

PLANO CITY COUNCIL
September 10, 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, September 10, 2001, at 7:05 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. Mike McConachie of First Christian Church of Plano.

The Pledge of Allegiance was led by Junior Girl Scout Troop 1026 from Hedgoxe Elementary.

Mayor Akers recognized 9-1-1 Heros and presented proclamations recognizing the Plano Balloon Festival and "Constitution Week."

GENERAL DISCUSSION

Robert Murillo of Victory Outreach International Ministries, stated that the organization was available to the citizens of Plano.

CONSENT AGENDA

Upon the request of Council Member Evans, Consent Agenda Item "F" was removed for individual consideration.

Upon the request of Mayor Akers, Consent Agenda Item "T" was removed for individual consideration due to a conflict of interest.

Upon a motion made by Council Member Roach and seconded by Council Member Stovall, 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)]

August 27, 2001
August 29, 2001
September 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. C193-01 to establish an annual fixed-price contract for Streets, Drainage and Utility Operations Aggregates to be utilized by the Public Works Department in the estimated annual amount of \$49,075 for an annual contract with renewals. [Consent Agenda Item (B)] (See Exhibit "A")

Bid No. B181-01 for the Parkway Service Center and Carpenter Park Irrigation Improvements in the amount of \$63,119. [Consent Agenda Item (C)] (See Exhibit "B")

Bid No. C180-01 to establish an annual fixed-price contract for Security Control Systems Maintenance Package for the Plano Justice Center, Police Building Complex, Municipal Center and Municipal Center Annex in the estimated annual amount of \$17,420 for an annual contract with renewals. [Consent Agenda Item (D)] (See Exhibit "C")

Bid No. B166-01 for the Shady Brook Trail Improvements Project in the amount of \$89,900 [Consent Agenda Item (E)] (See Exhibit "D")

Bid No. B177-01 for Custer Road Landscaping – Legacy Drive to McDermott Road (Project No. 4994.1) in the amount of \$81,732. [Consent Agenda Item (G)] (See Exhibit "F")

Adoption of Resolutions

Resolution No. 2001-9-2(R): To approve the terms and conditions of a lease agreement by and between William L. Chaillot and Mary Ellen Chaillot and the City of Plano for a communications tower site located 350 feet northeast of the intersection of Dozier Road and F.M. 544 in the City of Hebron, Texas; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (H)]

Resolution No. 2001-9-3(R): To approve an amendment to the tax abatement agreement in Tax Reinvestment Zone No. 63 between the City of Plano, Texas, the County of Collin, the Collin County Community College District, and Lincoln-Town Center, Ltd. and Compaq Computer Corporation; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (I)]

Resolution No. 2001-9-4(R): To approve the amendment to the tax abatement agreement in Tax Reinvestment Zone No. 36 between the City of Plano, Texas, the County of Collin, the Collin County Community College District and Alcatel USA, Inc.; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (J)]

Resolution No. 2001-9-5(R): To approve the terms and conditions of a Real Estate Contract by and between the City of Plano, Texas, and Whisenant/Carpenter, L.P., for the purchase of a Street and Utility Easement of 0.070 acres of land, situated in the John Cahill Survey, Abstract No. 145, being part of Lot 1R, Block A, Carpenter Plaza Shopping Center Addition, and located at the southeast corner of Independence Parkway and Legacy Drive, in the City of Plano, Collin County, Texas; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (K)]

Resolution No. 2001-9-6(R): To approve the terms and conditions of a Public Right-of-Way Use Agreement by and between the City of Plano, Texas and Qwest Communications Corporation, a Delaware Corporation, to locate, place, attach, install, operate and maintain a fiber optic cable system and related equipment in certain specific portions of the public rights-of-way in the City of Plano; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (L)]

Adoption of Ordinances

Ordinance No. 2001-9-7: To repeal City of Plano Ordinance No. 98-3-32, codified as Article II, Fire Code, of Chapter 8 of the Code of Ordinances of the City; adopting the 2000 edition of the International Fire Code, with certain additions, deletions, and amendments, as the Fire Code of the City of Plano; and providing a repealer clause, a severability clause, a savings clause, a penalty clause, and an effective date. [Consent Agenda Item (M)]

