

PLANO CITY COUNCIL
January 10, 2005

COUNCIL MEMBERS

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

STAFF

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

Mayor Evans convened the Preliminary Open Meeting directly into the Regular Meeting on Monday, January 10, 2005, at 7:23 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present with the exception of Council Member Callison.

The invocation was led by Jeff Babbitt of the Bahai Faith of Plano.

The Pledge of Allegiance was led by Webelos, Pack 1112 of Haun Elementary.

Mayor Pro Tem Stahel presented a Certificate of Appreciation to Harry A. LaRosiliere for his service on the Planning and Zoning Commission.

S.H. 121 Feasibility Report

City Engineer Upchurch spoke regarding a task force evaluating funding options to build the main lanes of S.H. 121 between Hillcrest Road and U.S. Hwy. 75. He spoke to consideration of options including a tollroad, managed lanes which would include free and tolled lanes and a third option having local governments provide the funding. Mr. Upchurch spoke to the estimated cost of \$93 million, to Collin County's share of \$30 million and to a funding scenario where the remainder would be prorated based on each city's frontage. He spoke to other allocations that could be based on population, tax base, etc. and requested Council direction on whether or not this would be a viable option for continued discussion.

Mr. Upchurch spoke to the cities of Frisco, Allen and McKinney reviewing the option and advised that their input can be brought back to the Council. He stated that if contributions were agreeable to the Council, it could be done as a grant/contribution or as "shadow tolling" where monies are reimbursed to the City from the state highway department based on traffic volumes generated.

Mr. Upchurch responded to Deputy Mayor Pro Tem Lambert, stating that TxDOT would be in a position to go ahead should cities fund monies to build the roadway. He stated that input could be provided to the task force to look into funding the roadway similar to the DFW turnpike which was opened up as a free road once it was paid for. Deputy Mayor Pro Tem Lambert spoke in support of City funding if the other cities were inclined to do so and to not waiting fifteen years for TxDOT.

Mr. Upchurch responded to Council Member Stovall, stating that based on a simplistic formula the cities of McKinney and Allen would be responsible for larger portions. He spoke to continued discussion if the other cities are interested and to bringing forward a final analysis some time in April. Mr. Upchurch stated that he does not have an indication from the other cities at this time and advised that state funding would not be available for 15-20 years.

Council Member Dyer spoke to keeping the road free for citizens as being a good investment. Mr. Upchurch responded to Council Member Stovall, stating that the \$93 million is a fairly recent cost estimate and includes inflation and further that he will have a better idea of the intentions of the other cities at the end of the month.

Mayor Pro Tem Stahel and Deputy Mayor Pro Tem Lambert spoke to including an item on the upcoming bond election which would send a signal to other cities that Plano is ready to move ahead. Mr. Stahel spoke in support of recovering the monies through "shadow tolling" as TxDOT funds become available. Mr. Lambert clarified that there would not be a toll on the roadway but that the process speaks to reimbursement by the state transportation department and to the City receiving credit for having provided funding for this location. He spoke to some citizens not being in support of tolling the roadway and Mr. Upchurch spoke to some cities seeing tolling as an opportunity to receive funding for projects.

City Manager Muehlenbeck spoke to previous consideration of tolls along the roadway and stated that if an option for reimbursement is considered, there may be projects that would need to be put off. He requested Council direction on maintaining the option of shared funding and possibly adding a figure to the bond referendum. The Council concurred to retain the option of shared funding. Mayor Pro Tem Stahel spoke to including the funding on the bond referendum in order to have the monies if needed.

Jim Kubota, citizen of the City, spoke to the roadway being utilized similarly to the Dallas North Tollway.

Council Member Dyer spoke to possibly waiting to put the item on a bond referendum until 2006 in order to provide time for decision making.

Council items for discussion/action on future agendas

Mayor Evans requested a future agenda item to discuss a rotation system among Council Members with regard to Sister City visits.

Consent and Regular Agendas

Deputy Mayor Pro Tem Lambert requested that Consent Item "L," Ordinance to correct a clerical error regarding Zoning Case 2004-10, be removed for individual consideration.

Council Reports

Deputy Mayor Pro Tem Lambert spoke to a meeting held with representatives of the Collin County Board of Realtors and Council Member Magnuson to discuss issues related to allowing open house signs and advised that after consideration, the organization felt that the problems associated with (City) regulations would outweigh the effectiveness of such a program. He advised that the recommendation is that no further action be taken at this time.

