

**PLANO CITY COUNCIL**  
**January 27, 2003**

**COUNCIL MEMBERS**

Pat Evans, Mayor  
Phil Dyer, Mayor Pro tem  
Steve Stovall, Deputy Mayor Pro tem  
Shep Stahel  
Scott Johnson  
Sally Magnuson  
Jim McGee  
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

Mayor Evans convened the meeting into open session on Monday, January 27, 2003, at 7:04 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. Blair Ritchey of the Collin Creek Community Church.

The Pledge of Allegiance was led by Junior Girl Scout Troop 678.

Mayor Evans recognized Volunteer of the Month, Julia Grenier. Mayor Evans and Deputy Mayor Pro tem Stovall presented a certificate of appreciation to William Karnes for his service on the Technology Commission. Kathleen M. Barry and Victoria Francis were unable to attend to receive certificates of appreciation for their service on the Animal Shelter Advisory Committee.

The Council resumed discussion of items from the Preliminary Open Meeting.

**Discussion and Direction Regarding Request for Extension of Line of Duty Leave – Firefighter Scott Boyd** (Beginning discussion regarding this item is reflected in the meeting minutes of the Preliminary Open Meeting and continued here.)

City Manager Muehlenbeck responded to Council Member Lambert regarding the denial of a previous request by a Civil Service employee. City Attorney Wetherbee advised that while the Attorney General's opinion is expected in March, there is no specific time requirement for response and further stated that there many issues to be considered. Division Fire Chief Caldwell responded to Council Member Lambert that there is no indication that Civil Service Firefighters filling other Staff positions would be medically unable to return to duties in a fire station.

Council Member Stahel spoke regarding the similarities between Police/Fire occupations and service in the military including the high levels of risk and intensity as well as age limitations. He stated that even if the Attorney General's opinion were received in 90 days, it may not necessarily solve the problem and spoke regarding a motion to deny the request.

Council Member Lambert spoke to the importance of firefighters, stated that the initial illness was not job related and that he could not justify the expenditure or set a precedent of firefighters covering for one another.

Upon a motion by Council Member Stahel and seconded by Council Member Lambert, the Council voted 8-0 to deny a request for extension of line of duty leave for Firefighter Scott Boyd.

### **Update on Social Services Agency Funding**

Director of Budget and Research Rhodes stated that after discussion with agencies and City liaisons, the recommendation is to have Plano Forum requests reviewed by the Cultural Affairs Commission and advised that documents required by the City of Plano would include the IRS Letter of Determination of a 501c(3), State Certificate of Good Standing, Certificate of Insurance, and expenditure reports. She spoke to the differing expectations of each commission as the reason for a recommendation that expenditure reports be submitted on a quarterly basis.

Ms. Rhodes responded to Council Member Johnson, stating that several of the commissions prefer to receive quarterly reports. City Attorney Wetherbee responded to Mayor Pro tem Dyer, advising that the Certificate of Good Standing for Non-profits would indicate an organization is recognized as a non-profit by the State of Texas. Council Member Lambert spoke to filings required of non-profit organizations, problems that might be incurred if agencies relocate and do not provide notification, and to requiring only semi-annual reports. Council Member Stahel spoke to providing a reminder when reports are due. Deputy Mayor Pro tem Stovall spoke regarding the needs of reviewing committees. Mr. Stahel spoke to proceeding with the recommendation and having Staff come back before Council if amendments are necessary. Mayor Evans stated concurrence with this recommendation. Ms. Rhodes spoke to the Plano Forum following guidelines for funding in future years and advised that she would review the document's reference to budget dates.

### **Presentation of Facsimile Gun Report**

Police Chief Rushin reviewed the definition of a facsimile firearm and issues including their proliferation, the alarm and public concern caused, dangers when police confront these weapons and stated that children lack maturity to use them responsibly. He spoke regarding Carrollton's ordinance restricting the use and display of certain facsimile guns and the City of Plano Code of Ordinances' current prohibition of BB/pellet guns inside City limits. Chief Rushin provided information regarding conventional pellet, air soft and facsimile guns including their similarity to real firearms.

