

PLANO CITY COUNCIL
April 22, 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

STAFF

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

Mayor Akers convened the meeting into open session on Monday, April 22, 2002, at 7:02 p.m., in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present.

The invocation was led by Pastor Raymond Jones of the Holy Temple Church of God in Christ.

The pledge of allegiance was led by the Willing Workers of the Douglass Center.

Mayor Akers presented a proclamation recognizing "Better Speech and Hearing Month."

Mr. Alex R. Schell, III was not in attendance for his oath of office.

GENERAL DISCUSSION

No one appeared to speak.

Receive City Manager's response to comments of public interest made at a previous Council meeting. Council may discuss and provide direction on the following item(s):

1. Response re Flooding in Area of Davis Elementary

Executive Director Turner stated that the flooding problem at the Parkhaven Drive and Roundrock Trail bridges along Pitman Creek has existed since the early to mid 1980's and spoke regarding a report issued to the Council in March of 1987. He stated that it appears the only solution to completely eliminating the flooding condition would be to reconstruct the bridges thereby increasing their capacity. He stated that there has been little development in the area north of the bridges since the 1980's, most of the problem is due to channelization work upstream, and spoke regarding the effect of heavy rain when water pools at this location. Mr. Turner stated that some improvements might include cleaning the channel and removing vegetation, but indicated that these would not significantly increase the capacity. He stated that while properties are not at risk, there may be safety problems with water topping the bridge. Mr. Turner stated concerns related to reconstructing the bridges to include a project cost of approximately \$2.5 million and uncertainty regarding the consequences downstream. He stated that the City Engineer has been requested to work with the Public Works Department to further evaluate what can be done in the near term and whether or not to conduct an additional engineering study of the entire length of the creek to determine the appropriateness of future improvements in this area and to bring back information before the Council. Mr. Turner stated that a future bond program would be needed to fund project costs at the level identified tonight.

Mr. Turner responded to Council Member Lambert that the study done in 1987 only evaluated this crossing. Council Member Lambert spoke to the effect of correcting the problem at this location possibly moving the flooding downstream, evaluating the situation all the way downstream, and looking into gates for the roadways. Mr. Turner responded that finding areas of "valley storage" would require further work, that he did not think there was enough to make a significant difference and that Staff will evaluate safety measures. Mayor Akers spoke to finding a complete solution. Mr. Turner advised that Staff will come back with a recommendation on whether or not to pursue a full engineering study at the May 13 Council meeting.

City Engineer Upchurch responded to Council Member McGee that as a part of the 1987 study, consideration was given to the effect raising the elevation might have in directing water to neighboring residential properties. He spoke regarding coming back to Council with more information and stated that the type of analysis being considered would take considerable time and effort by an outside consultant and that the potential cost can be brought back to the Council.

Council Member Lambert spoke to the bridges meeting design criteria in place at the time they were built and regarding the possible need for a bond issue. Mr. Turner spoke to reviewing the problem at the bridges as well as properties in the north that experience drainage problems. Mayor Akers spoke to the commitment by Staff and the Council to find a solution.

CONSENT AGENDA

Upon the request of the Council, Consent Agenda Item (L) was removed for individual consideration in order to amend the ordinance to reflect eight members instead of nine.

Upon the request of Council Members Stahel and Stovall, Consent Agenda Items “N,” “O,” “P,” and “Q” were removed for individual consideration due to conflicts of interest.

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

Approval of Minutes [Consent Agenda Item (A)]
April 8, 2002

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. B074-02 for construction of intersection improvements – Parker Road at Preston Road in the amount of \$302,038. [Consent Agenda Item (B)] (See Exhibit “A”)

Bid No. P0070-02 for the Arterial Concrete Replacement Contract 2002, within the City of Plano in the amount of \$435,646. This project will involve the replacement of pavement sections on Parker Road between Jupiter Road and Alma Drive; Independence Parkway and Preston Meadow Drive; Willow Bend Drive and Parkwood Boulevard and various other locations that may be identified by the City where repairs are needed. [Consent Agenda Item (C)] (See Exhibit “B”)

Bid No. C063-02 for Restroom and Litter Clean-up in the estimated annual amount of \$89,500. [Consent Agenda Item (D)] (See Exhibit “C”)