Ordinance No. 2001-9-8: To repeal City of Plano Ordinance No. 98-3-31, codified as Division 3, Mechanical Code, of Article VIII, Plumbing and Mechanical Equipment, of Chapter 6 of the Code of Ordinances of the City; adopting the 2000 Edition of the International Mechanical Code, with certain additions, deletions, and amendments, as the Mechanical Code of the City of Plano; and providing a repealer clause, a severability clause, a savings clause, a penalty clause, and an effective date. [Consent Agenda Item (N)]

Ordinance No. 2001-9-9: To repeal City of Plano Ordinance Nos. 98-3-33, 98-5-5, 98-5-16 and 98-8-38 codified as Article II, Building Code, of Chapter 6 of the Code of Ordinances; adopting the 2000 Edition of the International Building Code, with certain additions, deletions and amendments, as the Building Code of the City of Plano; and providing a repealer clause, a severability clause, a savings clause, a penalty clause, and an effective date. [Consent Agenda Item (O)]

Ordinance No. 2001-9-10: To adopt the 2000 Edition of the International Fuel Gas Code, with certain additions, deletions and amendments, as the Fuel Gas Code of the City of Plano; and providing a repealer clause, a severability clause, a savings clause, a penalty clause, and an effective date. [Consent Agenda Item (P)]

Ordinance No. 2001-9-11: To adopt the 2000 Edition of the International Energy Conservation Code, with certain additions, deletions and amendments, as the Energy Conservation Code of the City of Plano; and providing a repealer clause, a severability clause, a savings clause, a penalty clause, and an effective date. [Consent Agenda Item (Q)]

Ordinance No. 2001-9-12: To repeal City of Plano Ordinance No. 98-11-36 codified as Division 2, Plumbing Code, of Article VIII, Plumbing and Mechanical Equipment, of Chapter 6 of the Code of Ordinances; adopting the 2000 Edition of the International Plumbing Code, with certain additions, deletions and amendments, as the Plumbing Code of the City of Plano; and providing a repealer clause, a severability clause, a savings clause, a penalty clause, and an effective date. [Consent Agenda Item (R)]

Ordinance No. 2001-9-13: To adopt the 2000 Edition of the International Residential Code with certain additions, deletions and amendments, as the Residential Code of the City of Plano; and providing a repealer clause, a severability clause, a savings clause, a penalty clause, and an effective date. [Consent Agenda Item (S)]

Reimbursement of Oversize

To approve and authorize reimbursement to McLaugh-Meade, Ltd. for oversize participation for paving improvements associated with construction of the Towns of Chapel Hill in the amount of \$40,599. [Consent Agenda Item (U)]

To approve and authorize reimbursement to Pasquinelli's Portrait Homes, L.P. for oversize participation for paving and drainage improvements associated with the construction of Pasquinelli's Hidden Creek Estates in the amount of \$63,634. [Consent Agenda Item (V)]

Approval of QISV

To approve an expenditure for the purchase of an 800 MHZ Radio Tower in the amount of \$3,114,000 from Motorola Communications and Electronics, Inc., a vendor listed on the State Purchasing and General Services Commission Qualified Information Services Vendors list; and authorizing the City Manager to execute all documents necessary to effectuate the purchase. [Consent Agenda Item (W)]

ITEMS FOR INDIVIDUAL CONSIDERATION:

Approval of Bid No. B182-01 for Plano Parkway Landscaping – Alma Drive to Ventura Drive (Project No. 4994.2) in the amount of \$302,834. [Consent Agenda Item (F)] (See Exhibit “E”)

Council Member Evans spoke regarding Council discussion related to the possible uses of the right-of-way at Plano Parkway/Preston Road and ensuring that this landscaping would accommodate improvements at the intersection.

Upon a motion made by Council Member Evans and seconded by Council Member Stahel, the Council voted 8-0 to approve Bid No. B182-01 for Plano Parkway Landscaping – Alma Drive to Ventura Drive (Project No. 4994.2) in the amount of \$302,834.

Due to a conflict of interest, Mayor Akers stepped down from the bench.

