006-51B for Avenue P – Park Boulevard to 18th Street and Ridgetop Lane to TriCon Services, Inc. in the amount of \$2,149,820. The project consists of reconstruction of paving, sidewalks, street markings, water, sanitary sewer, and additional drainage in Avenue P and the construction of the north half of Ridgetop Lane east of San Gabriel Drive. [Consent Agenda Item (D)] (See Exhibit “C”)

Purchase from Existing Contract/Agreement: (Purchase of products/services through Cooperative Purchasing Interlocal Contract with another governmental/quasi-governmental agency or an additional purchase from current City of Plano annual purchase agreement).

To authorize the purchase of twenty-one (21) Crown Victoria Police Interceptors and one (1) Unmarked Patrol Car in the total amount of \$474,641 from Philpott Ford Motors, through a Tarrant County Joint Venture/Purchasing Cooperative Purchase Program and authorizing the City Manager to execute all necessary documents. (2001-125) [Consent Agenda Item (E)]

To authorize the purchase of Emergency Light Bar and Siren Units in the amount of \$51,350 from Emergency Vehicle Equipment Company through a Tarrant County Purchasing contract, and authorizing the City Manager to execute all necessary documents. (Contract #2005-139) [Consent Agenda Item (F)]

Approval of Contract: (Purchase of products/services exempt from State of Texas Competitive Bid Laws)

To approve the terms and conditions of RFP #2005-249-B for consulting services to Executive Solution Partners, L.L.P. in the amount of \$95,000. This item will provide consulting services to develop a strategic marketing plan and analyze, evaluate and address areas related to Plano Centre. [Consent Agenda Item (G)]

Approval of Request

To approve a request for an increase in the maximum allowable flagpole height from 50 feet to 65 feet at various Plano Independent School District campuses to accommodate concealed cellular antennas and equipment. [Consent Agenda Item (H)]

Reimbursement of Oversize Participation

To approve and authorize reimbursement to Velasco Ridgeview L.P. for oversize participation for paving improvements in Ridgeview Drive associated with construction of the Ridgeview Villas, in the amount of \$42,794. [Consent Agenda Item (I)]

To approve and authorize reimbursement to the Collin County Chinese Fellowship Church for oversize participation for paving improvements in McDermott Road, in the amount of \$42,413. [Consent Agenda Item (J)]

Adoption of Resolutions

Resolution No. 2006-1-1(R): To give notice of the City Council's intention to issue City of Plano, Texas Combination Tax and Revenue Certificates of Obligation, Series 2006. [Consent Agenda Item (L)]

Resolution No. 2006-1-2(R): To approve the dedication of a 340 square foot water line easement located west of Ohio Drive and approximately 2090 feet north of Spring Creek Parkway in, under and across property owned by the City of Plano, Texas, said property situated in the Jesse Stiff Survey, Abstract No. 793, in the City of Plano, Collin County, Texas, and providing an effective date. [Consent Agenda Item (M)]

Resolution No. 2006-1-3(R): To support the implementation of a county-wide initiative for the widening and expansion of U.S. 75, Central Expressway, through Collin County, Texas; authorizing review of available funding options; expressing support for retaining a qualified consultant for the review and evaluation of the project; providing a severability clause, and providing an effective date. [Consent Agenda Item (N)]

Resolution No. 2006-1-4(R): To approve the terms and conditions of an interlocal agreement by and between Denton County and the City of Plano for the installation of a water line along the south side of State Highway 121 between Spring Creek Parkway and the North Dallas Toll Road; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (O)]

To approve the terms and conditions of a real estate contract by and between the City of Plano, Texas, and Tsay Properties Parker Square, Ltd., for the purchase of 4.290 acres of land, located at the northwest quadrant of Parker Road and Coit Road, situated in the Mary and Sally Owens Survey, Abstract No. 672, for the construction of Fire Station No. 12, Logistics Facility and Emergency Operations Center and being a part of Lot 1R, Block 1, Parker Coit Addition, in the City of Plano, Collin County, Texas; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (P)] This item was pulled and held.