Chief Rushin spoke regarding the benefits of a facsimile gun ordinance to further reduce injury and property damage caused by BB/pellet guns, provide enforcement options to law enforcement, reduce disruption and threats by students possessing facsimile guns, and reduce the likelihood of deadly force encounters with police officers or armed citizens. He reviewed the disadvantages which include restricting the liberties of citizens who own and use facsimile guns responsibly and the requirement of a subjective evaluation on the part of officers to determine if a gun meets the definition of a facsimile firearm. Chief Rushin recommended amending the existing firearms ordinance (Section 14-5 of the Plano Code of Ordinances) by adding the following language:

- Facsimile Firearm Definition: Any device that so closely appears to be a firearm in size, shape, color, or design that it can only be distinguished from a real firearm through close inspection.
- Persons 18 years or older may not display or brandish a facsimile firearm in a public place in a manner likely to cause alarm.
- Persons younger than 18 may not possess a facsimile firearm in a public place; and
- Include exceptions to take into account functions such as parades, ceremonies, police training, ROTC, and performances.

Chief Rushin responded to Deputy Mayor Pro tem Stovall regarding transport of facsimile guns and the effect of the ordinance to prevent display in a reckless manner. He responded to Council Member Lambert and stated concern regarding community notification. Council Member Lambert stated concern regarding enforcement. Mayor Evans spoke regarding educating the public and Council Member McGee spoke to solving liability issues and in favor of taking a strong stance. Council Member Stahel spoke in support of the recommendations. Deputy Mayor Pro tem Stovall and Council Member Magnuson spoke regarding methods of providing education.

Mayor Pro tem Dyer spoke to utilizing recommendations presented during the Council meeting. Chief Rushin advised that Staff will work with the Legal Department to develop an ordinance for Council's consideration and responded to Council Member Lambert regarding the training of officers.

### **Discussion and Direction Regarding Continued Funding for the Plano City Briefs as Published in the Plano Star Courier and Dallas Morning News – Plano Section**

Director of Public Information Beckley spoke regarding the costs of publishing the *Plano City Briefs* in the *Dallas Morning News* and *Plano Star Courier* and savings that could be realized (\$60,000 annually) if the publication were on-line. Dr. Beckley reviewed plans for the on-line service to include e-news and press releases and providing the opportunity for quick dissemination of information to the public.

Council Member Stahel spoke to running a small ad for 90 days to provide a transition. Mayor Evans and Mayor Pro tem Dyer spoke to providing information regarding the web site. Council Member Lambert requested the web page offer a more direct link to agendas/minutes and in support of the proposal. Mayor Evans stated Council's consensus to move forward.

### **Discussion and Direction Regarding Preston Road Maintenance**

City Engineer Upchurch spoke to the large cost potential for maintenance of Preston Road and stated Staff recommendation that the City not assume maintenance and that TxDOT be notified. He spoke to COG (Council of Governments) funding for grade separations at Legacy/Preston and Spring Creek Parkway/Coit being reallocated for at-grade improvements with a 20% local match to 80% COG funds and stated that Staff will move forward with at-grade improvements at the various intersections as funding becomes available with improvements based on detailed engineering analysis for each intersection. The Council stated a consensus in support of the recommendations. Mayor Pro tem Dyer stated safety concerns at "split" intersections and Mr. Upchurch advised that Staff would look into the situation.

### **Personnel Appointments**

#### Technology Commission

Upon a motion made by Deputy Mayor Pro tem Stovall and seconded by Council Member Johnson, the Council voted 8-0 to appoint Dana Johnson to an interim position.

#### Transportation Advisory Committee

Upon a motion made by Council Member Johnson and seconded by Council Member McGee, the Council voted 8-0 to appoint L. Dean McGowan to an interim position.

### **Comprehensive Monthly Financial Report**

Mayor Evans advised that the Comprehensive Monthly Financial Report would be presented at the February 3, 2003 Council meeting.

### **Council items for discussion/action on future agendas**

Mayor Evans requested consideration of Council's policy regarding "buying tables" and other forms of participation at fundraising/banquet events. Council Member Stahel requested information on what has been done over the past year.

## **Consent and Regular Agenda**

Deputy Mayor Pro tem Stovall and Council Member Stahel advised that due to conflicts of interest, they would be stepping down on Consent Items "K," to authorize an expenditure for professional consulting services from Exodus Consulting Group, LLC and "L," to authorize an expenditure for additional professional consulting services from Checkmate Consulting, Inc.