Approval of a Contract - To approve and authorize a contract with David C. Baldwin, Inc. to provide Landscape Architectural Services in connection with improvements at Haggard Park in an amount not to exceed \$120,000, and authorizing the City Manager to execute any and all documents necessary to effectuate the contract. [Consent Agenda Item (T)]

Upon a motion made by Council Member Lambert and seconded by Deputy Mayor Pro tem Dyer, the Council voted 7-0 to approve and authorize a contract with David C. Baldwin, Inc. to provide Landscape Architectural Services in connection with improvements at Haggard Park in an amount not to exceed \$120,000, and authorizing the City Manager to execute any and all documents necessary to effectuate the contract.

Mayor Akers resumed his place on the bench.

Ordinance No. 2001-9-14: To approve and adopt the tax rate for the fiscal year beginning October 1, 2001, and terminating September 30, 2002, and providing an effective date. [Regular Agenda Item (1)]

City Manager Muehlenbeck spoke regarding preparation of the budget and advised that sales tax figures received for the month of July reflect a 22% reduction from last year and spoke to being at a 30-day ending balance.

Ordinance No. 2001-9-14 (cont'd)

Budget Director Rhodes spoke to the tax rate of 45.35 cents, that it cannot be brought up, but that it can remain the same or decline. She spoke to the rate being one-half cent over the roll-back rate and 5.8% over the effective tax rate and that in light of the information received today, the sales tax has been reforecast. She spoke to adjustments made to the salary reestimate and advised that the City is at a 30-day fund balance for the General Fund and that the total appropriation would need to be changed to \$140,375,000. Ms. Rhodes responded to Council Member Stahel that when adjustments are made to the sales tax figures, the fund balance will go down from 36 to 30 days.

Council Member Stahel spoke to prior salary adjustments and the deterioration of the job market. He spoke to reducing the proposed salary increases from 4% to 2% as a mechanism to accommodate the budget shortfall due to the sales tax decline and ensure the ability to maintain the reserve account. Mr. Muehlenbeck spoke to employees that may receive a greater or lesser amount and regarding mid-term adjustments aimed at employee retention, remaining competitive and work done on the budget.

Council Member Stahel spoke regarding the current uncertainty in the job market and stated that if raises need to be given in October, he would support reducing the amount and looking at a future adjustment or postponement for a few months. Mr. Muehlenbeck spoke to taking a close look at vacant positions before they are approved and holding off on new positions with a possible phasing in and regarding development and implementation of a contingency plan for the budget.

Mayor Akers spoke to the importance of those who make the programs work and recommended making cutbacks on programs/products or materials rather than in the area of personnel. He spoke to rewarding the hard work and productivity of employees and to the City Manager being responsible for balancing the budget, monies spent, and further recommended looking in other directions.

Mayor Pro tem Neudorff spoke to other cities who are unable to give increases to police officers and those dealing with layoffs, improvements made in benefits, and changes in the economy and urged careful consideration of factors.

Deputy Mayor Pro tem Dyer spoke to giving the tax rate and projected revenue numbers to Staff for consideration on where to cut. Ms. Rhodes spoke to the contingency plan coming back before the Council for review.

Council Member Roach spoke to the goals of reducing tax and staying in budget and to providing excellent service. He spoke to the core business of the City, recommended reserving specific cuts to be made for the City Manager and Budget Director, and stated he would not support a reduction in the merit increases.

Ordinance No. 2001-9-14 (cont'd)

Ms. Rhodes spoke to revenue from The Shops at Willow Bend not being seen until October and regarding projections for August. She spoke to working towards more significant revenue forecasting for sales tax and the real estate market. Council Member Stovall spoke to Council review of expenditures.

Ms. Rhodes spoke regarding the annual sales tax projections. Council Member Lambert spoke regarding the proposed tax rate being a an increase rather than a reduction and regarding the operation/maintenance (O/M) tax rate. He spoke regarding the value of employees, shortage of officers, and to setting the rate/revenues and, within reason, letting the Staff work it out. Mr. Lambert spoke to a possible reduction in the merit increase, taking a hard look at some areas, and further spoke to build-out.

City Manager Muehlenbeck responded regarding the contingency plan and Staff's ability to control spending. Ms. Rhodes spoke to the possibility of delaying hiring and Mr. Muehlenbeck spoke regarding the State giving no credit for the fact that the Council has set aside monies to pay for what other entities are acquiring with long-term debt.

