

PLANO CITY COUNCIL
October 11, 2004

COUNCIL MEMBERS

Pat Evans, Mayor
Shep Stahel, Mayor Pro Tem
Ken Lambert, Deputy Mayor Pro Tem
Steve Stovall
Phil Dyer
Scott Johnson
Sally Magnuson
Jean Callison

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, October 11, 2004, 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 Father Andrew Semler of Prince of the Peace Catholic Community.

The Pledge of Allegiance was led by Cub Scout Pack 265 from Huffman Elementary.

Mayor Evans administered oaths of office to incoming and reappointed members of boards and commissions.

GENERAL DISCUSSION

Jack Lagos, citizen of the City, requested the Council call a Public Hearing to receive input regarding the Arts of Collin County. He spoke regarding the proposition passed in 1998 and monies already spent. Mr. Lagos spoke to finding out how much funding will be raised and the target dates, reviewing land agreements, addressing infrastructure costs and to the Council going on record regarding their position. Mayor Evans spoke to the Arts of Collin County being an independent board and regarding the public being welcome at their regular meetings.

Warner Richeson, citizen of the City, stated that it might be prudent for the Council to appoint a Charter Review Commission.

CONSENT AGENDA

Council Member Stovall requested that Consent Agenda Item “B” be removed for individual consideration.

Mayor Pro Tem Stahel requested that Consent Agenda Item “M” be removed for individual consideration.

Citizen Sonja Hammer requested that Consent Agenda Item “N” be removed for individual consideration.

Upon a motion made by Council Member Magnuson and seconded by Council Member Johnson, 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”]

September 27, 2004

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. B172-04 for Fire Station 6 Dormitory Remodel in the amount of \$31,840. [Consent Agenda Item “D”] (See Exhibit “C”)

Bid No. B175-04 for the construction of the Expansions to Operations and Equipment Services Buildings in the amount of \$3,215,000. [Consent Agenda Item “E”] (See Exhibit “D”)

Bid No. B181-04 for the construction of the eastern two lanes of Willow Bend Drive – Windhaven Parkway to approximately 700 feet to the south in the amount of \$292,345. [Consent Agenda Item “F”] (See Exhibit “E”)

Bid No. B176-04 for construction of Briarcreek Sanitary Sewer Phase II, in the amount of \$1,582,316. [Consent Agenda Item “G”] (See Exhibit “F”)

Adoption of Resolutions

Resolution No. 2004-10-1(R): To approve and authorize refunds of property tax overpayments; and providing an effective date. [Consent Agenda Item “H”]

Resolution No. 2004-10-2(R): To find Cary Wicker is entitled to defense representation pursuant to City Code of Ordinances in connection with the matter of Lucas Decraene v. Karen Dawn Norris, et al.; and providing an effective date. [Consent Agenda Item “I”]

Resolution No. 2004-10-3(R): To approve the terms and conditions of an agreement by and between Signature Towing, Inc., and the City of Plano; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item “J”]

Resolution No. 2004-10-4(R): To authorize the purchase of library materials such as books, books-on-tape, and compact disks for the Plano Public Library System (PPLS) in the amount of \$300,000 from Brodart through the Northeast Texas Library System (NETLS); authorizing the City Manager to take such action and execute such documents as necessary to effectuate the purchase approved herein and providing an effective date. [Consent Agenda Item “K”]

Resolution No. 2004-10-5(R): To authorize the purchase of various library materials, including books, books-on-tape, audio cassettes, compact disks, and videocassettes for Plano Public Library System (PPLS), from Baker & Taylor under Texas State Contract 715-N1 Section IV (715-10-50), Section V (710-10-60), Section VIII (715-90-10), Section IX (715-05-10) and Section X (715-05-11); and for non-print materials only under the annual Northeast Texas Library System (NETLS) contract in the amount of \$400,000; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the purchase approved herein; and providing an effective date. [Consent Agenda Item “L”]

Adoption of Ordinances

Ordinance No. 2004-10-6: To revise Section 2-242, Membership, of Article XII, Senior Citizens Advisory Board, of Chapter 2, Administration, of the Code of Ordinances of the City of Plano to decrease the number of members from 10 to 9; and providing a repealer clause, a severability clause, and an effective date. [Consent Agenda Item “O”]

