

**PLANO CITY COUNCIL**  
**June 11, 2001**

**COUNCIL MEMBERS**

Jeran Akers, Mayor  
Rick Neudorff, Mayor Pro tem  
Phil Dyer, Deputy Mayor Pro tem  
Shep Stahel  
Pat Evans  
Steve Stovall  
John R. Roach, Jr.  
Ken Lambert

**STAFF**

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

Mayor Akers convened the meeting into open session on Monday, June 11, 2001, at 7:03 p.m., in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present with the exception of Council Members Evans and Roach.

The invocation was led by Pastor Charles Zang of Resurrection Lutheran Church.

The Pledge of Allegiance was led by Representatives of the Boys and Girls Clubs of Collin County, Plano.

Mayor Akers presented a plaque recognizing the service of Robert B. Hicks on the Board of Adjustment.

**GENERAL DISCUSSION**

No one appeared to speak.

**CONSENT AGENDA**

Upon a motion made by Council Member Lambert and seconded by Mayor Pro tem Neudorff, the Council voted 6-0 to approve and adopt all items on the Consent Agenda as recommended and as follows:

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

May 29, 2001  
June 4, 2001

**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. B137-01** for the Purchase and Installation of Video Compression Equipment in the amount of \$29,438 for the Traffic Division. [Consent Agenda Item (B)] (See Exhibit "A")

**Bid No. B128-01** to Fisk Technologies for Performance Audio System for the Plano Courtyard Theater in the amount of \$204,909. [Consent Agenda Item (C)] (See Exhibit "B")

**Bid No. B129-01** for the Replacement of the Dish Cleaning Equipment at Plano Centre in the amount of \$39,850. [Consent Agenda Item (D)] (See Exhibit "C")

**Bid No. B076-01** to establish a contract for development of a Public Art Master Plan in the amount of \$39,910. [Consent Agenda Item (E)] (See Exhibit "D")

**Bid No. B142-01** for residential pavement repairs on the 2000-01 Residential Slab Replacement Project within the City of Plano in the amount of \$1,883,920. This project will involve the replacement of street, curb and alley pavement and construction of barrier free ramps in the residential areas bounded by Alma Road, Spring Creek Parkway, Custer Road and Legacy Drive. [Consent Agenda Item (F)] (See Exhibit "E")

**Bid No. B138-01** for the Purchase of One Self-Propelled Riding Vacuum Sweeper in the amount of \$25,479 for the Equipment Services Department. [Consent Agenda Item (G)] (See Exhibit "F")

**Bid No. B127-01** for Four Riding Turf Mowers in the amount of \$53,728 for the Ground Maintenance Services District 2 Department. [Consent Agenda Item (H)] (See Exhibit "G")

### **Adoption of Resolutions**

**Resolution No. 2001-6-6(R):** To authorize intervention before the Railroad Commission of Texas in GUD No. 9180 or a successor docket; authorizing participation with other cities served by TXU Gas Distribution in administrative and court proceedings involving TXU gas cost reconciliation matters related to a filing anticipated to be made in the Summer of 2001 as directed by a steering committee of cities; designating a representative of the City to serve on a steering committee; requiring reimbursement of reasonable rate case expense; and providing an effective date. [Consent Agenda Item (I)]

### **Adoption of Ordinances**

**Ordinance No. 2001-6-7:** To amend Ordinance No. 2000-4-16, Section 6-470 (d) (1) (Limitations on neighboring property) of Article XI (Outdoor Lighting), Chapter 6 of City of Plano Code of Ordinances by providing an exception for interior property line of non-residential developments; providing a repealer clause, a severability clause, a penalty clause, a savings clause, and an effective date. [Consent Agenda Item (J)]

### **Approval of Agreements**

To approve the terms and conditions of an interlocal agreement between the City of Plano, the City of Richardson and the City of Carrollton concerning professional services for a retail study. [Consent Agenda Item (K)]