Council Member Lambert spoke regarding funds appropriated in 1992-93 for the Capital Reserve Fund and regarding the proposed O/M rate and contribution to the Capital Reserve Fund.

Council Member Evans spoke to entrusting decisions to the City Manager and Budget Director, the contingency plan, and not targeting merit raises.

Mayor Akers spoke to a general consensus not to reduce the merit raises.

Council Member Lambert stated that before proceeding with hiring personnel approved in the budget, he would like to review the contingency plan.

Upon a motion made by Deputy Mayor Pro tem Dyer and seconded by Council Member Evans, the Council voted 8-0 to approve and adopt the tax rate for the fiscal year beginning October 1, 2001, and terminating September 30, 2002, and providing an effective date and further to adopt Ordinance No. 2001-9-14.

Ordinance No. 2001-9-15: To approve and adopt the budget and setting the appropriations for the fiscal year beginning October 1, 2001, and terminating September 30, 2002. [Regular Agenda Item (2)]

City Manager Muehlenbeck spoke to changing the General Fund Operating Appropriation to \$140,375,285.

Ordinance No. 2001-9-15 (cont'd)

Budget Director Rhodes stated that the projection includes a four percent increase for next year on a lower base and Mr. Muehlenbeck stated that it would also leave a 30-day fund balance. The Council discussed excess sales tax going to the Capital Reserve Fund. Council Member Lambert spoke to taking \$1 million out of the General Fund to keep the ending balance at 32-33 days. City Manager Muehlenbeck spoke to protecting those additional funds without taking out the \$1 million and Council Member Lambert spoke in support of the budget as recommended with Staff working to gain two days of operation in the fund.

Upon a motion made by Council Member Roach and seconded by Mayor Pro tem Neudorff to approve and adopt the budget and setting the appropriations for the fiscal year beginning October 1, 2001, and terminating September 30, 2002 with amendment to the General Fund Operating Appropriation and further to adopt Ordinance No. 2001-9-15 as amended.

Ordinance No. 2001-9-16: To approve and adopt the capital improvement program and setting the appropriations for 2001-2002; 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 8-0 to approve and adopt the capital improvement program and setting the appropriations for 2001-2002; and providing an effective date. [Regular Agenda Item (3)] Ordinance No. 2001-9-16.

Review of Housing and Community Development Annual Performance Report [Regular Agenda Item (4)]

Community Services Manager Bob Buffington stated that this report has been reviewed by the Community Relations Commission and has been sent to HUD for their approval. He spoke regarding the assistance provided in the areas of housing and non-housing and stated that regarding the difficulties in reaching home ownership goals as being related to the shortage of homes in Plano under \$100,000.

Resolution No. 2001-9-17(R): To nominate a candidate for election to the Collin County Central Appraisal District Board of Directors; and providing an effective date. [Regular Agenda Item (5)]

Upon a motion made by Council Member Lambert and Council Member Stovall, the Council voted 8-0 to nominate Olin Jaye for election to the Collin County Central Appraisal District Board of Directors; and providing an effective date; and further to adopt Resolution No. 2001-9-17(R).

Public Hearing and adoption of Ordinance No. 2001-9-18 as requested in Zoning Case 2001-20 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, so as to amend Planned Development-132-Office-1 (PD-132-O-1) on 11.1± acres located on the southeast corner of Medical Drive and West 15th Street in the City of Plano, Collin County, Texas, to add day care centers as an additional allowed use; directing a change accordingly in the official zoning map of the City; providing a fine for criminal penalties not to exceed \$2,000 for each offense, and providing a repealer clause, a savings clause, a severability clause and an effective date. Zoned PD-132-O-1. Neighborhood #64. Applicant: City of Plano - Tabled 08-27-01 [Regular Agenda Item (6)]

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

Director of Planning Phyllis Jarrell advised the Council that since the item was tabled Staff has met with the proposed developer of the day care center and representative of the homeowners association. She advised that requests include the addition of two stipulations one of which would require a minimum setback of 70 feet from the property line along Woodburn Corners Drive for any day care center and that the second would define landscaping that would go along with the berm along Woodburn Corners including the inclusion of minimum three-inch caliper trees to be placed 30 feet on center. She further advised regarding those already approved by the Planning and Zoning Commission.

