

PLANO CITY COUNCIL
August 12, 2002

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, August 12, 2002, at 7:03 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 Sam Fenceroy of Mt. Olive Church of Plano.

The Pledge of Allegiance was led by Jeremy King of Boy Scout Troop 1299.

Henry Gentry presented the Fourth of July Parade awards and Mayor Evans presented him with a proclamation recognizing his efforts.

Mayor Evans, Mayor Pro tem Dyer and Deputy Mayor Pro tem Stovall presented certificates of recognition to members of the Performing Arts Center Advisory Committee.

GENERAL DISCUSSION

Dr. John Carver, citizen of the City, stated concern regarding a native pecan tree threatened with destruction in the construction of a parking lot. Mayor Evans advised that the City Manager would look into the issue.

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. Presentation Regarding Coyotes

Environmental Health Director Collins responded to concerns regarding coyotes in Bob Woodruff Park advising the Council about the number of sightings per year, stating that there have been no attacks on humans and that the average number of pet attacks is 2-4 per year. He advised that a trapper who had conducted assessments and trapping recommended discontinuing trapping because the activity was not sufficient to represent a threat. Mr. Collins stated Staff's position that there is not a great likelihood of interaction with humans or pets that are leashed and spoke to the coyotes' affect on the ecosystem. He spoke to continued assessments by the trapper and stated that this is a case for animal control and not eradication.

Charles Elias, citizen of the City, spoke regarding the possibility of coyote attacks on humans, the ecosystem not being sufficient, concerns expressed by other citizens, Staff response to his reports and stated concern that coyotes are a continuing threat. He requested the Council remove the coyotes and initiate a control system. Mr. Elias responded to Council Member Lambert that the issue of leash use should not be considered in the discussion.

CONSENT AGENDA

City Secretary Bealke advised that Staff has requested Consent Agenda Item "E" be removed for individual consideration

Deputy Mayor Pro tem Stovall and Council Member Stahel advised that they would be stepping down on Consent Agenda Items "K" and "O" due to conflicts of interest.

Upon a motion made by Council Member Lambert and seconded by Council Member McGee, 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)]

July 22, 2002

July 24, 2002

August 5, 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. B107-02 for Construction of a Trail Underpass at an existing drainage structure under Midway Road to connect the neighborhood east of Midway Road to Shady Brook Trail and Sunset Park in the amount of \$326,944. (Project No. 4762.1) [Consent Agenda Item (B)] (See Exhibit "A")

Bid No. C9911-0333 for Purchase of Playground Equipment for Jupiter Road Park Site and Cottonwood Creek Park Site in the amount of \$179,756. [Consent Agenda Item (C)] (See Exhibit “B”)

Bid No. B111-02 for Neighborhood Parks, Restroom, and Trail Construction in the amount of \$726,173. This project includes replacement of restroom at Willowcreek Park, construction of sidewalk at Bob Woodruff Park, and construction of trail, shelter, practice ballfield, grading, drainage, landscaping, and irrigation at the Cottonwood Creek Park Site and at the Jupiter Road Park Site. [Consent Agenda Item (D)] (See Exhibit “C”)

Bid No. B101-02 for Information Services Electrical Upgrade in the amount of \$87,000. [Consent Agenda Item (F)] (See Exhibit “D”)

Adoption of Resolutions

Resolution No. 2002-8-3(R): To support the passage of enabling legislation for photographic red light enforcement in the 78th Texas Legislature; and providing for an effective date. [Consent Agenda Item (G)]

Resolution No. 2002-8-4(R): To ratify the terms and conditions of an interlocal cooperation agreement by and between the City of Plano, Texas, and the City of Allen, Texas, to provide automatic aid between the Plano and Allen Fire Departments; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (H)]