Adoption of Resolutions

Resolution No. 2002-4-13(R): To approve the purchase of Smartnet mobile and portable radios from Motorola Communications and Electronics, Incorporated; a sole-source provider, authorizing the City Manager to take such action as is necessary to effectuate the purchase; and providing an effective date. [Consent Agenda Item (E)]

Adoption of Ordinances

Ordinance No. 2002-4-14: To amend Section 15-117. Planting, Preserving, Removing, Etc. – On Public Property and Section 15-119 Breaking, Injuring, Etc., Trees, Shrubs on Public Property of Ordinance 89-11-15 codified as Article VI. Planting, Maintaining Trees, Shrubs on Public Property of Chapter 15 “Parks and Recreation” of the Code of Ordinances of the City of Plano; deleting Section 15-121 Permit Required to Plant, Prune, Etc., Trees, Shrubs on Public Property of Ordinance 89-11-15 codified as Article VI. Planting, Maintaining Trees, Shrubs on Public Property of Chapter 15 “Parks and Recreation” of the Code of Ordinances of the City of Plano; amending Section 19-1(A) of Ordinance 97-9-15 codified as Article I. In general of Chapter 19 “Streets and Sidewalks” of the Code of Ordinances of the City of Plano; providing a severability clause, a repealing clause, a savings clause, a penalty clause and a publication clause; and providing an effective date. [Consent Agenda Item (F)]

Ordinance No. 2002-4-15: To amend a Subsection of Ordinance No. 2001-9-9, codified as Article II, Building Code, Division 2, Section 6-37, Subsection 10 of Chapter 6 of the City of Plano Code of Ordinances by adding a provision on exterior wall construction and providing a repealer clause, a severability clause, a savings clause, a penalty clause, and an effective date. [Consent Agenda Item (G)]

Ordinance No. 2002-4-16: To amend Section 12-73(b) of Chapter 12 (Traffic Code) of the City of Plano Code of Ordinances to include a new school zone beginning at a point on Coldwater Creek Drive one hundred (100) feet east of Moonbeam Circle and continuing in an easterly direction to a point one hundred fifty (150) feet east of Ruthridge Drive; providing a fine for criminal penalties not to exceed \$200 for each offense; and providing a repealer clause, a severability clause, a savings clause, and an effective date. [Consent Agenda Item (H)]

Ordinance No. 2002-4-17: To amend Section 12-73(b) of Chapter 12 (Traffic Code) of the City of Plano Code of Ordinances to include a new school zone beginning at a point on Scenic Drive one hundred fifty (150) feet west of Cornerstone Drive and continuing in a westerly direction to a point one hundred (100) feet west of Orchard Hill Drive; providing a fine for criminal penalties not to exceed \$200 for each offense; and providing a repealer clause, a severability clause, a savings clause, and an effective date. [Consent Agenda Item (I)]

Ordinance No. 2002-4-18: To amend Section 12-73(b) of Chapter 12 (Traffic Code) of the City of Plano Code of Ordinances to include a new school zone beginning at a point on Oxbow Creek Drive one hundred fifty (150) feet south of Pondview Drive and continuing in a northerly direction to its intersection with Coldwater Creek Drive; providing a fine for criminal penalties not to exceed \$200 for each offense; and providing a repealer clause, a severability clause, a savings clause, and an effective date. [Consent Agenda Item (J)]

Ordinance No. 2002-4-19: To repeal Ordinance No. 2001-9-28; establishing the number of certain classifications within the Police and Fire Departments for Fiscal Year 2001-2002; establishing the authorized number and effective dates of such positions for each classification; establishing a new salary plan for the Police and Fire Departments effective May 1, 2002; and providing a repealer clause, a severability clause, and an effective date. [Consent Agenda Item (K)]

Approval of Contracts:

To approve expenditures for the rental of convenience copiers from 05/01/02 to 08/31/02 for the amount of \$75,453 and renewal of the rental agreement from 09/01/02 to 08/31/04 for the amount of \$452,716 to Pitney Bowes, Inc. a vendor listed on the State Purchasing and General Services Commission Vendors list; and authorizing the City Manager to execute all documents necessary to effectuate the rental. [Consent Agenda Item (M)]