### **Award of Contract**

To approve entering into a three-year contract with Henkels & McCoy, Inc for an estimated annual amount of \$50,000 for the continuing delivery of cabling systems for both our voice and data cabling infrastructure; and authorizing the City Manager to execute all documents necessary to effectuate the delivery of these structures. [Consent Agenda Item (L)]

### **Purchase off Existing Contract**

To approve the purchase of four (4) Ford F350 cab and chassis trucks with utility bodies through the Houston-Galveston Area Council of Governments Inter-Local Contract Agreement, Contract No. VE00-03 in the amount of \$136,999 for the Equipment Services Department. [Consent Agenda Item (M)]

### **END OF CONSENT:**

Mayor Akers advised that Regular Agenda Item "1" would be considered immediately preceding Regular Agenda Item "8".

**Public Hearing** pursuant to Chapter 26 of the Texas Parks and Wildlife Code pertaining to use or taking of a portion of City of Plano park, known as Clearview Park for drainage easement facilities to the City of Plano. [Regular Agenda Item (2)]

City Engineer Alan Upchurch spoke regarding a proposed drainage easement and advised regarding Plano Independent School District's construction of an early development school in the area. Mr. Upchurch stated that there are no trees in the area and that the ground will be restored to its original condition.

Park Services Manager Jim Fox stated that Staff has reviewed the project and concurs that there is no feasible or prudent alternative to this location, all reasonable planning has been done to minimize harm to the parkland and spoke regarding review of the location. He stated that no trees will be removed or impacted on the park land, irrigation and turf area will be returned to its original condition after the drainage line is installed, there will be no long-term effect on the recreational use of the park and stated that the request has been reviewed by the Parks and Recreation Planning Board who voted in favor and determined that no harm will come to the property as a result of the project.

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

**Ordinance No. 2001-6-8:** To approve a project for a drainage easement to the City of Plano, requiring the use or taking of a portion of City of Plano public park land, known as Clearview Park; providing for a determination that there is no feasible and prudent alternative to the proposed use or taking of the park land; and that the proposed project includes all reasonable planning to minimize harm to the land and the park and recreation area resulting from the use; and providing an effective date. [Regular Agenda Item (3)]

Upon a motion made by Council Member Lambert, and seconded by Mayor Pro tem Neudorff, the Council voted 6-0 to approve a project for a drainage easement to the City of Plano, requiring the use or taking of a portion of City of Plano public park land, known as Clearview Park; providing for a determination that there is no feasible and prudent alternative to the proposed use or taking of the park land; and that the proposed project includes all reasonable planning to minimize harm to the land and the park and recreation area resulting from the use; and providing an effective date; and further to adopt Ordinance No. 2001-6-8.

**Resolution No. 2001-6-9(R):** To approve the granting of a drainage easement being in the Daniel Rowlett Survey, Abstract No. 738, City of Plano, Collin County, Texas across a portion of City of Plano park known as Clearview Park and authorizing the execution of the easement by the City Manager; and providing an effective date. [Regular Agenda Item (4)]

Upon a motion made by Council Member Stovall and seconded by Deputy Mayor Pro tem Dyer, the Council voted 6-0 to approve the granting of a drainage easement being in the Daniel Rowlett Survey, Abstract No. 738, City of Plano, Collin County, Texas across a portion of City of Plano park known as Clearview Park and authorizing the execution of the easement by the City Manager; and providing an effective date; and further to adopt Resolution No. 2001-6-9(R).

**Public Hearing** pursuant to Chapter 26 of the Texas Parks and Wildlife Code pertaining to use or taking of a portion of City of Plano park, known as Eldorado Park, for drainage easement facilities to the City of Plano. [Regular Agenda Item (5)]

City Engineer Alan Upchurch spoke regarding a proposed drainage easement and advised regarding Plano Independent School District's development of an early development school in the area. Mr. Upchurch stated that no vegetation will be removed and that the ground will be restored to its original condition.