Resolution No. 2002-8-5(R): To approve the assignment of that portion of the Tax Abatement Agreement by and between the City of Plano, Texas, the County of Collin, the Collin County Community College District, and Lincoln Place, LLC and Sterling Software (Southern), Inc. to Triad Hospitals, Inc., as it relates to the personalty, approving an amendment to the tax abatement agreement to revise the value of personalty, the employment commitment, and notification information; and providing an effective date. [Consent Agenda Item (I)]

Adoption of Ordinances

Ordinance No. 2002-8-6: To change the name of McKenzie Lane, a dedicated street within the City of Plano, Collin County, Texas, to Cloverhaven Way; providing for a change in the official records to reflect such action; and providing an effective date. [Consent Agenda Item (J)]

Award of Contracts

To authorize award of a contract to Cingular Wireless to provide wireless services for a 2-year term with three optional 1-year renewals at an estimated annual amount of \$280,000; and authorizing the City Manager to execute all necessary contract documents. CSP# C062-02. [Consent Agenda Item (L)]

To approve and authorize for the selection of Halff Associates, Inc. to provide Professional Engineering Services for an amount not to exceed \$123,947 in connection with the design of the Cassidy Drive Drainage Improvements and Landershire Lane Water Rehabilitation and authorizing the City Manager to execute all necessary documents to effectuate this contract. [Consent Agenda Item (M)]

To approve and authorize for the selection of Kasper/Graham & Associates, Inc. to provide Professional Engineering Services for an amount not to exceed \$318,335 in connection with the design of Los Rios Boulevard Extension Phase 1 (Parker Road to Jupiter Road) and authorizing the City Manager to execute all necessary documents to effectuate this contract. [Consent Agenda Item (N)]

Approval of QISV

To approve of expenditure in an amount of \$114,046 for an upgrade to the current UPS capability in the Information Services computer room to UPSI, 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)]

END OF CONSENT

Approval of Bid No. B074-02 for construction of Intersection Improvements (Legacy Drive at S.H. 121, Legacy Drive at Dallas North Tollway, and 15th Street at Coit Road) in the amount of \$242,125. [Consent Agenda Item (E)] (See Exhibit "E")

Cub Amos, representing Pavcom, Inc., stated that his company submitted the low bid and requested the award. He spoke to submittal of a computer generated proposal form along with a hand-written proposal containing an error on one item which did not impact the bottom line on either form. Mr. Amos spoke to the City's right to waive any minor defect, irregularity or informality in a bid. He responded to Council Member Stahel that if the Council should waive the irregularity, Pavcom would confirm that the unit price is \$1.

Purchasing Manager Ryan spoke regarding the error and stated that, from a procurement standpoint, it does not fall into the category of a minor defect, irregularity or informality. He stated that should the Council select Pavcom, Inc., Mr. Amos would be changing his bid price and spoke regarding the handwritten form taking precedence.

A motion was made by Council Member Stahel to waive the minor defect and approve Pavcom, Inc as the low bidder. (No second was made or vote was taken at this time.)

Mr. Ryan spoke to the handwritten word governing the process and unit price as a governing factor. City Engineer Upchurch spoke regarding bids being completed on a unit price basis in order to provide better control of overruns/underruns. Council Member Magnuson spoke to respecting the integrity of the bid process and Council Member Lambert spoke in agreement with Staff's recommendation. Mr. Amos spoke to items being bid in several formats and to the acceptability of the computer form.

Mayor Evans advised that the motion by Council Member Stahel died for lack of a second. A motion was made by Council Member Magnuson and seconded by Council Member Lambert, to approve Bid No. B074-02 for construction of Intersection Improvements (Legacy Drive at S.H. 121, Legacy Drive at Dallas North Tollway, and 15th Street at Coit Road) in the amount of \$242,125. The Council voted 7-1 with Council Member Stahel voting in opposition. The motion passed.