City Secretary Bealke advised that a citizen has requested removal of Consent Item "B," Bid No. C016-03 for a fixed-price contract for Municipal Court Collection Services and Verification for individual consideration.

## **Council Reports**

No reports were made.

## **GENERAL DISCUSSION**

Carl Popoff, citizen of the City, stated concern regarding conditions at the Pecan Hollow Golf Course and delays in the construction of a clubhouse. Mayor Evans advised that City Manager Muehlenbeck would provide a response. Mr. Popoff stated that Ridgeview Ranch is being leased from the City.

Sharon Mausing, citizen of the City, stated concerns that she has not been contacted by Animal Control Staff regarding a dog bite incident she experienced and that was reported by an area hospital and spoke regarding concerns related to management of the animal shelter. Mayor Evans advised that Staff would look into the report.

## **CONSENT AGENDA**

Upon a motion made by Council Member Stahel and seconded by Mayor pro tem Dyer, the Council voted 8-0 to approve and adopt all remaining items on the agenda as recommended and as follows:

### **Approval of Minutes** [Consent Agenda Item (A)]

January 13, 2003

### **Award, Rejection of Bids/Proposals, Conditional Acceptance of Lowest Responsible Bid/Proposal and Designation of Alternate Lowest Responsible Bid/Proposal when applicable on the following:**

**Bid No. B028-03** for Haggard Park Improvements in the amount of \$1,112,176. [Consent Agenda Item (C)] (See Exhibit "A")

**Bid No. B027-03** for the Oak Point Park and Nature Preserve, Phase I in the amount of \$1,139,777. [Consent Agenda Item (D)] (See Exhibit "B")

**Bid No. B138-02** for Administration of the Community Notification System in the amount of \$49,870. [Consent Agenda Item (E)] (See Exhibit “C”)

**Bid No. B007-03** for a fixed-price contract for a Police Multipurpose/Investigative/Bomb Robot in the amount of \$101,428 plus additional options of \$12,829 for a total cost of \$114,257. [Consent Agenda Item (F)] (See Exhibit “D”)

### **Adoption of Ordinances**

**Ordinance No. 2003-1-13:** To amend Ordinance No. 2002-7-10 codified in the City of Plano Code of Ordinances under Chapter 12, Motor Vehicles and Traffic, Article V, Stopping, Standing and Parking, Section 12-102(e), to include a provision for the prohibition of stopping, standing, or parking of motor vehicles on school days between the hours of 9:00 a.m. and 3:00 p.m. along the west side of Wilma Lane from its intersection with Merriman Drive to its intersection with Karen Court; authorizing and directing the traffic engineer for the City of Plano to cause placement of traffic control devices to give notice of the restriction; and providing a repealer clause, a severability clause, a penalty clause, and an effective date. [Consent Agenda Item (G)]

### **Award of Contract**

To approve and authorize a contract with Jones & Boyd, Inc. to provide Engineering Services in conjunction with parking lot and plaza renovations at High Point Athletic Fields in an amount not to exceed \$86,500; and authorizing the City Manager to execute any and all documents necessary to effectuate the contract. [Consent Agenda Item (H)]

### **Reimbursement of Oversize Participation**

To approve and authorize reimbursement to Cougar Real Estate, Ltd. for oversize participation for paving and drainage improvements in Marsh Lane associated with the construction of Plano/544 Business Park in the amount of \$45,990. [Consent Agenda Item (I)]

To approve and authorize reimbursement to Hills of Indian Creek Association, Ltd. for oversize participation for paving improvements associated with construction of Marsh Lane in the amount of \$28,770. [Consent Agenda Item (J)]

### **END OF CONSENT**

**Bid No. C016-03** for a fixed-price contract for Municipal Court Collection Services and Verification of Financial Responsibility in the estimated annual amount of \$100,000. [Consent Agenda Item (B)] (See Exhibit “E”)

Larry Bergman representing American Municipal Service Corporation, spoke regarding the current level of City collections and the software being utilized. He spoke to his bid being the lowest and regarding its guarantee.