GENERAL DISCUSSION

Jim Kubota, citizen of the City, stated concern regarding the amount of advertising on cable television and spoke regarding citizens having a vote when rates are raised and to the City taking over the running of the cable company. He stated concern that permits are required for work in easements because utility companies are not doing their part to be sure the lines cannot be damaged. Mr. Kubota stated concern that citizens must call for themselves and spoke to the City regulating the easement area.

Sonja Hammar, citizen of the City, requested confirmation that information is being maintained regarding outside agency requests for grants and funding. The Council's consensus was that applicants are being asked to comply with procedures. Ms. Hammar spoke regarding placement of the Bishop Road Landscaping Project on the upcoming bond referendum and to the Council providing citizens the opportunity for participation. She inquired whether or not any City funding went into amenities in a park area adjacent to Bishop Road, asked what the status is on the botanical gardens and voiced support for improvements to Memorial Park.

CONSENT AGENDA

Deputy Mayor Pro Tem Lambert requested that Consent Agenda Item "L" be removed for individual consideration.

Upon a motion made by Deputy Mayor Pro Tem Lambert and Council Member Dyer, the Council voted 7-0 to approve and adopt all remaining items as recommended and as follows:

Approval of Minutes [Consent Agenda Item (A)]
December 13, 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. B023-05 to Songer Construction, Inc. in the amount of \$2,220,000 for the total base bid for the construction of Fire Station No. 11. [Consent Agenda Item (B)] (See Exhibit "A")

Bid No. C155-04 to establish a two-year fixed price contract with three optional one-year renewals for Structural Fire Fighting Helmets in the estimated annual amount of \$15,000. [Consent Agenda Item (C)] (See Exhibit "B")

Bid No. B034-05 for residential pavement repairs on the 2004-2005 Residential Slab Replacement Project, Zones G3 & G4 within the City of Plano in the amount of \$1,682,325. This project involves the replacement of street and alley pavement and construction of barrier-free ramps in the residential areas bounded by Preston Road/Coit Road/Parker Road/Plano Parkway. [Consent Agenda Item (D)] (See Exhibit "C")

Bid No. B035-05 for construction of Tollroad Service Road – Spring Creek Parkway to Headquarters Drive in the amount of \$1,108,738. [Consent Agenda Item (E)] (See Exhibit "D")

Bid No. C001-05 to establish an annual fixed-price contract with two optional one-year renewals for Custodial Services – Various Facilities in the estimated annual amount of \$134,928. [Consent Agenda Item (F)] (See Exhibit "E")

Adoption of Resolutions

Resolution No. 2005-1-1(R): To accept and approve the City Secretary's certification of the number of qualified signatures on a petition to order a local option election to legalize the sale of mixed beverages in restaurants by food and beverage certificate holders; and providing an effective date. [Consent Agenda Item (G)]

Resolution No. 2005-1-2(R): To accept and approve the City Secretary's certification of the number of qualified signatures on a petition to order a local option election to legalize the sale of beer and wine for off-premise consumption; and providing an effective date. [Consent Agenda Item (H)]

Resolution No. 2005-1-3(R): To approve the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano and Collin County, Texas, providing terms and conditions for the widening of Dallas North Tollroad Service Roads from Spring Creek Parkway to Headquarters Drive; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (I)]

Resolution No. 2005-1-4(R): A resolution of the City of Plano, Texas (hereinafter called the "Applicant"), designating certain officials as being responsible for, acting for, and on behalf of the applicant in dealing with the Texas Parks & Wildlife Department, hereinafter referred to as "Department," for the purpose of participating in the Texas Recreation & Parks Account Outdoor Recreation Grants Program, hereinafter referred to as the "Program;" certifying that the Applicant is eligible to receive program assistance; certifying that the Applicant's matching share is readily available; and dedicating the proposed site for permanent (or for the term of the lease for leased property) public park and recreational uses. [Consent Agenda Item (J)]

Resolution No. 2005-1-5(R): A resolution of the City of Plano, Texas (hereinafter called the "Applicant"), designating officials as being responsible for the applicant in dealing with Texas Parks and Wildlife (hereinafter called the "Department"), for the purpose of participating in the Texas Recreation and Parks Account Regional Grants Program (hereinafter called the "Program"); certifying that the Applicant is eligible to receive program assistance; certifying that the Applicant's matching share is readily available; and dedicating the proposed site for permanent (or for the term of the lease for leased property, or the term of the joint-use agreement for non-leased property) public park and recreational uses. [Consent Agenda Item (K)]

