

**PLANO CITY COUNCIL
PLANNING AND ZONING COMMISSION
JOINT MEETING AND
PRELIMINARY AND REGULAR MEETING
March 4, 2002**

COUNCIL MEMBERS

Jeran Akers, Mayor
Rick Neudorff, Mayor Pro tem
Phil Dyer, Deputy Mayor Pro tem
Shep Stahel
Scott Johnson
Steve Stovall
Jim McGee
Ken Lambert

COMMISSION MEMBERS

Michael Davidoff, Chair
Joyce Beach
Lee Dunlap
Joy Flick
Carolyn Kalchthaler
Jerry Kezhaya
Bill Neukranz
Laura Williamson

STAFF

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

Council Member Stovall called the meeting to order at 5:04 p.m., Monday, March 4, 2002, in the Council Chambers of the Municipal Center, 1520 K Avenue. All Council Members were present with the exception of Mayor Akers. Mayor Pro tem Neudorff arrived at 5:05 p.m. and Deputy Mayor Pro tem Dyer arrived at 5:06 p.m.

PROCLAMATIONS AND SPECIAL RECOGNITION

Chief Building Official Mower presented the “2002 Award of Excellence” Given to the City of Plano by the Building Officials Association of Texas to the City Council.

Mayor Pro tem Neudorff read the Texas Smartscape Month Proclamation.

City Manager Muehlenbeck presented a fifteen year pin to City Secretary Bealke.

PRELIMINARY OPEN MEETING

Spotlight on Libraries

Director of Libraries Baumbach reviewed the mission statement for the Library Department, spoke to the history of library openings, services offered, and to staff who support requests made and services performed.

Ms. Baumbach spoke to user numbers, children programs offered, Teen Read Week, and the Circle of Success Homework Center. She spoke to the Barbara Bush Texas Fund For Family Literacy Grant received to provide literacy funding for the families of Head Start children, and new and upcoming programs to include CPR for citizens and beginning internet/computer classes. Ms. Baumbach further spoke to Small Talk for non-native English speaking persons, the Power of Pat-a-Cake for parents and infants up to 12 months of age to assist with the wonders of reading and to the multi-cultural reading events available in the libraries. Ms. Baumbach advised the Council that the internet filtering program is working well in general, and that the automated library system contains approximately 20 on-line data bases to perform research. The Council commended the job done by Ms. Baumbach and her Staff.

Review of Annual Audit

Director of Finance McGrane presented the Comprehensive Annual Finance Report for the fiscal year ending September 30, 2001 as well as the “letter of no material weaknesses” from the auditors and the single audit report. He advised that this report is in compliance with the new reporting requirement “Governmental Accounting Standards Board Statement 34”. Mr. McGrane stated that the City is one year early in using this standard, and further introduced members of Staff stating that consulting fees were saved the City by the report being prepared internally. He stated that the report has been reviewed by external auditors KPMG.

KPMG Partner, Bill Hanley advised that the audit opinion is clean and unqualified and presented fairly in accordance with generally accepted accounting principles. He advised there were no material weaknesses or reportable conditions to note. Mr. Hanley stated that the new accounting standard represents one of the most radical changes in governmental and commercial enterprise accounting and that to his knowledge, the City of Plano is on the list of those first to submit the report using this new accounting standard. Mr. Hanley stated that the new method reflects the short and long-term nature of financial activities with a full accrual basis of accounting. He stated that the operating statement also reflects a major change with full accrual basis and revenues by function as well as applicable deficits.

Mr. McGrane advised Mayor Pro tem Neudorff that the main reason for the audit is to show that the City’s books truly reflect conformance with generally accepted accounting principles. Council Member Lambert spoke in support of the new reporting standard. Mr. McGrane spoke to this standard allowing for a long-term look at finances, and clarified areas of the report identifying deficiencies, fund transfers, and further spoke to identifying the status of maintenance programs and the effect this will have on future years.