**Bid No. C016-03 (cont'd)**

Chief Administrative Judge Stevenson spoke regarding the Municipal Court Advisory Committee and independent evaluation of the contracts. He advised that all three evaluations selected Municipal Services Bureau based on information contained in the bids including their experience with cities the size of Plano. Judge Stevenson responded to the Council regarding the number of warrants handled in-house and his recommendation to move forward with the current agency.

Upon a motion made by Mayor Pro tem Dyer and seconded by Council Member McGee, the Council voted 8-0 to approve Bid No. C016-03 for a fixed-price contract for Municipal Court Collection Services and Verification of Financial Responsibility in the estimated annual amount of \$100,000.

Due to conflicts of interest, Deputy Mayor Pro tem Stovall and Council Member Stahel stepped down from the bench on the following two items.

**Approval of QISV** - To authorize an expenditure for professional consulting services from Exodus Consulting Group, LLC, a vendor listed on the State Purchasing and General Services Commission Qualified Information Services Vendor list at an hourly rate of \$150 per hour and for a total amount not to exceed \$50,000; and authorizing the City Manager to execute all documents necessary to effectuate the purchase (QISV#1752923695600) [Consent Agenda Item (K)]

Upon a motion made by Council Member Magnuson and seconded by Council Member Johnson, the Council voted 6-0 to authorize an expenditure for professional consulting services from Exodus Consulting Group, LLC, a vendor listed on the State Purchasing and General Services Commission Qualified Information Services Vendor list at an hourly rate of \$150 per hour and for a total amount not to exceed \$50,000; and authorizing the City Manager to execute all documents necessary to effectuate the purchase.

**Approval of Expenditure** - To authorize an expenditure for additional professional consulting services from Checkmate Consulting, Inc. in an amount not to exceed \$59,945; and authorizing the City Manager to execute all documents necessary to effectuate the purchase. [Consent Agenda Item (L)]

Upon a motion made by Council Member McGee and seconded by Mayor Pro tem Dyer, the Council voted 6-0 to authorize an expenditure for additional professional consulting services from Checkmate Consulting, Inc. in an amount not to exceed \$59,945; and authorizing the City Manager to execute all documents necessary to effectuate the purchase.

Deputy Mayor Pro tem Stovall and Council Member Stahel resumed their seats at the bench.

**Public Hearing and adoption of Ordinance No. 2003-1-14 as requested in Zoning Case 2002-65** – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, granting Heritage Resource Designation H-27 to a 0.5± acre on the southeast corner of 17th Street and H Avenue at 900 East 17th Street, Joe Forman Addition, Lot 13A, an addition to the City of Plano, Collin County, Texas, presently zoned Urban Residential and Heritage Resource Designation H-20; 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 #59. Applicant: Jack and Cindy Boggs [Regular Agenda Item (1)]

Planner Watson reviewed the history of the house and criteria for designation and advised that the Heritage Commission/Planning and Zoning Commission recommend approval of the request as submitted.

Mr. Watson responded to Council Member Johnson regarding the levels of designation and stated that with individual/residential designation the property would be eligible for 100% exemption on the value of improvements. He advised that tax exemption is a separate process from designation, that all taxing entities are impacted, and spoke regarding designation as a planning tool. Mr. Watson spoke to reviewing the tax exemption ordinance separate from the designation process, the standards required by the Heritage Commission and stated that if these are not met, the designation may be revoked. He responded to Council Member Johnson regarding the number of properties receiving exemptions. Council Member Lambert requested future agenda items include information regarding the current valuation of the house and tax consequences.

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 Stahel and seconded by Mayor Pro tem Dyer, the Council voted 8-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, granting Heritage Resource Designation H-28 to a 0.5± acre on the north side of 18th Street, 208± feet east of H Avenue at 909 East 18th Street, Joe Forman Addition, Lot 17B, an addition to the City of Plano, Collin County, Texas, presently zoned Retail with Heritage Resource Designation H-20 as requested in Zoning Case 2002-66 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. 2003-1-15.