1. An earthen berm of a minimum of six feet in height plus landscaping shall be placed adjacent to Woodburn Corners to screen adjacent residentially-zoned property.
2. Uses limited to medical/professional office and day care centers.
3. Building height limited to one-story east of Medical Avenue.

Ms. Jarrell spoke regarding Council discussion related to the abandonment of Jomar Drive and stated that Staff is discussing this consideration with the Legal Department. She further requested that Council not make the enclosed plan a part of the planned development district, citing concerns regarding circulation and building location. Ms. Jarrell responded to the Council that the Fire Department does not see a need to breach the berm for this particular use, however as more property develops this may be necessary. She responded that the site plan would go back to the Planning and Zoning Commission when the developer makes formal submission and that circulation will be addressed.

Ordinance No. 2001-9-18 (cont'd)

Mayor Akers opened the Public Hearing. Mark Adams, representing Children's Choice, spoke to discussions with homeowners and stated they have no plans to go through the berm. Gene Cooper, citizen of the City, thanked the Council for addressing the concerns of the neighborhood. Paige Kessman, citizen of the City, spoke to the ramifications of approving without a site plan. Ms. Jarrell responded that when the site plan is submitted it will go before the Planning and Zoning Commission where there will be an opportunity for homeowner input. She stated that with Council's approval Staff would move forward with actions necessary to accomplish the abandonment of the existing right-of-way of Jomar Drive which would come before the Council for action. Council Member Lambert stated that site plans do not normally come before the Council, if stipulations are required by Council they must be met, and also that it can come forward if there is an appeal of the action of the Planning and Zoning Commission. Paul Wellborn, citizen of the City, requested stipulation that the berm cannot be opened. Ms. Jarrell spoke regarding vacant land still available in this planned development district and that there is no guarantee that another use may go in which might need access by the Fire Department and situations that might arise should the day care developer not go forward. City Attorney Wetherbee stated concern regarding requiring a cut through to be for public safety reasons only. Don Waller, citizen of the City, spoke regarding the shutting down of Jomar Drive and building of the berm. No one else spoke either for or against the request. The Public Hearing was closed.

Mayor Pro tem Neudorff spoke to directing Staff to give attention to maintaining a contiguous berm and moving ahead on the abandonment of Jomar Drive.

A motion was made by Mayor Pro tem Neudorff and seconded by Council Member Lambert to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, so as to amend Planned Development-132-Office-1 (PD-132-O-1) on 11.1± acres located on the southeast corner of Medical Drive and West 15th Street in the City of Plano, Collin County, Texas, to add day care centers as an additional allowed use; directing a change accordingly in the official zoning map of the City; providing a fine for criminal penalties not to exceed \$2,000 for each offense, and providing a repealer clause, a savings clause, a severability clause and an effective date with stipulations amended as follows:

1. An earthen berm of a minimum of six feet in height plus landscaping shall be placed adjacent to Woodburn Corners to screen adjacent residentially-zoned property. Landscaping on the berm shall include minimum three-inch caliper trees placed 30 feet on center.
2. Uses within the planned development district are limited to medical/professional office and day care centers.
3. Building heights are limited to one-story.

Ordinance No. 2001-9-18 (cont')

4. Any structure used for a day care center must be set back a minimum of 70 feet from the property line along Woodburn Corners Drive.

The Council voted 8-0 to approve and further to adopt Ordinance No. 2001-9-18 as amended.

Council Member Roach announced his resignation from City Council Place 7 and thanked Staff for their support.

City Attorney Wetherbee stated that the City Charter speaks to appointing a member to serve the unexpired term until the next election in May of 2002, that Council has ten days to make this appointment, and posting requirements must be followed. She advised that discussion would take place in Executive Session with appointment coming forward to an open meeting. The Council spoke to scheduling a meeting for Monday, September 17.

There being no further discussion, Mayor Akers adjourned the meeting at 8:52 p.m.

Jeran Akers, **MAYOR**

ATTEST:

Elaine Bealke, **City Secretary**