

PLANO CITY COUNCIL
November 26, 2001

COUNCIL MEMBERS

Jeran Akers, Mayor
Rick Neudorff, Mayor Pro tem
Phil Dyer, Deputy Mayor Pro tem
Shep Stahel
Scott Johnson
Steve Stovall
Jim McGee
Ken Lambert

STAFF

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

Mayor Akers convened the meeting into open session on Monday, November 26, 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 Robert Hill, Senior Pastor of Faith Lutheran Church.

The Pledge of Allegiance was led by Cub Scout Pack 1259, Den 14 of Hughston Elementary.

Mayor Akers presented proclamations recognizing the "Plano Family of the Year" and the "Mayor's Volunteer of the Month."

Mayor Akers administered the oath of office to Library Advisory Board member Jean Godfrey.

GENERAL DISCUSSION

No one appeared to speak

CONSENT AGENDA

Upon the request of Staff, Consent Agenda Item "D" was pulled and held.

Upon the request of Council Member Stovall, Consent Agenda Item “F” was removed for individual consideration.

Upon a motion made by Council Member Stahel and seconded by Mayor Pro tem Neudorff, 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)]

November 12, 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. C203-01 for a fixed-price contract for EMS Medical Supplies in the estimated annual amount of \$64,624 for an annual contract with renewals. [Consent Agenda Item (B)] (See Exhibit “A”)

Bid No. C004-02 for a fixed-price contract for MIR Irrigation Controllers in the estimated annual amount of \$143,140 for an annual contract with renewals. [Consent Agenda Item (C)] (See Exhibit “B”)

Adoption of Resolutions

To approve the terms and conditions of a boundary adjustment agreement by and between the City of Plano, the City of Carrollton, Texas, and the town of Hebron, Texas, to set the future city limit boundaries in the area of Marsh Lane and West Park Boulevard; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (D)] (This item pulled and held.)

Resolution No. 2001-11-14(R): To approve a five (5) year agreement with First Southwest Asset Management, Inc. to provide arbitrage rebate services for the City; authorizing payment for said rebate calculation services on a year-to-year basis throughout the term of the agreement; approving the provision of and payment for the 2001 tax year arbitrage calculations; authorizing the City Manager to execute any and all documents in connection with these approvals; and providing an effective date. [Consent Agenda Item (E)]

Resolution No. 2001-11-15(R): To approve the renewal of the terms and conditions of an interlocal cooperation agreement by and between the City of Plano and the Plano Independent School District providing terms and conditions for the use of the Cities of Plano, Allen, and Frisco’s trunked radio system by the Plano Independent School District; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (G)]

Resolution No. 2001-11-16(R): To approve the renewal of the terms and conditions of an interlocal cooperation agreement by and between the City of Plano and the City of Parker providing terms and conditions for the use of the Cities of Plano, Allen, and Frisco's trunked radio system by the City of Parker; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (H)]

Resolution No. 2001-11-17(R): To approve and authorize refunds of property tax overpayments; and providing an effective date. [Consent Agenda Item (I)]

Resolution No. 2001-11-18(R): To approve the terms and conditions of an interlocal cooperation agreement by and between the City of Plano and the City of Wylie providing terms and conditions for the use of the Cities of Plano, Allen, and Frisco's trunked radio system by the City of Wylie; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (J)]

Adoption of Ordinances

Ordinance No. 2001-11-19: To amend Section 12-137(a) of Chapter 12 (Traffic Code) of the City of Plano Code of Ordinances to include 10th Street from its intersection with K Avenue to its termination as a roadway east of its intersection of L Avenue along which the operation of commercial vehicles, i.e. truck, truck-tractor, trailer, or semi-trailer, or combination of such vehicles with a total of more than three (3) axles, where the power unit of such vehicle or combination of vehicles has a manufacturer's rated carrying capacity in excess of three-quarters ton, is prohibited; providing a fine for criminal penalties not to exceed \$200.00 for each offense; and providing a repealer clause, severability clause, a savings clause, and an effective date. [Consent Agenda Item (K)]

