

PLANO CITY COUNCIL
January 12, 2004

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
Elaine Bealke, City Secretary

Deputy Mayor Pro Tem Stahel convened the meeting into open session on Monday, January 12, 2004, at 7:00 p.m., in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present with the exception of Mayor Pro Tem Stovall. Mayor Evans arrived at 7:05 p.m.

The invocation was led by Deputy Mayor Pro Tem Stahel.

The Pledge of Allegiance was led by Eagle Patrol of Pack 1225 Jackson Elementary.

Director of Planning Jarrell presented the Council with the Texas Chapter of American Planning Association Award for the Tri-City Retail Study.

GENERAL DISCUSSION

No one appeared to speak.

CONSENT AGENDA

Upon a motion made by Deputy Mayor Pro Tem Stahel and seconded by Council Member Magnuson, the Council voted 7-0 to approve and adopt all items on the Consent Agenda as recommended and as follows:

Approval of Minutes [Consent Agenda Item (A)]

December 8, 2003
December 16, 2003
January 5, 2004

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. B023-04 for residential pavement repairs on the 2003-2004 Residential Slab Replacement Project, Zones L2, J2 & I3 within the City of Plano in the amount of \$1,501,075. This project involves the replacement of street, sidewalk, and alley pavement and construction of barrier free ramps in the residential areas bounded by Alma Road and the east, Coit Road on the west, Plano Parkway on the south, and 15th Street on the north. The project also includes the area between Coit Road and Independence Parkway from 15th Street to Park Boulevard. [Consent Agenda Item (B)] (See Exhibit "A")

Bid No. C024-04 for a fixed-price contract for Fire Hydrant and Water Line Repair Parts in the estimated annual amount of \$85,649 for use by the Utilities Operations Division. [Consent Agenda Item (C)] (See Exhibit "B")

Bid No. B030-04 for the Arbor Hills Nature Preserve, Phase 2 Improvements (Project No. 5224) in the amount of \$1,125,000. [Consent Agenda Item (D)] (See Exhibit "C")

Rejection of Bid

To reject bids/proposals for QISV Router (B107-03) [Consent Agenda Item (E)] (See Exhibit "D")

Adoption of Resolutions

Resolution No. 2004-1-1(R): To accept the bid of GST Public Safety Supply, LLC for Fire Department hip-length winter jackets; approving the purchase of Fire Department hip-length winter jackets in the amount of \$44,400; authorizing the City Manager to enter into a contract with GST Public Safety Supply, LLC upon terms and conditions consistent with all specifications and requirements provided in City of Mesquite Competitive Sealed Bid No. 2004-022; designating GST Public Safety LLC as supplier of Fire Department hip-length winter jackets; and providing an effective date. [Consent Agenda Item (F)]

Resolution No. 2004-1-2(R): To waive the City of Plano's application to receive funds under the Juvenile Accountability Block Grant Program administered by the Criminal Justice Division of the Office of the Governor of the State of Texas; allocating any funds for which the City of Plano was qualified to Collin County, Texas; providing that a representative of the City of Plano will participate in the Collin County Juvenile Probation Department and providing an effective date. [Consent Agenda Item (G)]

Resolution No. 2004-1-3(R): To authorize the use of touch screen devices for voting purposes in the City of Plano beginning with the May 2004 election; and providing an effective date. [Consent Agenda Item (H)]

Resolution No. 2004-1-4(R): To approve the terms and conditions of an interlocal agreement (ILA) by and between the City of Plano, Texas, and the Dallas Area Rapid Transit Authority (DART), defining the maintenance responsibilities of each agency for certain traffic control devices installed on Plano City street right-of-way necessary for the operation of the Light Rail System in Plano, authorizing its execution by the City Manager, and providing an effective date. [Consent Agenda Item (I)]

Resolution No. 2004-1-5(R): To appoint two additional individual trustees to the City of Plano's Savings and Retirement Plan for Employees under Section 401(a) of the Internal Revenue Code of 1986; and providing an effective date. [Consent Agenda Item (J)]

Resolution No. 2004-1-6(R): To authorize the filing of a project application with the North Central Texas Council of Governments for an Increasing Yard Waste Diversion Program in the North Texas Municipal Water District Area Project; authorizing the Environmental Waste Services Manager to act on behalf of the City of Plano in all matters related to the application; and pledging that if a project is received the City of Plano will comply with the project requirements of the NCTCOG, the Texas Commission on Environmental Quality and the State of Texas; and providing an effective date. [Consent Agenda Item (K)]