Park Services Manager Jim Fox stated that Staff has reviewed the project and concurs that there is no feasible or prudent alternative to this location, all reasonable planning has been done to minimize harm to the parkland and spoke regarding review of the location. He stated that no trees will be removed or impacted on the park land, the drainage area will be returned to its original condition after installation, there will be no long-term effect on the recreational use of the park and stated that the request has been reviewed by the Parks and Recreation Planning Board who voted in favor and determined that no harm will come to the property as a result of the project. He responded to Council Member Stovall that the land already drains into the park.

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

The following two items were considered concurrently.

**Ordinance No. 2001-6-10:** To approve a project for a drainage easement to the City of Plano, requiring the use or taking of a portion of City of Plano public park land, known as Eldorado Park; providing for a determination that there is no feasible and prudent alternative to the proposed use or taking of the park land; and that the proposed project includes all reasonable planning to minimize harm to the land and the park and recreation area resulting from the use; and providing an effective date. [Regular Agenda Item (6)]

**Resolution No. 2001-6-11(R):** To approve the granting of a drainage easement being in the Martha McBride Survey, Abstract No. 553, City of Plano, Collin County, Texas, across a portion of City of Plano park known as Eldorado Park and authorizing the execution of the easement by the City Manager; and providing an effective date. [Regular Agenda Item (7)]

Upon a motion made by Deputy Mayor Pro tem Dyer and seconded by Mayor Pro tem Neudorff, the Council voted 6-0 to approve the following items:

**To approve a project for a drainage easement to the City of Plano**, requiring the use or taking of a portion of City of Plano public park land, known as Eldorado Park; providing for a determination that there is no feasible and prudent alternative to the proposed use or taking of the park land; and that the proposed project includes all reasonable planning to minimize harm to the land and the park and recreation area resulting from the use; and providing an effective date; and further to adopt Ordinance No. 2001-6-10.

**To approve the granting of a drainage easement** being in the Martha McBride Survey, Abstract No. 553, City of Plano, Collin County, Texas, across a portion of City of Plano park known as Eldorado Park and authorizing the execution of the easement by the City Manager; and providing an effective date; and further to adopt Resolution No. 2001-6-11(R).

Due to a conflict of interest on the following two items, Mayor Akers stepped away from the bench at 7:20 p.m. and did not return for the remainder of the meeting.

**Consideration of a development agreement**, sales contract and parking easement between the City of Plano and Plano Transit Village Partners for Plano Transit Village II, a redevelopment project located on 3.3 acres at the northeast corner of K Avenue and 14<sup>th</sup> Street [Regular Agenda Item (1)]

Executive Director Turner stated that 2.2 acres of the property are under contract by Amicus Partners from TXU Electric and the remaining 1.1 acres is being provided by the City in exchange for 100 parking spaces to be located in a garage that is part of the development. He advised that the project would develop approximately 240,000 square feet of gross building area and result in approximately 220 dwelling units and 25,000 square feet of non-residential space and spoke regarding the development's schedule. Mr. Turner spoke regarding the 100 spaces assigned to the City and stated that the developer has the option of relocating the spaces when the property redevelops or to convey 1.1 acres of land close to the site. He stated that the City would provide an \$800,000 allowance for the construction of public improvements associated with the project and that Amicus would construct a new street to provide access to the site and would pay all impact fees and development permit fees except as waived under the terms of the neighborhood empowerment district. He responded to Deputy Mayor Pro tem Dyer that the 100 parking spaces would be above what is required for the site itself.

Upon a motion made by Council Member Lambert and seconded by Deputy Mayor Pro tem Dyer, the Council voted 5-0 to approve a development agreement, sales contract and parking easement between the City of Plano and Plano Transit Village Partners for Plano Transit Village II, a redevelopment project located on 3.3 acres at the northeast corner of K Avenue and 14<sup>th</sup> Street.