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

Approval of Contract: To authorize award of a contract to Affiliated Telephone Inc. to provide maintenance and ongoing support for the City's telecommunication system for a term of five years in the estimated annual amount of \$135,242; and authorizing the City Manager to execute all necessary contract documents. CSP# C100-02 [Consent Agenda Item (K)]

Upon a motion made by Council Member McGee and seconded by Council Member Magnuson, the Council voted 6-0 to authorize award of a contract to Affiliated Telephone Inc. to provide maintenance and ongoing support for the City's telecommunication system for a term of five years in the estimated annual amount of \$135,242; and authorizing the City Manager to execute all necessary contract documents. CSP# C100-02.

Approval of a QISV: To approve the purchase of software support services from H.T.E. Inc., a vendor listed on the State Purchasing and General Services Commission Qualified Information Services Vendor's list, in an amount of \$52,365; and authorizing the City Manager to execute all documents necessary to effectuate the purchase. (QISV#1592486196400 / 68617) [Consent Agenda Item (O)]

Upon a motion made by Council Member Magnuson and seconded by Mayor Pro tem Dyer, the Council voted 6-0 to approve the purchase of software support services from H.T.E. Inc., a vendor listed on the State Purchasing and General Services Commission Qualified Information Services Vendor's list, in an amount of \$52,365; 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 on the bench.

Vote on a proposal to consider an increase in total tax revenue. [Regular Agenda Item (1)]

Director of Budget and Research Rhodes advised the Council that if there is intent to propose a tax rate that will increase tax revenue, there must be a vote for the record regarding each Council Member's position on this proposal and to hold a Public Hearing on August 26, 2002.

Upon a motion made by Council Member Lambert and seconded by Deputy Mayor Pro tem Stovall, the Council voted 8-0 to call a Public Hearing on August 26, 2002 with the tax rate set at 45.35 per \$100 valuation (rate is the same as last year).

Public Hearing to consider disbursement of grant funds awarded through the Local Law Enforcement Block Grants Program established under the 2002 Omnibus Appropriations Act (Pub. L. 107-116). This Grant provides the Police Department with \$160,066 towards the purchase of equipment resources. [Regular Agenda Item (2)]

Police Chief Rushin advised the Council regarding the expenditure of funds and advised that as part of the application process, a Public Hearing should be held to provide for public input on the use of funds.

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

Resolution No. 2002-8-7(R): To authorize the City of Plano to participate in and receive funding through the Local Law Enforcement Block Grant Program established under the 2002 Omnibus Appropriations Act (Pub. L. 107-116) for the purpose of purchasing equipment resources for the Plano Police Department; authorizing the City Manager to execute any and all documents necessary to effectuate the action taken; and providing an effective date. [Regular Agenda Item (3)]

Upon a motion made by Mayor Pro tem Dyer and seconded by Council Member Magnuson, the Council voted 8-0 to authorize the City of Plano to participate in and receive funding through the Local Law Enforcement Block Grant Program established under the 2002 Omnibus Appropriations Act (Pub. L. 107-116) for the purpose of purchasing equipment resources for the Plano Police Department; authorizing the City Manager to execute any and all documents necessary to effectuate the action taken; and providing an effective date; and further to adopt Resolution No. 2002-8-7(R).

Presentation of final report of Tri-City Retail Study [Regular Agenda Item (4)]

Planning and Zoning Commission Member Lee Dunlap recognized the contributions of those taking part in the study.

Bill Cunningham of Leland Consulting spoke regarding the “coming together” of the three communities and advised that the study is intended to provide recommendations and strategies for the productive use/reuse of vacant retail structures, underused retail structures, undeveloped retail sites, and partially developed retail sites. He stated that the impacts of vacant and under-utilized space include deterioration of surrounding development and the damage to future economic development efforts and spoke regarding the history of retail development and suburban retail trends including ethnic retailing. Mr. Cunningham spoke regarding the market, physical, financial and regulatory barriers to reinvestment and strategies for change such as market and/or financial assistance, a mixed-use redevelopment program, and sub-area planning.