Ordinance No. 2004-10-7: To repeal Ordinances Nos. 88-3-21, 92-6-19, 93-9-62 and 98-1-10 and amending Ordinance No. 89-5-18, Section II. (b), codified as Sections 6-1 through 6-15 of Article I, General, of Chapter 6, Buildings and Building Regulations of the Code of Ordinances of the City of Plano; adopting new Sections 6-1 through 6-15 of Article I, Chapter 6 of the Code of Ordinances; to set forth regulations, enforcement authority for regulating building standards for the City of Plano, including establishing the power and duties of the Building Standards Commission; creating penalty provisions and allowing civil relief as allowed by all applicable law; providing a repealer clause, a severability clause, a savings clause, a penalty clause, and an effective date. [Consent Agenda Item “P”]

Ordinance No. 2004-10-8: To amend the Plano Code of Ordinances, Chapter 12, Motor Vehicles and Traffic, Article V, Stopping, Standing, and Parking, Section 12-102(e) to include the prohibition of stopping, standing or parking of motor vehicles along the south side of Waskom Drive from Rockledge Lane east to Serenity Drive between the hours of 7:15 a.m. to 8:15 a.m. and 2:45 p.m. to 3:30 p.m. on school days; declaring the parking of motor vehicles in said section of Rockledge Lane within the defined time limits as unlawful and a misdemeanor; and providing a repealer clause, a severability clause, a penalty clause, a savings clause, and an effective date. [Consent Agenda Item “Q”]

Ordinance No. 2004-10-9: To abandon all right, title and interest of the City, in and to that certain temporary turn-around easement and that certain temporary 15' water easement situated in Legacy Town Center (South), an addition to the City of Plano, Texas and being located at the southwest corner of Lunsford Drive and Parkwood Boulevard in the City Limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such easements to the abutting property owner, Legacy PT MFA I, L.P., to the extent of its interest; authorizing the City Manager, to execute any documents deemed necessary; and providing an effective date. [Consent Agenda Item "R"]

Ordinance No. 2004-10-10: To approve the carrying forward of Fiscal Year 2003-2004 funds to Fiscal Year 2004-2005; and approving an effective date. [Consent Agenda Item "S"]

Approval of Change Order

To Ratliff Hardscape, LTD. increasing the contract by \$37,060 for the Copper Creek and River Bend Subdivisions Screening Wall Replacement and Panel Replacement Project, Change Order No. 1. (Bid No. B038-04). [Consent Agenda Item "T"]

To McMahon Contracting, L.P., increasing the contract by \$84,306 for the 2003-2004 Arterial Concrete Replacement, Change Order No. 1 (Bid No. P061-04). [Consent Agenda Item "U"]

To approve Change Order No. 2 for White Glove Janitorial & Floor Services for the transfer of two (2) locations from contract C197-01 (Custodial Services for New Facilities) to C118-03 (Custodial Services) to consolidate the existing split facilities to better provide standardized services from one contracted vendor in the estimated annual amount of \$26,424. [Consent Agenda Item "V"]

Reimbursement of Oversize Participation

To approve and authorize reimbursement to EDS Information Services, LLC for oversize participation for paving improvements associated with the construction of Corporate Drive north of Tennyson in the amount of \$35,372. [Consent Agenda Item "W"]

END OF CONSENT:

Bid No. B079-04 for the purchase of Traffic Signal Controllers and Traffic Control System Software from Naztec, Inc. in the amount of \$884,734. [Consent Agenda Item "B"] (See Exhibit "A")

Council Member Stovall spoke to the implementation of the traffic control system. Traffic Engineer Manager Neal responded to Mayor Pro Tem Stahel and spoke to the purchasing procedure, the inclusion of federal requirements for communication and advised that there was one participant from those firms solicited.

Bid No. B079-04 (Cont'd)

Upon a motion made by Council Member Stovall and seconded by Council Member Dyer, the Council voted 8-0 to approve Bid No. B079-04 for the purchase of Traffic Signal Controllers and Traffic Control System Software from Naztec, Inc. in the amount of \$884,734.