**Public Hearing and adoption of Ordinance No. 2003-1-15 as requested in Zoning Case 2002-66** - To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, granting Heritage Resource Designation H-28 to a 0.5± acre on the north side of 18th Street, 208± feet east of H Avenue at 909 East 18th Street, Joe Forman Addition, Lot 17B, an addition to the City of Plano, Collin County, Texas, presently zoned Retail with Heritage Resource Designation H-20; 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 #59. Applicant: Hallway, Inc. [Regular Agenda Item (2)]

Planner Watson reviewed the history of the house and criteria for individual designation and advised that the Heritage Commission/Planning and Zoning Commission recommend approval of the request as submitted.

Council Members Johnson and Stahel spoke regarding the owner's restoration efforts.

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 Stahel and seconded by Council Member Johnson, the Council voted 8-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, granting Heritage Resource Designation H-28 to a 0.5± acre on the north side of 18th Street, 208± feet east of H Avenue at 909 East 18th Street, Joe Forman Addition, Lot 17B, an addition to the City of Plano, Collin County, Texas, presently zoned Retail with Heritage Resource Designation H-20 as requested in Zoning Case 2002-66 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. 2003-1-15.

**Public Hearing and an appeal of the Planning and Zoning Commission's Denial of Zoning Case 2002-30** – Request to rezone 10.0± acres on the southwest corner of Chase Oaks Boulevard and future Seabrook Drive from Planned Development-107-Office-2 (PD-107-O-2) to Planned Development-Single Family Attached (PD-SF-A) to accommodate the development of townhomes. Neighborhood #21. [Regular Agenda Item (3)]

Director of Planning Jarrell advised that the applicant has requested this item be tabled until the February 24, 2003 Council meeting.

Upon a motion made by Council Member Lambert and seconded by Council Member Stahel, the Council voted 8-0 to table the Public Hearing and an appeal of the Planning and Zoning Commission's Denial of Zoning Case 2002-30 – Request to rezone 10.0± acres on the southwest corner of Chase Oaks Boulevard and future Seabrook Drive from Planned Development-107-Office-2 (PD-107-O-2) to Planned Development-Single Family Attached (PD-SF-A) to accommodate the development of townhomes until February 24, 2003.

**Resolution No. 2003-1-16(R):** To approve the terms and conditions of a roadway assessment agreement by and between City of Plano, Texas and the Trustees of the Darla C. Brodsky Irrevocable Marital Deduction Trust dated May 23, 1988, Virginia Maxwell-Hale, Trustee for the benefit of the Charles J. Ziff 1977 Special Trust for Children, Ziff Investment Partners and Robert J. Ziff Associates LLC, for improvements to Spring Creek Parkway from approximately 370 feet east of Midway Road to the Dallas North Tollroad; authorizing its execution by the City Manager; and providing an effective date. Tabled 01-13-03[Regular Agenda Item (4)]

Upon a motion made by Council Member Stahel and seconded by Deputy Mayor Pro tem Stovall, the Council voted 8-0 to remove the item from the table.

Upon a motion made by Council Member Lambert and seconded by Council Member Stahel, the Council voted 8-0 to approve the terms and conditions of a roadway assessment agreement by and between City of Plano, Texas and the Trustees of the Darla C. Brodsky Irrevocable Marital Deduction Trust dated May 23, 1988, Virginia Maxwell-Hale, Trustee for the benefit of the Charles J. Ziff 1977 Special Trust for Children, Ziff Investment Partners and Robert J. Ziff Associates LLC, for improvements to Spring Creek Parkway from approximately 370 feet east of Midway Road to the Dallas North Tollroad; authorizing its execution by the City Manager; and providing an effective date; and further to adopt Resolution No. 2003-1-16(R).

**Public Hearing** to consider proposed assessments pertaining to the paving and improvement of a portion of Spring Creek Parkway from approximately 370 feet east of Midway Road to the Dallas North Tollroad; City Council discussion and direction on this matter. This Public Hearing was tabled on 12-09-02 and 01-13-03. [Regular Agenda Item (5)]

This item was withdrawn.

Council Member McGee spoke regarding his work for Senator John Cornyn, thanked his fellow Council members and the citizens of Plano, and tendered his resignation from the Council.

There being no further discussion, Mayor Evans adjourned the meeting at 9:04 p.m.

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Pat Evans, **MAYOR**

ATTEST:

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Elaine Bealke, City Secretary