Dennis Wilson of J. D. Wilson & Associates reviewed the evaluation of local prototypical properties and the possible solutions that may be implemented for redevelopment and involvement that would be needed from the City. He spoke to the “Best Practices” on behalf of cities which include: knowing the market, concentrating retail at major roadway intersections, avoiding strip-zoning of major roadways, pruning retail-zoned land, creating mixed-use and pedestrian districts, taming the signage, using landscape to soften development, managing parking, facilitating the creation of associations and districts, and recycling older retail centers.

Mr. Cunningham spoke to public/private solutions for change, the need for shared risk/responsibility, the need to anticipate trends and their effects and recognition that there is a range of solutions and that it will take time. He responded to the Council regarding the costs of redevelopment versus new development, the typical amount of retail space per capita, stated that this study identifies sites where problems are of the most concern and where efforts might be taken. Council Member Lambert spoke to Plano as being a destination and development of retail in the City. Mr. Cunningham spoke to making an economic argument in order to move towards redevelopment, sub-area planning, and the power of condemnation. He spoke to looking at how changing demographics have changed the demand for certain types of goods. Council Member Johnson spoke to the anticipating trends, the benefits of competition and the advantages of redevelopment. Council Member McGee spoke to customizing to the needs of Plano.

Planning and Information Manager Zimmerman spoke to taking the report to the Planning and Zoning Commission and using the information to develop a framework to fit the needs of the City of Plano to which the Council concurred.

Public Hearing and consideration of an ordinance as requested in Zoning Case 2002-31
– To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, so as to rezone 22.2± acres on the north side of Parker Road, 1,480± feet east of Jupiter Road in the City of Plano, Collin County, Texas, from Agricultural (A) to Single-Family-9 (SF-9); 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 #38. Applicants: Robert B. & Claire Wilkins, Jason & Cindy So, Community Unitarian Universalist Church of Plano & First United Methodist Church [Regular Agenda Item (5)]

Director of Planning Jarrell advised the Council that the Comprehensive Plan recommends residential for this area and that it is adjacent to a church/community college/Single-Family-9 zoning. She advised that during the Planning and Zoning Commission's review there was discussion regarding drainage, that the land study was approved by the commission, and that the commission recommended approval as submitted.

Mayor Evans opened the Public Hearing. Rick Fambro, representing the applicant, advised the Council regarding the developer, stated that this request addresses issues expressed during a prior project planned for the area and spoke regarding SF-9 zoning in the area, access to the site from Spring Creek Parkway and Parker Road and stated that frontage on Parker Road would be agriculturally zoned. He spoke to contacts with homeowners in the area, changes taking place in east Plano and the minimal impact to the neighbors to the south. He stated that the request is in conformance with the land use plan, is not an overly dense use of the land, that the configuration minimizes impact on those to the south, the developer is stable and that the immediately adjacent property owners are in favor of the request.

Charles C. Clymer, an attorney representing clients opposed to the request, spoke to the item being a high-density development in a low-density area and concerns regarding traffic, crime and drainage. Sharon Prince, citizen of the City, spoke regarding other developments in the area, requested the item be denied and resubmitted as a planned development, and spoke to including a buffer zone. Will Prince, citizen of the City, spoke regarding the land in the area not being utilized as SF-9, and requested concessions from the developer including that lots abutting Parker Road be combined so that each would be .5 acre, with masonry fence be placed along Parker Road to act as a buffer. He requested the SF-9 zoning be denied and that consideration be given to planned development. Randy Rich, citizen of the City, spoke in opposition stating that the development would violate the atmosphere of the area and requested the item be denied and the applicant requested to submit for planned-development-SF-9 zoning. Richard Crucknol, representing the Stoney Hollow subdivision, stated concern that the request would change east Plano, spoke regarding the access street to Spring Creek Parkway being of excessive length and regarding adding this property to Oak Point Park. Wendy Prince-Plagens, citizen of the City, stated opposition to the item and requested it be returned to the Planning and Zoning Commission. Claire Wilkins, applicant, spoke regarding the development and stated that she is not trying to "hurt Plano." Rocky Schwartz, citizen of the City, asked for careful consideration.