END OF CONSENT

Ordinance No. 2002-4-20: To amend Section 16-207 Appointments and Section 16-211 (C) Duties and deleting Section 16-210 Standing Committees of Article IX Keep Plano Beautiful Commission of Chapter 16 Solid Waste of the Code of Ordinances of the City of Plano; increasing the size of the commission to nine members, removing the standing committees and clarifying the commission's source of funding; providing a repealer clause, a severability clause, a savings clause and an effective date. [Consent Agenda Item (L)]

Upon a motion made by Council Member Lambert and seconded by Deputy Mayor Pro tem Dyer the Council voted 8-0 to amend Section 16-207 Appointments and Section 16-211 (C) Duties and deleting Section 16-210 Standing Committees of Article IX Keep Plano Beautiful Commission of Chapter 16 Solid Waste of the Code of Ordinances of the City of Plano; increasing the size of the commission to *eight* members (seven members plus a chair), removing the standing committees and clarifying the commission's source of funding; providing a repealer clause, a severability clause, a savings clause and an effective date; and further to adopt Ordinance No. 2002-4-20 as revised.

Due to conflicts of interest, Council Members Stahel and Stovall stepped away from the bench on the following items which were considered concurrently.

Approval of Contract: To approve of a five (5) year contract with eVerge Group of Texas, Ltd. to upgrade and maintain the City's "PeopleSoft" human resources and payroll system. The contract has a two (2) year option period. The amounts are \$190,000 for the immediate upgrade from Version 7.0 to 8.0 and \$19,000 per month renewable on an annual basis. eVerge was selected through a competitive Request for Proposal (RFP) process. This approval will authorize the City Manager to execute all documents necessary to effectuate the purchase. [Consent Agenda Item (N)]

Approval of QISV: To approve the purchase of eGovernment application development services in the amount of \$698,000 from eLevel Corporation, a vendor listed on the State Purchasing and General Services Commission “Qualified Information Services Vendor” list; and authorizing the City Manager to execute all documents necessary to effectuate the purchase. [Consent Agenda Item (O)]

Approval of QISV: To approve an expenditure for the purchase of an external disk array in an amount not to exceed \$43,584 from CDW-G, a vendor listed on the State Purchasing and General Services Commission Qualified Information Services Vendor’s list; and authorizing the City Manager to execute all documents necessary to effectuate the purchase. [Consent Agenda Item (P)]

Approval of QISV: To approve an expenditure for the purchase and installation of personal computers with related software in an amount not to exceed \$297,440 from Gateway Companies, Inc., a vendor listed on the State Purchasing and General Services Commission Qualified Information Services Vendor list; and authorizing the City Manager to execute all necessary documents to effectuate the purchase. [Consent Agenda Item (Q)]

Upon a motion made by Mayor Pro tem Neudorff and seconded by Deputy Mayor Pro tem Dyer, the Council voted 6-0 to approve a five (5) year contract with eVerge Group of Texas, Ltd. to upgrade and maintain the City’s “PeopleSoft” human resources and payroll system. The contract has a two (2) year option period. The amounts are \$190,000 for the immediate upgrade from Version 7.0 to 8.0 and \$19,000 per month renewable on an annual basis. eVerge was selected through a competitive Request for Proposal (RFP) process. This approval will authorize the City Manager to execute all documents necessary to effectuate the purchase; the purchase of eGovernment application development services in the amount of \$698,000 from eLevel Corporation, a vendor listed on the State Purchasing and General Services Commission “Qualified Information Services Vendor” list; and authorizing the City Manager to execute all documents necessary to effectuate the purchase; to approve an expenditure for the purchase of an external disk array in an amount not to exceed \$43,584 from CDW-G, a vendor listed on the State Purchasing and General Services Commission Qualified Information Services Vendor’s list; and authorizing the City Manager to execute all documents necessary to effectuate the purchase; and to approve an expenditure for the purchase and installation of personal computers with related software in an amount not to exceed \$297,440 from Gateway Companies, Inc., a vendor listed on the State Purchasing and General Services Commission Qualified Information Services Vendor list; and authorizing the City Manager to execute all necessary documents to effectuate the purchase.