A Resolution to approve the terms and conditions of the funding agreement in a total amount not to exceed \$1,000 between the City of Plano, Texas, and The Living Opera, which renders services that are beneficial to the public and serve a valid public purpose; authorizing the City Manager to execute such agreements with this organization for provision of support of the arts; and providing an effective date. [Consent Agenda Item "M"]

Mayor Pro Tem Stahel stated that while not opposed to this organization, he had questions regarding supporting a group that is not based in nor performs in the City. Creative Arts Manager Wear advised that the group is seeking office space in the City and that their target market is the Plano/Richardson area. He spoke to the City not having a venue to accommodate performances and to the group providing services to Plano citizens. Deputy Mayor Pro Tem Lambert and Council Member Stovall spoke to the item being part of the Small Grant Program. Mr. Stahel spoke to the City receiving no performance revenue and the lack of an office in Plano.

Mayor Evans spoke to tabling the item and requesting a member of the Cultural Affairs Commission come before the Council to provide additional information. Deputy Mayor Pro Tem Lambert spoke to possibly receiving information from the organization as well.

Upon a motion made by Mayor Pro Tem Stahel and seconded by Council Member Magnuson the Council voted 8-0 to table a resolution to approve the terms and conditions of the funding agreement in a total amount not to exceed \$1,000 between the City of Plano, Texas, and The Living Opera, which renders services that are beneficial to the public and serve a valid public purpose; authorizing the City Manager to execute such agreements with this organization for provision of support of the arts; and providing an effective date for two weeks.

Resolution No. 2004-10-11(R): To approve the terms and conditions of the funding agreements between the City of Plano, Texas and various arts organizations, which all render services that are beneficial to the public and serve a valid public purpose; authorizing the City Manager to execute such agreements with these organizations for provision of support of the arts; and providing an effective date. [Consent Agenda Item "N"]

Resolution No. 2004-10-11(R) (Cont'd)

Sonja Hammer, citizen of the City, spoke to the due diligence done in reviewing these applications and requested information on the amount of funding coming from Hotel/Motel taxes versus the General Fund. Creative Arts Manager Wear advised that approximately \$422,000 would be covered by Hotel/Motel taxes with the additional monies coming from the General Fund. Ms. Hammer spoke to the request not covering items such as Sci-Tech or the Living Opera and requested information regarding the amount spent on festivals. City Manager Muehlenbeck advised that he would provide this information.

City Manager Muehlenbeck spoke regarding the shortage beginning in 2001 for both arts and historic preservation funding and the decision at that time to take monies from the General Fund. Deputy Mayor Pro Tem Lambert advised that the total level of funding has been held constant and Mr. Muehlenbeck stated that as the Hotel/Motel tax has increased the amount provided from the General Fund has declined.

Upon a motion made by Council Member Stovall and seconded by Council Member Callison the Council voted 8-0 to approve the terms and conditions of the funding agreements between the City of Plano, Texas and various arts organizations, which all render services that are beneficial to the public and serve a valid public purpose; authorizing the City Manager to execute such agreements with these organizations for provision of support of the arts; and providing an effective date; and further to adopt Resolution No. 2004-10-11(R).

Adoption of City Council Strategic Plan for 2004-2009. [Regular Agenda Item "1"]

Executive Director Glasscock reviewed the Strategic Plan including the revised vision and mission statements, core businesses and core beliefs. He advised regarding the action agenda for 2004-2005 and reviewed the top achievements for 2003-2004 as identified by the Council.

Upon a motion made by Council Member Stovall and seconded by Deputy Mayor Pro Tem Lambert, the Council voted 8-0 to adopt the City Council Strategic Plan for 2004-2009.

Public Hearing and adoption of Ordinance No. 2004-10-12 as requested in Zoning Case 2004-16 – To amend Subsection 3-1106 (Parking Area Standards) of Section 3-1100 (Off-Street Parking and Loading) of Article 3 (Supplementary Regulations) of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, to allow gravel driveways in the Agricultural and Estate Development Zoning Districts within the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: City of Plano [Regular Agenda Item "2"]

Ordinance No. 2004-10-12 (cont'd)

Development Review Manager Elgin advised the Council that the request does not change the requirements for a concrete approach nor does it propose to change requirements for concrete or asphalt parking. He further stated that the Planning and Zoning Commission recommended approval subject to the following (Additions are indicated in underlined text; deletions are indicated in strikethrough text.):

Amend Sub-section 3-1106 (Parking Area Standards) of Section 3-1100 (Off-Street Parking and Loading) of Article 3 (Supplementary Regulations) to read as follows:

“3.1106 Parking Area Standards (ZC 94-46/ZC 97-46; Ordinance No. 97-11-16)

Unless noted otherwise in this section, All required parking spaces and loading areas, together with driveways and maneuvering aisles, and additional parking areas which are routinely and customarily used on a daily or weekly basis shall be paved with a concrete or asphalt surface. Driveways and maneuvering aisles associated with single-family residences, farms, dairies, and ranches within the Agricultural and Estate Development zoning districts may be gravel construction. No minimum paving standard is required for parking areas for special events and seasonal sporting events or overflow parking beyond required parking for churches. Paving and drainage shall be in accordance with city standards. All parking areas shall be maintained in good condition, free of potholes and other deterioration.