Adoption of Ordinances

Ordinance No. 2006-1-5: To abandon all right, title and interest of the City, in and to a portion of that certain 15' water easement recorded in Volume 4167 at Page 380 of the Deed Records of Collin County and being situated in the H.N. Thompson Survey, Abstract No. 896, located in the northeast corner of the Dallas North Tollway and Headquarters Drive, which is located within 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, EDS Information Services, L.L.C., to the extent of its interest; authorizing the City Manager to execute any documents deemed necessary; and providing an effective date. [Consent Agenda Item (R)]

Ordinance No. 2006-1-6: To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, so as to rezone 22.5± acres located at the southeast corner of Preston Road and Parker Road in the City of Plano, Collin County, Texas, from Agricultural to Neighborhood Office (O-1), Patio Home (PH) and Single-Family Residence Attached (SF-A) and granting Specific Use Permit No. 566 for Bank, Savings & Loan, or Credit Union; 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. Zoning Case 2005-05. Public Hearing held and zoning request approved 10/24/05. [Consent Agenda Item (S)]

END OF CONSENT:

Due to possible conflicts of interest, Council Member Stahel stepped down from the bench on the following two items which were considered concurrently.

CSP No. 2005-241-C for Telecom Expense Management Software to AnchorPoint in the amount of \$75,000. [Consent Agenda Item (B)] (See Exhibit “A”)

Resolution No. 2006-1-7(R): To approve the purchase of software and hardware maintenance for the Plano Public Library System for the Horizon System from SirsiDynix, a sole source supplier of said services, in an amount not to exceed \$69,143; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the purchase approved herein; and providing an effective date. [Consent Agenda Item (K)]

Upon a motion made by Council Member Magnuson and seconded by Council Member Callison, the Council voted 7-0 to approve CSP No. 2005-241-C for Telecom Expense Management Software to AnchorPoint in the amount of \$75,000 and to approve the purchase of software and hardware maintenance for the Plano Public Library System for the Horizon System from SirsiDynix, a sole source supplier of said services, in an amount not to exceed \$69,143; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the purchase approved herein; and providing an effective date; and further to adopt Resolution No. 2006-1-7(R).

Council Member Stahel resumed his place on the bench.

Ordinance No. 2006-1-8: To revise Section 2-107 Appearance by Past Officer or Employee, Article IV. Code of Conduct, Chapter 2 Administration, of the Code of Ordinances of the City of Plano to clarify the restriction for former employees relating to appearances before the Council, boards or commissions and providing services to the City; providing a publication clause; and providing an effective date. [Consent Agenda Item (Q)]

City Manager Muehlenbeck clarified that currently the City is precluded from hiring a former employee for a period of time. He spoke to possibly hiring retired officers to serve as Administrative Hearing Officers and advised that this request only addresses employees, not Council members. City Attorney Wetherbee advised that this item would leave control for hiring within the province of the City and that if someone seemed to have benefited from inside information, the City would not have to contract with that employee.

Ordinance No. 2006-1-8 (cont'd)

Jack Lagos, citizen of the City, spoke to utilizing former employees of other municipalities. Sonja Hammar, citizen of the City, spoke to the agenda item verbiage referencing "officer" being inclusive of Council and Board/Commission members and Ms. Wetherbee clarified that this is a heading referencing the section being amended. Ms. Hammar stated concern that a change is being made too quickly and requested a task force be established to study the ethics policy.

City Attorney Wetherbee stated that currently former employees are not permitted to appear before the Council or a Board or to represent an interest in a matter that was pending in their department. She spoke to broad interpretation wherein this may prevent employment and cases where there may be a need to utilize knowledge gained rather than training a new individual. Ms. Wetherbee clarified that this item would preclude former employees from coming before the Council or a Board, but would allow for contracting for their services. Mayor Pro Tem Lambert spoke to having the revision written more clearly.

A motion was made by Council Member LaRosiliere and seconded by Council Member Ellerbe to revise Section 2-107 Appearance by Past Officer or Employee, Article IV. Code of Conduct, Chapter 2 Administration, of the Code of Ordinances of the City of Plano to clarify the restriction for former employees relating to appearances before the Council, boards or commissions and providing services to the City; providing a publication clause; and providing an effective date; and further to adopt Ordinance No. 2006-1-8. The Council voted 7-1 with Mayor Pro Tem Lambert voting in opposition. The motion carried.