Personnel – Appointment to the Self Sufficiency Committee

Upon a motion made by Council Member McGee and seconded by Deputy Mayor Pro tem Dyer, the Council voted 7-0 to appoint Gloria Ndubueze to the Self Sufficiency Committee.

Council items for Discussion/Action on Future Agendas

No items were discussed.

Consent and Regular Agendas

City Manager Muehlenbeck advised Council Member Lambert with regard to Consent Item “B”, Bid for the construction of the Plano Joint Use Facility, that this item overlaps this budget year and that future additional funds will be appropriated. Facilities Manager Morris concurred.

Council Members Stovall and Stahel advised they will be stepping down from Consent Item “E”, contract to authorize an expenditure for the Public Safety Technology System due to conflicts of interest.

Council Committee Reports

No reports were given.

CONSENT AGENDA

Upon a motion made by Council Member Lambert and seconded by Council Member McGee the Council voted 7-0 to approve and adopt all items on the Consent Agenda with the exception of Consent Item “E” 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. C050-02 for a fixed-price contract for Traffic Signal Pre-Emption Equipment in the estimated annual amount of \$142,716 for an annual contract with renewals. [Consent Agenda Item (A)] (See Exhibit “A”)

Bid No. B040-02 for construction of Plano Joint Use Facility in the amount of \$2,794,000. [Consent Agenda Item (B)] (See Exhibit “B”)

Adoption of Resolutions

Resolution No. 2002-3-1(R): To accept the findings and opinions of the annual audit; authorizing the City Manager to publish the results thereof; and providing an effective date. [Consent Agenda Item “C”]

Resolution No. 2002-3-2(R): To support efforts to require the General Accounting Office to review calculations related to federal highway funding and urging Congress to maintain highway funding levels through balances in the Federal Highway Trust Fund. [Consent Agenda Item “D”]

END OF CONSENT

Due to conflicts of interest, Council Members Stahel and Stovall stepped down from the bench on the following item.

Award of Contract To authorize expenditure for Phases I, II and III of a comprehensive enterprise wide Public Safety Technology System in an amount of \$6,888,129 from TriTech Incorporated; and authorizing the City Manager to execute all documents necessary to effectuate the purchase. (B188-00) [Consent Agenda Item “E”]

Upon a motion made by Council Member Lambert and seconded by Council Member McGee the Council voted 5-0 to approve and authorize an expenditure for Phases I, II and III of a comprehensive enterprise wide Public Safety Technology System in an amount of \$6,888,129 from TriTech Incorporated; and authorize the City Manager to execute all documents necessary to effectuate the purchase. (B188-00) (Consent Agenda Item “E”).

Council Members Stahel and Stovall returned to their places on the bench.

Council Member Lambert advised regarding the retirement of Fire Department Captain Jimmy Bell.

Ordinance No. 2002-3-3 of the City of Plano, Texas adopting Section 12-103 of Chapter 12 (Traffic Code) of the City of Plano Code of Ordinances to limit the duration of parking to two hours maximum between the hours of 8:00 a.m. and 12:00 midnight in the parking spaces along specified portions of Bishop Road, Daniel Road, Libby Road, Martin Road, Kincaid Road, and Lunsford Road within the city limits of the City of Plano, declaring it unlawful and a misdemeanor to park motor vehicles in such parking spaces for longer than the time herein defined; providing a fine for criminal penalties not to exceed \$200.00 for each offense; and providing a repealer clause, severability clause, a savings clause; and providing an effective date. Pulled and held 02-25-02 [Regular Agenda Item (1)]

Transportation Engineering Manager Neal advised the Council that Staff has met with the developer and that issues have been resolved and a solution identified. He stated that this ordinance does allow for Public Safety to provide enforcement during the time stated, and that retail development establishments and hotel concur with the provisions.