Except as noted above, any new parking area construction or expansion of an existing parking area shall be constructed of concrete or asphalt. Properties with existing parking areas not constructed of concrete or asphalt shall conform to these requirements upon a change of property use or tenant.

To prevent nuisance situations, all parking area lighting shall be designed and operated so as not to reflect or shine on adjacent properties. For safety and fire fighting purposes, free access through to adjacent parking areas shall be provided where practical.

Except for single-family and duplex uses, parking spaces shall be permanently and clearly identified by stripes, buttons, tiles, curbs, barriers, or other approved methods. Nonpermanent marking, such as paint, shall be regularly maintained to ensure continuous clear identification of the space.”

Mr. Elgin spoke to consideration of emergency access and advised that per the Fire Department, there would be no problem for single family residences in these districts.

Ordinance No. 2004-10-12 (cont'd)

Mayor Evans opened the Public Hearing. Jon Jacobson, citizen of the City, spoke in favor of the request and gravel driveways adding a "rural feel" to property. Deputy Mayor Pro Tem Lambert spoke to additional requirements that may be imposed by deed restrictions. City Attorney Wetherbee stated that deed restrictions would take precedence over the City's requirement and that they can be more restrictive. No one else spoke either for or against the request. The Public Hearing was closed.

Upon a motion made by Mayor Pro Tem Stahel and seconded by Council Member Magnuson, the Council voted 8-0 to amend Subsection 3-1106 (Parking Area Standards) of Section 3-1100 (Off-Street Parking and Loading) of Article 3 (Supplementary Regulations) of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, to allow gravel driveways in the Agricultural and Estate Development Zoning Districts within the City as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2004-16; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date; and further to adopt Ordinance No. 2004-10-12.

Public Hearing and an ordinance as requested in Zoning Case 2004-35 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, so as to rezone 22.6± acres located on the north side of Ridgeview Drive, 2,000± feet east of Coit Road in the City of Plano, Collin County, Texas, from Regional Employment to Planned Development-152-Patio Home; 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 #2. Applicant: Hagggar-Jezzeen Partnership & Ryland Homes [Regular Agenda Item "3"]

Development Review Manager Elgin advised the Council that the applicant has requested the item be tabled until the November 8, 2004 Council Meeting.

Upon a motion made by Deputy Mayor Pro Tem Lambert and seconded by Council Member Stovall, the Council voted 8-0 to table a request to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, so as to rezone 22.6± acres located on the north side of Ridgeview Drive, 2,000± feet east of Coit Road in the City of Plano, Collin County, Texas, from Regional Employment to Planned Development-152-Patio Home as requested in Zoning Case 2004-35; until November 8, 2004

Public Hearing and adoption of Ordinance No. 2004-10-13 as requested in Zoning Case 2004-36 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, granting Specific Use Permit No. 550 so as to allow the additional use of a Day Care Center on 7.5± acres of land located on the southeast corner of Legacy Drive and Ohio Drive in the City of Plano, Collin County, Texas, presently zoned Single-Family-7; 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 #17. Applicant: Korean First Baptist Church. [Regular Agenda Item “4”]

Development Review Manager Elgin advised the Council that the physical character of the property is not conducive for development as Single-Family-7 and that the applicant proposes maintaining the floodplain. He further advised that the Planning and Zoning Commission has recommended approval of the request as submitted. Mr. Elgin responded to Mayor Pro Tem Stahel that letters were received from two homeowners’ associations in the area indicating support.