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

Discussion and direction Regarding Need for Charter Review Commission; Appointment of Charter Review Commission; Charter Review Commission Items for Consideration; and Consideration of a resolution to establish a Charter Review Commission; providing for appointment of members; establishing the purpose and responsibilities of the Commission; and providing an effective date. [Regular Agenda Item (1)]

Mayor Akers spoke to the Council making a decision regarding the appointment of a Charter Review Commission and determining those items that might be considered.

Jim Wilck, citizen of the City, spoke in favor of the appointment of a Charter Review Commission, to having an “open table” where anything may be discussed or presented, and to putting the issue of single-member districts on a ballot for the public to decide. Richard Simmons, citizen of the City, spoke to single-member districts, stating that each representative is then responsible primarily for the constituents who elect them, they would campaign only in the district they represent, and spoke regarding problems associated with the current structure. He requested the Council impanel a Charter Review Commission, that its scope include a review of the form of government, their meetings be open to include Public Hearings and the issue be brought to the public. Council Member Stovall spoke to the costs associated with running for office in the City of Dallas. Mr. Simmons spoke to addressing the issue of fair representation, stating that there are candidates that have been successful in their district only to lose to those who were able to advertise throughout the City because of their financial support. He requested the opportunity to review/debate the issue and let the citizens make a choice. Mr. Stovall spoke to the citizens letting the Council know how they feel on this issue.

Council Member Stahel stated that while it may be easier and more economical to run in a single-member district, it is his belief that the current system works better for Plano for the long term. He stated that he has not felt a “ground swell” of support for single-member districts or increased terms, etc. at this time, that he will continue monitoring citizen comments and is not in favor of a Charter Review Commission for this purpose.

Mayor Pro tem Neudorff stated his belief that the discussion of term limits or three-year terms is viable. He spoke to the “central core” being that area of the City that turns out the greatest percentage of voters in every election and stated that while he has an issue with single-member districts, he does not see a problem opening up the subject for discussion.

Council Member Stovall stated that he is not in favor of single-member districts, that he has not felt a “ground swell” for single-member districts except for a very small group of people, that he would welcome citizen input if they believe it is an issue to be considered. He further stated concern regarding the cost for a special election, his thoughts that the earliest an election would be held is next May and that at this point, he does not see reason to convene a committee.

Council Member McGee spoke to consideration of forming a commission and the requirement to wait two years for another review if an election takes place. He inquired if the charter must be updated through an election or if it could be updated administratively. First Assistant City Attorney Gilliam responded that the only way the charter can be changed is through a vote of the people and that even if the election were only to address "housekeeping" measures it would trigger the two-year waiting period. Mr. Gilliam responded to Council Member McGee that state law overrides the charter on any issues that are in conflict and that there is no imperative reason to move forward and make a charter amendment due to these items. He stated that external footnotes may be used as long as the material is not included in the body of the charter.

Council Member Lambert spoke to the confusion that exists regarding the City's current "place" system of government. He stated that he is not in favor of single-member districts per se nor in support of just doing "housekeeping." He spoke to receiving public input if a commission is appointed and that its appointment does not say that Plano is going to single-member districts. Mr. Lambert spoke in support of citizens making the decision by election, going forward to appoint a commission and not "hamstringing" them, and receiving a report by December 1. He stated that Staff could indicate what "housekeeping" items need commission input clarifying those issues where the charter is in conflict with state/federal law, and spoke to concern with the costs of a special election and support for calling the election next May.

Council Member Stovall stated a commission could be appointed in the fall. Council Member Lambert spoke to receiving a report by December 1 to allow time for public debate. Mayor Akers spoke to the process beginning at the suggestion of Staff and the City Attorney to address "housekeeping" items because the Charter is in conflict with state law and other regulations and that as the discussion began it was brought to Council's attention that there was interest in consideration of single-member districts, term limits, etc. He stated support of the citizens' right to determine the City's form of government.

A motion was made by Mayor Pro tem Neudorff and seconded by Council Member Lambert to move forward to appoint a Charter Review Commission commencing June 1, 2002, to receive public input to determine public support for a possible election on specific items other than housekeeping, and that a report be brought to the Council no later than December 1, 2002. The Council voted 4-4 with Deputy Mayor Pro tem Dyer and Council Members Stahel, Stovall and McGee voting in opposition. The motion failed.