Adoption of Ordinances

Ordinance No. 2005-1-6: To abandon all right, title and interest of the City, in and to that certain drainage and sanitary sewer easement recorded in Document Number 92-0023816 and those certain drainage easements recorded in Document Number 96-0098443 of the Land Records of Collin County, Texas and being situated in the Benjamin M. Craig Survey, Abstract Number 176 and located along Ohio Drive south of Parker Road in the City Limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such easements to the abutting property owner, Preston Parker L.P., to the extent of its interest; authorizing the City Manager, to execute any documents deemed necessary; and providing an effective date. [Consent Agenda Item (M)]

Ordinance No. 2005-1-7: To find that the current rates of Coserv Gas Ltd. are unreasonable; approving Coserv Gas Ltd.'s revised tariffs; finding cities' rate case expenses reasonable; severing the determination of the reasonableness of Coserv Gas Ltd.'s rate case expense from approval of the revised tariffs; retaining jurisdiction over the determination of the reasonableness of Coserv Gas Ltd.'s rate case expense issue until March 1, 2005; finding that any relief requested by Coserv Gas Ltd. not specifically granted herein is denied; adopting a most favored nations provision; finding that the meeting at which this ordinance is passed is open to the public as required by law and providing for notice of this ordinance to Coserv Las, Ltd.; and providing an effective date [Consent Agenda Item (N)]

Award of Contract

To approve and authorize for the selection of Parsons Brinkerhoff Quade & Douglas, Inc. to provide Professional Engineering Services for an amount not to exceed \$58,794 in connection with the design of Preston Road at Plano Parkway Intersection Improvements and authorizing the City Manager to execute all necessary documents to effectuate this contract. Bid No. B113-04. [Consent Agenda Item (O)]

END OF CONSENT

Ordinance No. 2005-1-8: To vacate Ordinance No. 2004-5-5 and adopt this ordinance to correct a clerical error, amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, so as to rezone 101.3± acres located on the east and west sides of Ohio Drive, between Parker Road and Tulane Drive in the City of Plano, Collin County, Texas, from Agricultural to Planned Development-150-Single-Family Residence Attached, Single-Family Residence-9, Single-Family Residence-7, and Patio Home; 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 2004-10) [Consent Agenda Item (L)]

Director of Planning Jarrell advised that a stipulation regarding the setback was left out of the ordinance drafted for this request and stated this item could move forward since Council's intent was to approve all five stipulations. City Attorney Wetherbee advised that she was satisfied that item represented a clerical correction since the original motion included the Planning and Zoning Commission recommendations. Ms. Jarrell advised that current applicants are sent a "follow up" memo recording the actions of the Planning and Zoning Commission and the Council.

Council Member Stovall inquired why the setback would be 130 feet rather than 150 feet and the Council spoke to prior discussion of the request.

Ordinance No. 2005-1-8 (cont'd)

A motion was made by Deputy Mayor Pro Tem Lambert and seconded by Council Member Johnson to vacate Ordinance No. 2004-5-5 and adopt this ordinance to correct a clerical error, amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, so as to rezone 101.3± acres located on the east and west sides of Ohio Drive, between Parker Road and Tulane Drive in the City of Plano, Collin County, Texas, from Agricultural to Planned Development-150-Single-Family Residence Attached, Single-Family Residence-9, Single-Family Residence-7, and Patio Home; 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. 2005-1-8. The Council voted 6-1 with Council Member Stovall voting in opposition. The motion carried.

Public Hearing and adoption of Ordinance No. 2005-1-9 as requested in Zoning Case 2004-50 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, granting Specific Use Permit No. 557 so as to allow the additional use of Private Club on 0.1± acre of land located 180± feet west of Preston Road and 1,000± feet north of Lorimar Drive in the City of Plano, Collin County, Texas, presently zoned Planned Development-447-Retail/Multifamily Residence-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 #31. Applicant: Turner Heritage Investments, LTD. & SJD Development, Inc. [Regular Agenda Item (1)]

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 Council Member Stovall and seconded by Council Member Johnson, the Council voted 7-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, granting Specific Use Permit No. 557 so as to allow the additional use of Private Club on 0.1± acre of land located 180± feet west of Preston Road and 1,000± feet north of Lorimar Drive in the City of Plano, Collin County, Texas, presently zoned Planned Development-447-Retail/Multifamily Residence-2 as requested in Zoning Case 2004-50 and as recommended by the Planning and Zoning Commission; 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. 2005-1-9.