Upon a motion made by Council Member Stahel and seconded by Council Member McGee, the Council voted 7-0 to adopt Section 12-103 of Chapter 12 (Traffic Code) of the City of Plano Code of Ordinances to limit the duration of parking to two hours maximum between the hours of 8:00 a.m. and 12:00 midnight in the parking spaces along specified portions of Bishop Road, Daniel Road, Libby Road, Martin Road, Kincaid Road, and Lunsford Road within the city limits of the City of Plano, declaring it unlawful and a misdemeanor to park motor vehicles in such parking spaces for longer than the time herein defined; providing a fine for criminal penalties not to exceed \$200.00 for each offense; and providing a repealer clause, severability clause, a savings clause; and providing an effective date and further to adopt Ordinance No. 2002-3-3.

The Council recessed the meeting at 5:53 p.m. and reconvened at 6:02 p.m. in the Council Chambers to meet with the Planning and Zoning Commission.

OPEN JOINT WORKSESSION – PLANNING AND ZONING COMMISSION

Discussion and Direction on Planning & Zoning Commission Work Program Items and Priorities

Planning Director Jarrell advised that since the Council last met with the Planning and Zoning Commission (Commission), amendments to the retail parking requirements and the SUP Study have been completed and further that the Spring Creek Parkway/Jupiter Road area study has been added to the high priority list. She stated that it is recommended that the SH 190 DART station area study be removed from the work program since immediate action items have been completed. Ms. Jarrell stated that the Commission has recommended that no changes be made to the existing ordinance for the SH 190/Plano Parkway Overlay district requirements for underground utilities.

Ms. Jarrell advised that regarding Immediate Priority items, Staff is proceeding with the update of the Education Chapter of the Comprehensive Plan. She stated that regarding High Priority items/Zoning and Land Use Comparison, the list has been reviewed and completed and Staff will be moving forward with consideration of rezoning. She stated that K Avenue south of 14th Street will require intensive work with property owners and further that the Douglass Community Neighborhood Plan and Retail Site Study are both proceeding. Ms. Jarrell stated that a cost estimate is currently being prepared for the Center City Study Implementation Plan before coming forward to the Council and that the Parker Road Station Study has commenced and meetings are being planned. Ms. Jarrell stated there is renewed interest with property owners and merchants in the downtown area regarding the Downtown Architectural Design Guidelines and to designating this area as a heritage district.

Ms. Jarrell stated that Staff has met with various property owners regarding the Spring Creek Parkway/Highway 5 Land Use and Transportation Study as well as working with a consultant. She advised that regarding the Mid-Term Priority items, the Planned Development Zoning Review list will be reviewed by the Commission and that Staff is visiting with other cities regarding Tree Preservation and Landscaping and further that recommendations will be brought forward to the Council after review by the Commission. Ms. Jarrell advised regarding Longer Term Priority items that Modular Building Regulations is on hold and there is a compliance deadline of December 1, 2003 for the Stormwater Management Plan.

Ms. Jarrell advised Council Member Stahel that Staff has talked to DART and are currently looking into the possibility of relocating the Fair Park Railroad Museum to the Parker Road Station. She advised Council Member McGee that there are not as many requests regarding modular buildings but that this will always be something needed by churches and schools and agreed that looking at current need could be something quickly addressed. Ms. Jarrell advised Council Member Lambert regarding the Retail Site Study that the design phase is coming up and that past holiday schedules kept things from moving as fast as they would have liked. Council Member Lambert spoke to sustainable development and related grants and requested that Staff look into the possibility of using grants for purposes related to Center City Study/Downtown Architectural Design Guidelines and further requested that existing criteria requirements be looked into. Ms. Jarrell advised Council Member Lambert regarding vacant property containing poles and overhead lines on the SH 190/Plano Parkway Overlay District and stated that the focus is mainly on the area east of US Highway 75 and that there are six or seven undeveloped properties. She stated that the majority of overhead lines are along Jupiter Road and K Avenue, and that Plano Parkway does not have that many overhead lines.