A motion was made by Mayor Pro tem Neudorff and seconded by Council Member Lambert to appoint a Charter Review Commission commencing September 1, 2002, to report to the Council no later than December 1, 2002, and to consider placement on the May 2003 ballot so as not to incur the costs of a special election. No vote was taken at this time.

Council Member Stovall spoke to waiting until August in order to receive input from citizens letting the Council know whether or not to proceed. Council Member Lambert stated that if citizens know a commission will begin work in September, input will be received and the commission will have time to do research. Deputy Mayor Pro tem Dyer stated he has no problem bringing the issue forward when enough interest has been expressed. He spoke to input he has received that indicates overall public opposition to single-member districts and stated concern regarding the possibility of calling charter elections every two years in response to limited input. He stated concern with altering the structure of the City unless there is clear support and at this time he has not seen it.

Mayor Pro tem Neudorff restated the motion to appoint a Charter Review Commission commencing no earlier than September 1, 2002, to report to the Council no later than December 1, 2002, of any potential items other than housekeeping items. The Council voted 4-4 with Deputy Mayor Pro tem Dyer and Council Members Stahel, Stovall and McGee voting in opposition. The motion failed.

Resolution No. 2002-4-21(R): To review and approve the City's written public funds investment policy; and providing an effective date. [Regular Agenda Item (2)]

Director of Finance John McGrane advised that the Council is required by state law to annually review and approve the City's investment policy, that House Bill 2957 clarified the uses of letters of credit within the Public Funds Depository Act, and the City's policy has been changed to reflect such.

Upon a motion made by Council Member Lambert and seconded by Council Member Stovall, the Council voted 7-0 to approve the City's written public funds investment policy; and providing an effective date and further to adopt Resolution No. 2002-4-21(R). (Mayor Pro tem Neudorff was down from the bench on this item.)

Public Hearing and adoption of Ordinance No. 2002-4-22 as requested in Zoning Case 2002-10 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, granting Specific Use Permit No. 468 so as to allow the additional use of a health/fitness center on 12.4± acres on the west side of Ohio Drive, 370± feet north of Legacy Drive in the City of Plano, Collin County, Texas, presently zoned 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. Zoned Office-2. Neighborhood #9. Applicant: Breeze Texas Corporation [Regular Agenda Item (3)]

Ordinance No. 2002-4-22 (cont'd)

Director of Planning Jarrell spoke to the applicant's plan to provide additional landscape adjacent to the multi-family complex and berming and landscaping along the east side adjacent to single-family neighborhood. She further advised that the applicant has met with the homeowners association to address their concerns and that the Planning and Zoning Commission recommended approval of the request as submitted. Ms. Jarrell responded to Council Member Lambert that the letters received in opposition were received prior to the Planning and Zoning Commission meeting and addressed traffic and uses other than office being located in this area.

Mayor Akers opened the Public Hearing. Bill Dahlstrom, representing the applicant thanked the Staff for their assistance. Mark Zaebst, representing the applicant, reviewed the site plan and proposed landscaping/berms, programs and facilities to be offered, and building plans. He responded to Deputy Mayor Pro tem Dyer regarding the amount of parking included and their desire to be sure there are enough spaces for peak periods. No one else spoke either for or against the request. The Public Hearing was closed.

Director of Planning Jarrell responded to Deputy Mayor Pro tem Dyer that the applicant has limited the number of access points to Ohio Drive and that these provide fire access and fire lane coverage to the rear of the building.

Upon a motion made by Deputy Mayor Pro tem Dyer and seconded by Mayor Pro tem Neudorff, the Council voted 8-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, granting Specific Use Permit No. 468 so as to allow the additional use of a health/fitness center on 12.4± acres on the west side of Ohio Drive, 370± feet north of Legacy Drive in the City of Plano, Collin County, Texas, presently zoned Office-2; as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2002-10; 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. 2002-4-22.

Mayor Pro tem Neudorff spoke regarding his tenure on the Council, those that served with him, thanked the voters for electing him to office and his family for their support.

There being no further discussion, Mayor Akers adjourned the meeting at 8:30 p.m.

Jeran Akers, **MAYOR (Outgoing)**

Pat Evans, **MAYOR (Incoming)**

ATTEST:

Elaine Bealke, City Secretary