Mayor Evans opened the Public Hearing. Cheryl Williams, representing the applicant, spoke to the Montessori school planned for the location, regarding support from the homeowners’ associations and the approval received from the Planning and Zoning Commission. Ray Griffith, representing the Deerfield Homeowners Association, spoke in support of the request and responded to Mayor Pro Tem Stahel stating that the decision comes from the association’s board. Rebecca Bernard, representing Preston Meadow Montessori, spoke in opposition to the request, stating concerns regarding the proposal providing similar services in close proximity to her location. She responded to the Council regarding how the state of the economy has affected her business. Ms. Williams spoke to the proposed school bringing established clientele to the location. Council Member Stovall spoke to the possibility of the two businesses complimenting one another and to the upturn in the economy.

Mayor Evans spoke to looking at the best use of the land rather than business propositions and regarding this location not working well for residential or commercial development. No one else spoke either for or against the request. The Public Hearing was closed.

Ms. Williams responded to Mayor Pro Tem Stahel stating that while the school is not in a hurry to push up attendance, they would like to have the capability to expand and serve families who would like to continue a Montessori education beyond the Kindergarten level.

Ordinance No. 2004-10-13 (cont'd)

Upon a motion made by Council Member Stovall and seconded by Deputy Mayor Pro Tem Lambert, the Council voted 8-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, granting Specific Use Permit No. 550 so as to allow the additional use of a Day Care Center on 7.5± acres of land located on the southeast corner of Legacy Drive and Ohio Drive in the City of Plano, Collin County, Texas, presently zoned Single-Family-7 as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2004-36; 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. 2004-10-13.

Public Hearing and adoption of Ordinance No. 2004-10-14 as requested in Zoning Case 2004-37 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, granting Specific Use Permit No. 551 so as to allow the additional use of a private club within a restaurant on 0.1± acre of land located on the west side of Bishop Road, 340± feet south of Legacy Drive in the City of Plano, Collin County, Texas, presently zoned Planned Development-65-Central Business-1; 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 #16. Applicant: The Shops at Legacy, LP. [Regular Agenda Item “5”]

Development Review Manager Elgin advised the Council that the Planning and Zoning Commission recommended approval of the request as submitted.

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

Upon a motion made by Deputy Mayor Pro Tem Lambert and seconded by Council Member Magnuson, the Council voted 8-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, granting Specific Use Permit No. 551 so as to allow the additional use of a private club within a restaurant on 0.1± acre of land located on the west side of Bishop Road, 340± feet south of Legacy Drive in the City of Plano, Collin County, Texas, presently zoned Planned Development-65-Central Business-1 as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2004-37; 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 2004-10-14.

Resolution No. 2004-10-15(R): To approve the terms and conditions of a funding agreement by and between the City of Allen, Texas, the City of Frisco, Texas, and the City of Plano, Texas to set forth the terms and conditions for providing initial funding for services related to the Arts of Collin County, Inc; authorizing its execution by the City Manager; and providing an effective date. [Regular Agenda Item “6”]

Resolution No. 2004-10-15(R) (cont'd)

City Manager Muehlenbeck stated that the City would provide funding of up to \$1.2 million, representing \$400,000 each from the cities of Plano, Frisco and Allen for the initial work done by the Arts of Collin County. He further advised that this item has been approved by the City of Frisco and will be considered by the City of Allen this week. Mr. Muehlenbeck spoke to this item representing a "credit" for the City of Plano as the project moves forward and stated that since the debt has already been issued, the City will not receive credit for interest.

Upon a motion made by Council Member Magnuson and seconded by Council Member Johnson, the Council voted 8-0 to approve the terms and conditions of a funding agreement by and between the City of Allen, Texas, the City of Frisco, Texas, and the City of Plano, Texas to set forth the terms and conditions for providing initial funding for services related to the Arts of Collin County, Inc; authorizing its execution by the City Manager; and providing an effective date; and further to adopt Resolution No. 2004-10-15(R).

Resolution No. 2004-10-16(R): To appropriate funds for services related to the Arts of Collin County, Inc., and authorizing the expenditures of funds thereof; and providing an effective date. [Regular Agenda Item "7"]

Upon a motion made by Deputy Mayor Pro Tem Lambert and seconded by Council Member Johnson, the Council voted 8-0 to appropriate funds for services related to the Arts of Collin County, Inc., and authorizing the expenditures of funds thereof; and providing an effective date; and further to adopt Resolution No. 2004-10-16(R).

There being no further discussion, Mayor Evans adjourned the meeting at 8:34 p.m.

Pat Evans, MAYOR

ATTEST:

Elaine Bealke, City Secretary