**Public Hearing and Consideration of Zoning Case 2001-05**, and direction to Staff on Amending the Heritage Designation for the Courtyard Theater to allow the additional use of a private club – A request to amend Section 3-105 (Private Clubs) of the Zoning Ordinance to revise the distance requirement between churches and schools and private clubs in the Business Government (BG) district and to eliminate the food-to-beverage ratio for private clubs in the BG district. Applicant: City of Plano. Tabled 04/09/01 [Regular Agenda Item (8)]

Upon a motion made by Council Member Stahel and seconded by Council Member Stovall, the Council voted 5-0 to remove the item from the table.

Executive Director Turner spoke to items in conflict with private club regulations in the Business Government zoning district that might be amended in order to allow the City to consider designation of a specific use permit for the Courtyard Theater which include the distance requirement and the food-to-beverage ratio requirement. He spoke to Staff's review of the types of functions likely to be catered at the Courtyard Theater and the determination that it will comply with the existing ordinance requirement that not more than 35% of food and beverage revenues will be derived from the sale of alcoholic beverages. Mr. Turner further stated that with regards to the distance separation from a church, concerns were expressed by First Christian Church that a general amendment eliminating the distance requirement within the BG district would allow several properties in proximity to the church to be eligible for private clubs and stated that Staff is proposing an amendment to the heritage designation for the Courtyard Theater so that it might be considered as to whether or not it would be appropriate to allow for a private club at that location. He stated that no action is requested other than to initiate consideration and that this would be considered by the Heritage Commission and by the Planning and Zoning Commission before coming before the Council. Mr. Turner advised that Staff recommends allowing the withdrawal of Zoning Case 2001-05 and to initiate consideration of an amendment of the heritage designation for the Courtyard Theater and Cox property. He responded to Deputy Mayor Pro tem Dyer that the church's board met and voted to oppose a private club at the Courtyard Theater.

Mayor Pro tem Neudorff opened the Public Hearing. Ed Johnson representing the First Christian Church spoke to the church's board of elders' vote to oppose any and all attempts to change zoning, designation, percentage of food-to-alcohol sales or any other action on the City's part to allow the sale of alcoholic beverages next door to the church.

Council Member Stovall spoke to his understanding from at least two years ago that First Christian Church did not object to alcoholic beverages being served and that it was known from the beginning that the intent was to have alcoholic beverages available in certain circumstances. He spoke regarding negotiations to buy a portion of church land/buildings and that it was never hidden that there was a possibility of alcohol sales and that if he had known at the time that there was a severe objection, he would not have made the suggestion that the Courtyard Theater be built in the Cox Gymnasium.

Council Member Stahel made a motion to withdraw Zoning Case 2001-05 from consideration and to ask the Staff to initiate for consideration an amendment to the heritage designation of the Courtyard Theater to authorize operation of a private club. No vote was taken at this time.

Pam Hatcher, citizen of the City, spoke regarding consideration by the neighborhood and to the benefits that might be derived. She further spoke regarding her efforts to contact other churches located in the vicinity of theaters. No one else spoke either for or against the request. The Public Hearing was closed.

Council Member Lambert clarified that Council Member Stahel's motion would just initiate the process and Deputy Mayor Pro tem Dyer stated he would support the motion and spoke to his hopes that discussions between First Christian Church and Staff prove fruitful.

Upon a motion made by Council Member Stahel and seconded by Council Member Lambert the Council voted 5-0 to withdraw Zoning Case 2001-05 from consideration as recommended by Staff and to initiate the consideration of an amendment to the heritage designation for the Courtyard Theater to authorize operation as a private club.

There being no further discussion, Mayor Pro tem Neudorff adjourned the meeting at 7:46 p.m.

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Jeran Akers, **MAYOR**

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Rick Neudorff, **MAYOR PRO TEM**

ATTEST:

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Elaine Bealke, **City Secretary**