Resolution No. 2004-1-7(R): To authorize the filing of a project application with the North Central Texas Council of Governments for a Greening Plano's Outdoor Venues Program; authorizing the Environmental Waste Services Manager to act on behalf of the City of Plano in all matters related to the application; and pledging that if a project is received the City of Plano will comply with the project requirements of the NCTCOG, the Texas Commission on Environmental Quality and the State of Texas; and providing an effective date. [Consent Agenda Item (L)]

Resolution No. 2004-1-8(R): To authorize the filing of a project application with the North Central Texas Council of Governments for an Environmental Discovery Center Educational Kiosk Project; authorizing the Environmental Waste Services Manager to act on behalf of the City of Plano in all matters related to the application; and pledging that if a project is received the City of Plano will comply with the project requirements of the NCTCOG, the Texas Commission on Environmental Quality and the State of Texas; and providing an effective date. [Consent Agenda Item (M)]

Resolution No. 2004-1-9(R): To adopt the Clean Air Control Measures and Policies established by the North Central Texas Council of Governments for the North Texas Region, consisting of Dallas, Tarrant, Denton and Collin Counties, to assist them in meeting Federal Clean Air Standards for reducing emissions from its diesel-fueled vehicles and equipment and by incorporating further energy efficiency measures in its buildings and facilities; and providing an effective date. [Consent Agenda Item (N)]

Adoption of Ordinances

Ordinance No. 2004-1-10: To establish the name of Crawford Road, a dedicated street within the City of Plano, Collin County, Texas; providing for a change in the official records to reflect such action; and providing an effective date. [Consent Agenda Item (O)]

Ordinance No. 2004-1-11: To amend the Plano Code of Ordinances, Chapter 12, Motor Vehicles and Traffic, Article V, Stopping, Standing, and Parking, Section 12-102(e) to include the prohibition of motor-vehicle-parking along the east and west sides of Gifford Drive from its intersection with Russell Creek Drive north to Kalgan Circle for Rice Middle School between the hours of 8:00 a.m. to 8:45 a.m. and 3:00 p.m. to 4:00 p.m. on school days; declaring the parking of motor vehicles in said section of Gifford Drive within the defined time limits as unlawful and a misdemeanor; and providing a severability clause, a penalty clause, and an effective date. [Consent Agenda Item (P)]

Approval of Change Order

To approve Change Order No. 4 for the Buffalo Bend Drainage Improvements Project, increasing the contract by \$34,572 for additional concrete repair needed to complete the project. (Bid No. B147-02) [Consent Agenda Item (Q)]

To approve Change Order No. 1 and modifications to contract with Employee Benefits Services for run-off claims processing for the City of Plano Employee Benefit Plan in the amount of \$45,000. [Consent Agenda Item (R)]

To Hisaw & Associates, General Contractors, Inc. increasing the contract by \$143,843 for the Public Safety Communications Expansion, Change Order No 6 (Bid No. B126-02). [Consent Agenda Item (S)]

Approval of Contract Modification

To approve modification to contract with United HealthCare Insurance Company for Health Benefit Services (B114-03). This modification will not affect the estimated annual amount of the contract. [Consent Agenda Item (T)]

Approval of Purchase off Existing Contract

To approve the purchase of 14 various size pickup/service trucks/vans in the amount of \$304,056 from Lawrence Marshall Chevrolet through the Texas Association of School Board Purchasing Cooperative (Buyboard), Contract No. 154-02 and authorizing the City Manager to execute any and all documents necessary to effectuate this purchase. [Consent Agenda Item (U)]

To approve the purchase of one 62 horsepower agricultural tractor from Landmark Equipment in the amount of \$27,667 through the Houston-Galveston Area Council of Governments (HGAC) Cooperative Purchasing Program, Contract No. GR01-02 and authorizing the City Manager to execute any and all documents necessary to effectuate this purchase. [Consent Agenda Item (V)]

To approve the purchase of three hybrid-fuel passenger vehicles (4-door) in the amount of \$60,036 (\$20,000 each) from Philpott Ford through the Houston-Galveston Area Council of Governments (HGAC) Cooperative Purchasing Program, Bid No. VE10-03; and authorizing the City Manager to execute any and all documents necessary to effectuate this purchase. [Consent Agenda Item (W)]

To approve purchase of Playground Equipment for Arbor Hills Nature Preserve, Phase 2 Improvements (Project No. 5224) (Bid No. I032-03) in the amount of \$45,280. [Consent Agenda Item (X)]

END OF CONSENT:

Public Hearing and adoption of Ordinance No. 2004-1-12 as requested in Zoning Case 2003-60 - To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, so as to zone 32.174± acres located on the northeast corner of Park Boulevard and Marsh Lane in the City of Plano, Collin County, Texas, to Planned Development-85-Retail/Office-2; 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 #40. Applicant: City of Plano [Regular Agenda Item (1)]