Ms. Jarrell stated that the Solid Waste Department made a presentation to the Commission regarding screened recycling containers and setting aside room for these containers. She stated that Staff will work with the Solid Waste Department regarding this specific issue. Commission Chairperson Davidoff stated that this issue does raise additional thought and it is one that contains controversy towards meeting the goal to increase recycling while at the same time maintaining a level playing field for developments that do not have the ability to provide screened recycling. Council Member McGee spoke in support of finding a way to resolve this matter and to businesses who will provide a dumpster for this purpose.

Discussion and Direction on Procedures for Receipt of Zoning Protest Letters and Determination of Authorized Property Owner Representatives.

Director of Planning Jarrell advised that the issue of zoning protest letters was brought to the attention of the City Attorney by the Council and stated that if enough property owners who own enough land within the 200 foot notice boundary or the property being rezoned itself do turn in letters of opposition this then triggers a required three-quarters vote by the Council.

Ms. Jarrell stated that presently there is no deadline for receipt of these letters and that theoretically up until the time the Public Hearing is closed at the Council meeting, an individual could come forward with a letter either in favor or opposition. Ms. Jarrell stated that this does have the potential of placing Staff in the position of determining at the last minute if the 20% rule has been invoked and further stated that this rarely happens. She advised that in talking with other cities, she learned some have informal deadlines, with the City of Dallas formalizing a deadline for the letters. Ms. Jarrell spoke to homeowners coming together over a weekend and attending the Council meeting to extend support and advised that if a deadline was placed in the ordinance then these letters could not be accepted. She stated that the Public Hearing represents the last opportunity for the Council to receive input, and spoke to two choices to be taken at the hearing if it is uncertain about the 20% rule. Ms. Jarrell advised that the zoning request could be tabled for two weeks or action taken knowing that the outcome may change depending on the determination.

Ms. Jarrell spoke to determining who is actually authorized to sign the letters and advised that state law states it is the owner according to the recently approved municipal tax roll and that this too can be challenged depending on several factors. She stated that the City of Dallas ordinance specifies who is authorized to sign the letters and further stated that the City of Plano does plan to amend the zoning notice letters to state that the person who signs the letter must be an authorized representative but that disagreements among owners as to who is actually authorized to sign the letters may continue.

City Attorney Wetherbee stated that during public input, the letters are only a means to determine what is the appropriate percentage of vote that is required and not a cutoff of public input. She spoke to checking the process as to when the letters are being sent out, stated that she does not view the zoning protest procedures, if any are adopted, as necessarily a cut-off of public input. Ms. Wetherbee stated that the only state law requirement to have a protest is when 20% of the owners of the property surrounding an area file a protest and that the second requirement is City imposed where the Commission makes a recommendation of denial upon which time a three-quarter vote is imposed.

Council Member Stovall stated that he feels strongly about the letters that are sent in, spoke to the Commission dealing with the issue for a period of time and to the opinion given by the letters staying with the Commission, and further that these are the same letters that come to the Council three or six months later. He stated that in the interim, individuals may change their mind and they may either favor or oppose the issue and that there should be more current letters reflecting the present opinion. Ms. Jarrell advised that state law requires that Staff send written notice ten days prior to the meeting and that City ordinance has extended the time period to twenty days prior to the Commission meeting and that there is no written notice required before the Council meeting but that it is placed in the newspaper. She spoke to issues possibly confusing the situation regarding sending two letters.

Mr. Stovall stated that letters received early may trigger the 20% rule and a significant number of people may have changed their mind in the intervening time period. Ms. Jarrell stated that these individuals may turn in another letter revoking their original protest letter. Mayor Pro tem Neudorff spoke to confusing situations with letters going back and forth and Mr. Stovall spoke to each letter clarifying intent. Ms. Jarrell stated that rescinding opposition previously stated in a letter would have to be done in writing.