Zoning Case 2002-31 (cont'd)

Roger Harrington, representing the applicants, spoke to SF-9 in the area, making the land compatible, and the approval of the Planning and Zoning Commission. No one else spoke either for or against the request. The Public Hearing was closed.

Ms. Jarrell responded to the Council that the SF-9 zoning was created sometime between 1964-77 through a map change, that the access street to Spring Creek Parkway is about 250 feet over length and was reviewed by the Fire Department, there is a proposed street extension to the west which would cure the problem, and that the Planning and Zoning Commission granted a variance. She further advised that there would be no City imposed screening requirement.

Mr. Fambro spoke regarding the low traffic volume in the area, the buffer that would be provided by leaving some agricultural zoning along Parker Road, increasing the size of lots fronting on Parker Road, working with the property owner on the west to provide a metal fence and fencing for those lots in the southeast corner of the development. He responded to Council Member Stahel that his client would be agreeable to a wrought iron fence "north of the ponds," that there would be a subdivision entranceway created along Parker Road, that they would work on fencing along the western boundary and look further at creating larger lots along Parker Road to facilitate a transition zone. Council Member Stahel stated that because it is not included in this zoning case, the Council could not address restrictions on that property along Parker Road that is being "swapped" with the Community Unitarian Universalist Church of Plano. Mr. Fambro advised Council Member Magnuson that information on the access to Spring Creek Parkway was included in information provided to the Planning and Zoning Commission.

Mr. Fambro responded to Council Member Lambert stating that a screening wall and entranceway will be along Parker Road and that a homeowners association will be included. Council Member Lambert spoke to providing a substantial landscaped buffer area along Parker Road and issues related to wrought iron fencing. Ms. Jarrell advised the Council that the Planning and Zoning Commission has approved the land study based on Council's approval of the zoning case. Council Member Stahel spoke to the creation of a planned development.

Ms. Jarrell advised that the Council could approve the item as requested, SF-9 with a planned development, larger lot sizes, deny the request, or send the item back to the Planning and Zoning Commission. She advised that if the zoning case were denied, the land study would "disappear" and if changes were made, as the land study moves forward through the development process, requirements would then be met.

Zoning Case 2002-31 (cont'd)

Mr. Fambro spoke to receiving Council action rather than a tabling of the request, providing a wrought iron fence for the lots in the southeast corner, a brick/masonry screening wall adjacent to the Parker Road entrance, combining the first two lots on either side of the entrance on Parker Road, and working with the owner along the western edge regarding fencing. He responded to Council that there may be a mix of homeowners who would want an open field and others desiring a privacy fence. Deputy Mayor Pro tem Stovall and Council Member Magnuson spoke to consistency.

Upon a motion made by Council Member Stahel and seconded by Deputy Mayor Pro tem Stovall, the Council voted 8-0 to table the consideration of an ordinance as requested in Zoning Case 2002-31 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, so as to rezone 22.2± acres on the north side of Parker Road, 1,480± feet east of Jupiter Road in the City of Plano, Collin County, Texas, from Agricultural (A) to Single-Family-9 (SF-9); until August 26, 2002 to allow the developer and homeowners time to meet and return to the Council will full information and proposals to address issues. Council Member Lambert spoke to the issues which include wrought iron fencing on the southeast side, the requirement for a landscaped area along Parker Road, two lots abutting Parker Road being a minimum of approximately 150 feet in width, and addressing fencing along the western boundary (possibly metal).

There being no further discussion, Mayor Evans adjourned the meeting at 10:17 p.m.

Pat Evans, **MAYOR**

ATTEST:

Elaine Bealke, City Secretary