Director of Planning Jarrell advised the Council that the property was annexed into the City in August of 2003 and that initial zoning has not been established. She stated that the Planning and Zoning Commission recommends approval of the request for PD-85-R/O-2 subject to:

Ordinance No. 2004-1-12 (cont'd)

1. Retirement housing is an allowed use by right, except in the area east of a running line north/south and through the center of the intersection of Vista Point Drive and Plano Parkway and within 350 feet of the southern right-of-way line of Plano Parkway. Retirement housing shall be developed using the retirement housing district standards in the Zoning Ordinance.
2. Uses allowed in the Retail district by right or by specific use permit are restricted to the eastern portion of the planned development district, east of a line running north/south and through the center of the intersection of La Costa Drive and Plano Parkway.
3. Within 350 feet of the southern right-of-way line of Plano Parkway, building heights are limited to two stories. Churches and church related structures in the remainder of the planned development district may be constructed to a maximum height of four stories; however, retirement housing is restricted to three stories.

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 Lambert and seconded by Council Member Dyer, the Council voted 7-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, so as to zone 32.174± acres located on the northeast corner of Park Boulevard and Marsh Lane in the City of Plano, Collin County, Texas, to Planned Development-85-Retail/Office-2 as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2003-60; 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. 2004-1-12.

Public Hearing and adoption of Ordinance No. 2004-1-13 as requested in Zoning Case 2003-61 - To repeal in its entirety Ordinance No. 93-9-5, thereby rescinding Specific Use Permit No. 231 for the additional use of a Private Club; amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, to grant Specific Use Permit No. 532 so as to allow the additional use of a Private Club on 1.6± acres of land located on the northeast corner of Park Boulevard and Prestwick Road in the City of Plano, Collin County, Texas, presently zoned Planned Development-68-Retail with Specific Use Permit No. 231; 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 #42. Applicant: Brinker Texas, L.P. [Regular Agenda Item (2)]

Ordinance No. 2004-1-13 (cont'd)

Director of Planning Jarrell advised the Council that this request would revise the specific use permit for this location thus complying with current practices and granting the permit to the property independent of the ownership/operation of the restaurant. She stated that the Planning and Zoning Commission recommended approval of the request 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 Council Member Magnuson and seconded by Council Member Callison, the Council voted 7-0 to repeal in its entirety Ordinance No. 93-9-5, thereby rescinding Specific Use Permit No. 231 for the additional use of a Private Club; amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, to grant Specific Use Permit No. 532 so as to allow the additional use of a Private Club on 1.6± acres of land located on the northeast corner of Park Boulevard and Prestwick Road in the City of Plano, Collin County, Texas, presently zoned Planned Development-68-Retail with Specific Use Permit No. 231 as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2003-61; 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. 2004-1-13.

Public Hearing and adoption of Ordinance No. 2004-1-14 as requested in Zoning Case 2003-62 - 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 American Drive and Amelia Court in the City of Plano, Collin County, Texas, from Planned Development-135-Retirement Housing to Office-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 #56. Applicant: City of Plano [Regular Agenda Item (3)]

Director of Planning Jarrell spoke to amendments to the Zoning Ordinance eliminating the Retirement Housing zoning district and stated that this item establishes appropriate zoning for properties affected. She further advised the Council that the Planning and Zoning Commission recommended approval of the request as submitted. Ms. Jarrell responded to Council Member Dyer stating the Office-1 zoning has a two-story height limit and that Zoning Case 2003-63 (Regular Agenda Item 4) requests Office-2 zoning due to the three-story height of a current facility.

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

Ordinance No. 2004-1-14 (cont'd)

Upon a motion made by Council Member Dyer and seconded by Deputy Mayor Pro Tem Stahel, the Council voted 7-0 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 American Drive and Amelia Court in the City of Plano, Collin County, Texas, from Planned Development-135-Retirement Housing to Office-1 as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2003-62; 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. 2004-1-14.

Public Hearing and adoption of Ordinance No. 2004-1-15 as requested in Zoning Case 2003-63 - To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, so as to rezone 4.4± acres located north of American Drive, 485± feet east of Coit Road in the City of Plano, Collin County, Texas, from Retirement Housing to Office-2; 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 #56. Applicant: City of Plano. [Regular Agenda Item (4)]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission recommended approval of the request 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 Deputy Mayor Pro Tem Stahel and seconded by Council Member Johnson, the Council voted 7-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, so as to rezone 4.4± acres located north of American Drive, 485± feet east of Coit Road in the City of Plano, Collin County, Texas, from Retirement Housing to Office-2 as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2003-63; 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. 2004-1-15.