Ms. Jarrell stated that the 20% rule applies to 20% of the land area, and that one property owner out of five or six large property owners could trigger the rule based on the amount of land owned. Council Member Lambert spoke to having a problem with the cut-off time, persons who did not attend the initial Commission meeting and then did attend the Council meeting, and further that these persons may then indicate a need to see the actual situation before making a decision and later advising the Council after viewing the situation. Mr. Lambert spoke to concerns with cutting off formally protesting and stated that the other concern is with the applicant in not knowing the turn of events. He stated that if there is a situation when Staff really does not know that things should be close enough that the 20% rule could be easily triggered, he would have no problem with a motion being made “subject to” Staff verifying if the vote needed the three-quarter vote, and further spoke to tabling an item in an unclear situation. He stated that he has a problem with applying a time limit to persons to submit an opinion.

Council Member Stahel stated that while it is appropriate to gather homeowner support over a weekend, the fact is that homeowners should be introduced to the letter and be advised to turn it in and further advise them that letters will be taken to the Commission on Monday. He stated he has no desire to cut off public input but that it is important for the applicant, opponents and proponents, and Staff and Council to have a good idea on what the rule is before the meeting begins. He spoke to setting a cut off for persons in the 200-foot zone on Monday at a specified time and allowing Staff to count the letters and clarify any questions regarding the validity of the owner, and at the meeting announcing the requirement of a three-quarter vote due to the 20% rule. He stated that on hotly debated issues, resolution is hoped for and further stated that he is not comfortable with announcing that the vote made tonight may be subject to re-visitation tomorrow after late arriving letters are counted. He stated that representation can be verified providing an opportunity to give a letter count possibly Monday at noon when there is a 20-day advance period for the persons in the 200-foot target zone. He spoke to criteria for eligibility, stating that a paragraph could be added by the City Attorney defining and clarifying this. City Attorney Wetherbee spoke to assisting the Planning Department with clarification on corporations and the like but stated that spelling out who is qualified must be stated in the ordinance for those parties who are eligible to file a protest and further that application for the letter will not be sufficient if it is not codified in some manner. Mr. Stahel spoke to an agent acting on behalf of a property owner and to documentation from the owner stating that an agent has been given direction to represent such as with a power of attorney.

Ms. Wetherbee stated that specific guidance would be needed in the ordinance. Mr. Stahel reiterated making sure that persons who are in favor or against a particular proposal accurately represent the property owner.

Council Member McGee spoke to this issue being assigned to the Commission, stated he has a problem with the cut-off, and is opposed to taking a vote and advising that the vote is either up or down depending on what is determined in the next few days. He stated that the biggest problem is that Council is not always aware what the voting requirements are and do not know if the 20% issue is in effect and further that the Commission and Staff will know which issues will have a tendency to activate this rule. He spoke to the use of a form to be used which states the intention of applying the 20% rule on a zoning case and later determining how verification would be done. He stated that having a notice of intent would assist the Council through the Public Hearing. Ms. Jarrell stated that Staff will know before the Monday night vote and in time to inform the Council through the packet that the 20% rule has been invoked.

Council Member Stovall stated he does not want to know the result of a vote two days later, spoke to the feasibility as part of the ordinance to bring the item back before Council for reexamination, stated that with the 20% rule in place items may take on a different stance, and spoke to Staff verifying this information. Ms. Jarrell advised that letters sent to property owners residing within 200-feet contain identifying standards.

Mayor Pro tem Neudorff stated that the primary question that needs to be resolved is the time element. Ms. Wetherbee advised that the time period is not mandated by state law. Ms. Jarrell stated that closing the Public Hearing theoretically closes public input. Council Member Lambert spoke to situations during a Public Hearing when persons in the Council meeting change their opinion on an issue and stated he does not like the idea of cutting the public off until a vote has been cast. Deputy Mayor Pro tem Dyer spoke to encouraging public comment and involvement and not stating that a letter is too late and leaving it open for consideration until the vote is cast. Mayor Pro tem Neudorff requested that the Commission bring back clarification on the time element.

This concluded the joint meeting with the Planning and Zoning Commission. Nothing further was discussed. Mayor Pro tem Neudorff adjourned the meeting at 6:50 p.m.

Rick Neudorff, **MAYOR PRO TEM**

Steve Stovall, **Council Member**

Elaine Bealke, City Secretary