Ordinance No. 2006-1-9: To transfer the sum of \$1,326,000 from the Water and Sewer Fund Unappropriated Fund Balance to the Environmental Waste Fund Operating Appropriation for Fiscal Year 2005-06 for the purpose of additional funding in the form of a 50% payment and a 50% loan for the Environmental Education Building; amending the budget of the City and Ordinance No. 2005-9-12, as amended, to reflect the actions taken herein; declaring this action to be a case of public necessity; and providing an effective date. [Consent Agenda Item (T)]

City Manager Muehlenbeck spoke to Council direction to find funding for the building which was pulled from the bond items and designated for alternate sources. Sonja Hammar, citizen of the City, requested information on where the Junior League garden would be located and whether any funding would be provided by the League. Mr. Muehlenbeck clarified that the request is for the Environmental Education Building on Plano Parkway and that the Junior League garden would be adjacent. He further advised that the Junior League has not made a contribution towards this project.

Ordinance No. 2006-1-9 (cont'd)

Upon a motion made by Council Member Magnuson and seconded by Council Member Callison, the Council voted 8-0 to transfer the sum of \$1,326,000 from the Water and Sewer Fund Unappropriated Fund Balance to the Environmental Waste Fund Operating Appropriation for Fiscal Year 2005-06 for the purpose of additional funding in the form of a 50% payment and a 50% loan for the Environmental Education Building; amending the budget of the City and Ordinance No. 2005-9-12, as amended, to reflect the actions taken herein; declaring this action to be a case of public necessity; and providing an effective date; and further to adopt Ordinance No. 2006-1-9.

Public Hearing and adoption of Ordinance No. 2006-1-10 as requested in Zoning Case 2005-48 – To repeal in its entirety Ordinance No. 85-3-7, thereby rescinding Specific Use Permit No. 29 for the additional use of Private Club; amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, to grant Specific Use Permit No. 572 so as to allow the additional use of Dance Hall on 0.1± acre of land located 657± feet west of U.S. Highway 75 and 744± feet east of Premier Drive in the City of Plano, Collin County, Texas, presently zoned Corridor Commercial with Specific Use Permit No. 29 for Private Club; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: Lindell Denham [Regular Agenda Item (1)]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission recommended approval as submitted. She responded to the Council stating that nothing in the City's ordinances would prevent this site from being converted to an adult venue serving alcohol. Ms. Jarrell spoke regarding those commissioners voting in opposition based on a concern that the specific use permit is not tied to a specific operator and that those voting in favor felt it would be a good use for the land. She stated that while the zoning would stay in place, the space would not be limited to that use. Ms. Jarrell advised that if the operator decided to serve alcohol they could do so either under a private club which would be reviewed or a mixed beverage permit which would only need to meet distance requirements.

Mayor Evans opened the Public Hearing. Lindell Denham, representing the applicant, spoke to providing an opportunity for local teenage bands and their fans and to providing an alternative to shopping malls, skate parks or movie theaters. He spoke to a cover charge based on the number of bands performing and responded to Mayor Pro Tem Lambert that he has a three-year lease with language to allow for an extension. Ms. Jarrell clarified that the request is to consider whether or not this location is appropriate for a dance hall and not the consideration of alcohol sales. No one spoke either for or against the request. The Public Hearing was closed.

Upon a motion made by Council Member LaRosiliere and seconded by Deputy Mayor Pro Tem Johnson, the Council voted 8-0 to repeal in its entirety Ordinance No. 85-3-7, thereby rescinding Specific Use Permit No. 29 for the additional use of Private Club; amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, to grant Specific Use Permit No. 572 so as to allow the additional use of Dance Hall on 0.1± acre of land located 657± feet west of U.S. Highway 75 and 744± feet east of Premier Drive in the City of Plano, Collin County, Texas, presently zoned Corridor Commercial with Specific Use

Permit No. 29 for Private Club as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2005-48; 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. 2006-1-10.

Public Hearing and adoption of Ordinance No. 2006-1-11 as requested in Zoning Case 2005-49 – To repeal in its entirety Ordinance No. 93-9-10; thereby rescinding Specific Use Permit No. 230 for the additional use of Indoor Commercial Amusement on one lot on 13.0± acres of land located at the northwest corner of 15th Street and Coit Road in the City of Plano, Collin County, Texas, and amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, to reflect such action; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: City of Plano [Regular Agenda Item (2)]

Director of Planning Jarrell advised the Council that this item would rescind an unused specific use permit and that the Planning and Zoning Commission recommended approval.