Public Hearing and adoption of Ordinance No. 2004-1-16 as requested in Zoning Case 2003-64 - To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, amending Specific Use Permit No. 246 so as to increase the height of an existing commercial antenna support structure from 75 feet to 93 feet on 0.1± acre of land located 250± feet south of Park Boulevard and 380± feet west of Dallas North Tollway in the City of Plano, Collin County, Texas, presently zoned Planned Development-220-Regional Commercial with Specific Use Permit #246 for a Commercial Antenna Support Structure; 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 #52. Applicant: Dallas SMSA Tower Holding, Inc. [Regular Agenda Item (5)]

Director of Planning Jarrell stated that the request is being made to accommodate the addition of another carrier to the tower. She advised the Council that the Planning and Zoning Commission recommended approval of the request as submitted. Ms. Jarrell responded to Deputy Mayor Pro Tem Stahel stating that if this item were denied, the applicant could apply for another tower which, depending on its size, would need a specific use permit and must adhere to distance separation requirements between towers. She stated that the current ordinance promotes co-location.

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 Johnson, the Council voted 7-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, amending Specific Use Permit No. 246 so as to increase the height of an existing commercial antenna support structure from 75 feet to 93 feet on 0.1± acre of land located 250± feet south of Park Boulevard and 380± feet west of Dallas North Tollway in the City of Plano, Collin County, Texas, presently zoned Planned Development-220-Regional Commercial with Specific Use Permit #246 for a Commercial Antenna Support Structure as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2003-64; 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. 2004-1-16.

Public Hearing and adoption of Ordinance No. 2004-1-17 as requested in Zoning Case 2003-66 - To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, granting Specific Use Permit No. 534 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 (6)]

Ordinance No. 2004-1-17 (cont'd)

Director of Planning Jarrell advised that a previous request for a Specific Use Permit for a Used Car Dealer on this property was denied by the Council without prejudice thus allowing the applicant to resubmit the case. She stated that the applicant contacted Staff to discuss the property's use as a used car dealer prior to an application for a Certificate of Occupancy and was informed that it was a permitted use. Ms. Jarrell advised that subsequently, Staff discovered an error and notified the applicant that a specific use permit would be required. She advised the Council that the Planning and Zoning Commission recommended approval of the request as submitted.

Mayor Evans opened the Public Hearing. Cyrus Amini, acquaintance of the applicant, spoke to information received from the City Staff prior to purchase of the property and requested careful consideration by the Council. He spoke to signatures gathered on a petition in support of the request. Mobina Armaghan, daughter of the applicant, spoke regarding the personal sacrifices made by the applicant, steps taken to ensure procedures were followed and requested the Council approve the request. Gary Schmidt, spoke in support of the applicant requesting the Council put themselves in the applicant's position. No one else spoke either for or against the request. The Public Hearing was closed.

Council Member Magnuson spoke to applicants following procedure and relying on information received from Staff and further made a motion to approve the request. Council Member Johnson seconded the motion and spoke regarding the error made by the Staff, the number of automotive uses on K Avenue and the opportunity for redevelopment of this property as the area changes.

Mayor Evans stated at 7:35 p.m. that the Council would convene into Executive Session in compliance with Chapter 551, Government Code, Vernon's Texas Codes, Annotated, in order to consult with an attorney, Section 551.071, for which a certified agenda is not required but is on record for other items on this agenda. The Council closed the Executive Session and reconvened into the open meeting at 7:40 p.m.

Council Member Johnson spoke to the property owner having more choices when redevelopment in the area occurs and stated that in the meantime the use is appropriate for a site of this size. Council Member Magnuson spoke to the request as being consistent with other businesses on K Avenue and stated that it should not adversely affect the neighborhood.

Council Member Lambert spoke to the work done in upgrading the downtown area and efforts to not allow used car lots. He spoke to the request not fitting the long-term goal and stated opposition to the motion.

Ordinance No. 2004-1-17 (cont'd)

Mayor Evans stated support for the motion, spoke to Staff's and the Planning and Zoning Commission's careful consideration and recommendation for approval and stated that the use would not detract from the appearance or uses in the downtown area.

Mayor Evans restated the motion made by Council Member Magnuson and seconded by Council Member Johnson to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, granting Specific Use Permit No. 534 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 2003-66; 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. 2004-1-17. The Council voted 4-3 for the motion with Deputy Mayor Pro Tem Stahel and Council Members Dyer and Lambert voting in opposition. The motion carried.

There being no further discussion, Mayor Evans adjourned the meeting at 7:44 p.m.

Pat Evans, **MAYOR**

Shep Stahel, **DEPUTY MAYOR PRO TEM**

ATTEST:

Elaine Bealke, City Secretary