Public Hearing and adoption of Ordinance No. 2005-1-10 as requested in Zoning Case 2004-51 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, amending Specific Use Permit No. 545 for Regional Theater and Specific Use Permit No. 546 for Arcade so as to adjust the boundaries on 13.8± acres of land located on the east side of Coit Road, 662± feet north of Mapleshade Lane in the City of Plano, Collin County, Texas, presently zoned Corridor Commercial with Specific Use Permits No. 545 for Regional Theater and No. 546 for Arcade; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Neighborhood #72. Applicant: Coit 190 Texas, LP [Regular Agenda Item (2)]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission recommended approval of the request as submitted and advised that the request reduces the area of the specific use permit.

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 Dyer, the Council voted 7-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, amending Specific Use Permit No. 545 for Regional Theater and Specific Use Permit No. 546 for Arcade so as to adjust the boundaries on 13.8± acres of land located on the east side of Coit Road, 662± feet north of Mapleshade Lane in the City of Plano, Collin County, Texas, presently zoned Corridor Commercial with Specific Use Permits No. 545 for Regional Theater and No. 546 for Arcade as requested in Zoning Case 2004-51 and as recommended by the Planning and Zoning Commission; 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. 2005-1-10.

Discussion and Direction regarding Charter Amendments [Regular Agenda Item (3)]

At the Council concurrence, Mayor Evans invited members of the audience to provide input. Richard Simmons, citizen of the City, spoke in support of placing the issue of single member districts with a minimum of eight City Council members and a mayor on the ballot with implementation by June 1, 2006. Sonja Hammar, citizen of the City, spoke to allowing the citizens to express their opinion on single member districts by including the item on the ballot for the charter election.

City Attorney Wetherbee spoke regarding the issues already identified which include amending the charter to delete the reference that the City may be sued, whether or not the Council Members' terms of office should be extended from two to three-years, deleting the requirement that Council Members own taxable property and applying that same standard to board/commission appointees, revising publication of franchise ordinances to include only the ordinance caption and addressing the statute of limitation period for filing a suit against the City to comply with state law. She spoke to determining when three-year terms would take effect.

Deputy Mayor Pro Tem Lambert spoke to referencing compliance with state law as it applies to Council Members and board/commission appointees not owning taxable property. Ms. Wetherbee advised that while court decisions are clear for Council Members, it is her thought that the same principles can be extended to board members and that she would prefer to place notation in the caption but not make it a part of the question.

Deputy Mayor Pro Tem Lambert inquired regarding the inclusion of an item addressing single member districts. Council Member Stovall spoke to minority law scholars encouraging proportional representation and moving away from single member districts. He spoke to the different ways proportional representation can be achieved, to not using race in preparing districts and to the difficulty of creating a minority majority district in such a way so as to ensure a minority individual will be elected. He spoke in support of the City's current process where all citizens elect every Council Member and can elect a minority candidate.

Deputy Mayor Pro Tem Lambert spoke to the process in place until 1982-83 and input from the community requesting single member districts be included on the ballot. He stated that while not in favor of single member districts, the item should be placed before the citizens for a vote. Mr. Lambert spoke to converting the current four geographic districts and offering up a blended system.

Council Member Stovall spoke to delaying the charter amendment process to provide the opportunity to educate the citizenry regarding proportional representation and how it applies to the current election process in the City. Deputy Mayor Pro Tem Lambert spoke to the time invested in the charter election and to moving forward with those propositions the majority of the Council decides should be included. Mayor Evans spoke to moving forward with administrative items.

Council Member Dyer spoke to the City's form of government being too important to "be lost" on a complicated ballot such as the one coming forward in May 2005 and to the possibility of a stand-alone election or waiting two years to address the issue of single member districts.

The Council stated a consensus to move forward with a charter amendment election with the items proposed. City Attorney Wetherbee advised that she would bring back the election order and ballot form and requested direction on when the three-year terms would take effect and the Council concurred that they would be effective in 2005. The Council instructed Staff to bring forward the election order and ballot at the January 24, 2005 meeting.

There being no further discussion, Mayor Evans adjourned the meeting at 8:45 p.m.

Pat Evans, MAYOR

ATTEST:

Elaine Bealke, City Secretary