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 Council Member Magnuson and seconded by Deputy Mayor Pro Tem Johnson, the Council voted 8-0 to repeal in its entirety Ordinance No. 93-9-10; thereby rescinding Specific Use Permit No. 230 for the additional use of Indoor Commercial Amusement on one lot on 13.0± acres of land located at the northwest corner of 15th Street and Coit Road in the City of Plano, Collin County, Texas as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2005-49; and amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, to reflect such action; 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. 2006-1-11.

An appeal of the Planning and Zoning Commission's denial of a request for a revised site plan for Malaby Addition, Block 1, Lots 1-4 & Outlot 1, & Block 2, Lots 5-10B located on the west side of K Avenue, north of 10th Street. Zoned Light Commercial with Specific Use Permit #515 for Recreation Vehicle Sales and Service. Applicant: Plano Marine

Director of Planning Jarrell advised the Council that the applicant is appealing the Planning and Zoning Commission's denial of the site plan which included a proposed expansion of an open storage area for the dealership's boat inventory. She advised that the proposal would include a six-foot tall wrought iron fence and that the Board of Adjustment would need to grant the following three variances: the maximum 40-inch height for improvements within the front yard setbacks along K Avenue and 10th Street to permit construction of the six-foot tall fence and irrigated living screen; the requirement that open storage not be located within front yard setbacks to permit open storage in the area between the setback lines and the new fence and irrigated living screen along K Avenue and 10th Street; and the requirement that open storage be

An appeal of the Planning and Zoning Commission's denial (cont'd)

placed on an asphalt or concrete surface to permit open storage to be placed on a gravel surface in the area between the setback lines and the new fence and irrigated living screen along K Avenue and 10th Street. She stated that the City's Zoning Ordinance requires an applicant to pursue all administrative procedures and requirements prior to consideration by the Board of Adjustment and that the Council's options are to either grant approval subject to the Board granting the variances or deny the request after which the applicant may still go to the Board.

Ms. Jarrell responded to the Council, stating that the applicant requested a six-foot fence which is the minimum height for screening of open storage rather than eight feet. She spoke to differentiating between open storage and those boats being displayed and to the requirement for a paved surface. Ms. Jarrell spoke to this area being part of the rezoning of K Avenue and this property being rezoned from Light Industrial to Light Commercial and stated that Light Industrial would have permitted gravel surfaces and an eight-foot fence. She stated that neither district allows open storage in the front yard setback and that if the Board of Adjustment were to deny the variance, boats could be displayed within the front yard setback on a paved surface with a ten-foot landscaped edge.

The applicant, Benny Ray spoke to his efforts to improve the aesthetics of the area and to a 40-inch fence not providing security. Ms. Jarrell responded to Council Member Stahel that 40 inches is the tallest fence that would currently be allowed in the setback. Mr. Stahel spoke to providing storage and display while complying with current restrictions. Mayor Pro Tem Lambert spoke in favor of a six foot fence with a living screen as it would hide the trailers and wheels.

Council Member Stahel spoke to denying the request because the six-foot fence could be placed back 50 feet and new boats could be displayed between the fence and the street in front of the show room, that a 40-inch fence would minimize the stealing of boats, that there are other areas for additional storage and that the Planning and Zoning Commission and Council spent time in 2003 developing regulations to improve K Avenue. He spoke to the request being a step backward and made a motion to deny. Council Member LaRosiliere spoke to the rezoning done on K Avenue, efforts to make the area pedestrian-friendly and the proposal resulting in a large wall. He seconded the motion for denial.

Council Member Callison spoke to incorporation of a living screen and Deputy Mayor Pro Tem Johnson and Council Member Ellerbe spoke to the request being an improvement over current conditions.

The Council voted 2-6 with Mayor Evans, Mayor Pro Tem Lambert, Deputy Mayor Pro Tem Johnson and Council Members Magnuson, Callison and Ellerbe voting in opposition. The motion to deny failed.

Council Member LaRosiliere stated that he would be comfortable with a wrought iron fence rather than a masonry wall.

A motion was made by Mayor Pro Tem Lambert to approve the appeal subject to the Board of Adjustment granting variances and Council Member Magnuson seconded. The Council voted 7-1 with Council Member Stahel voting in opposition.

There being no further discussion, Mayor Evans adjourned the meeting at 9:55 p.m.

Pat Evans, MAYOR

ATTEST:

Elaine Bealke, City Secretary