Ordinance No. 2001-11-20: To adopt Section 12-102.6 of Chapter 12 (Traffic Code) of the City of Plano Code of Ordinances to prohibit parking of motor vehicles on Sundays between the hours of 8:00 a.m. and 1:00 p.m. along both sides of Glenmont Drive from its intersection with Carrington Drive to its intersection with Ashmont Drive/Briarcrest Drive, Carrington Drive from its intersection with Glenmont Drive to its intersection with Winslow Drive, Ashmont Drive from its intersection with Glenmont Drive to its intersection with Winslow Drive and Briarcrest Drive from its intersection with Ashglen Place to its intersection with Glenmont Drive within the city limits of the City of Plano; declaring it unlawful and a misdemeanor to park motor vehicles upon such sections of such roadway within the limits herein defined; providing a fine for criminal penalties not to exceed \$200.00 for each offense; and providing a repealer clause, a severability clause, a savings clause, and an effective date. [Consent Agenda Item (L)]

Ordinance No. 2001-11-21: To amend Section 12-102(c) Chapter 12 (Traffic Code) of the City of Plano Code of Ordinances to prohibit parking of motor vehicles along the south side of Janwood Drive from the intersection of Crestridge Drive west to the intersection of Drexel Drive within the city limits of the City of Plano on school days between the hours of 7:15 a.m. to 8:15 a.m. and 2:30 p.m. to 3:15 p.m.; declaring it unlawful and a misdemeanor to park motor vehicles upon such sections of such roadway within the limits herein defined; providing a fine for criminal penalties not to exceed \$200.00 for each offense; and providing a repealer clause, a severability clause, a savings clause, and an effective date. [Consent Agenda Item (M)]

Ordinance No. 2001-11-22: To abandon all right, title and interest of the City, in and to that certain 30-foot Ingress/Egress easement to serve the Executive Square Addition as recorded in Volume 1647 at Page 384 of the Land Records of Collin County, Texas which is located north of 19th Street and east of Avenue K within the City limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such easement to the abutting property owners, to the extent of their interests; authorizing the City Manager to execute any documents deemed necessary; and providing an effective date. [Consent Agenda Item (N)]

Ordinance No. 2001-11-23: To amend the definition of “junked vehicle” in Division 3, Section 12-226 of Chapter 12, “Motor Vehicles and Traffic,” of the City of Plano Code of Ordinances, to correct a clerical error, thereby making the definition consistent with the “junked vehicle” definition under the Texas Transportation Code, which was the original intent of the City Council; and providing a repealer clause, severability clause, and an effective date. [Consent Agenda Item (O)]

Reimbursement of Oversize Participation

To approve and authorize reimbursement to Electronic Data Systems Corporation for oversize participation for paving and water line improvements associated with construction of Headquarters Drive Extension, from Parkwood Boulevard to Preston Road in the amount of \$143,200. [Consent Agenda Item (P)]

To approve and authorize reimbursement to Huie Construction Company, Inc. for oversize participation for drainage improvements and park land cost associated with construction of Stoney Hollow, Phase VI in the amount of \$233,726. [Consent Agenda Item (Q)]

Purchase off Existing Contract

For the purchase of two (2) catch basin cleaners and two (2) 60,000 GVWR tandem truck cab/chassis through the Houston-Galveston Area Council of Governments (HGAC) Inter-Local Contract Agreement (No.'s SC99-01 & HT01-04) in the amount of \$398,587. [Consent Agenda Item (R)]

END OF CONSENT

Resolution No. 2001-11-24(R): To authorize an expenditure of funds not to exceed two hundred seventy thousand and no/100 dollars (\$270,000) to Uretek USA, Inc., the sole source provider and licensee of the Uretek Method® and Uretek 486, a high-density polyurethane material used for street and alley pavement repair; authorizing the City Manager to take such action and execute such documents as necessary to effectuate this expenditure; and providing an effective date. [Consent Agenda Item (F)]

Director of Public Works Foster reviewed the polyurethane material recommended for use in street and alley pavement repair stating that it would be non-destructive, state-of-the-art and offer savings in both time and cost.

Upon a motion made by Council Member Stovall and seconded by Council Member Stahel, the Council voted 8-0 to authorize an expenditure of funds not to exceed two hundred seventy thousand and no/100 dollars (\$270,000) to Uretek USA, Inc., the sole source provider and licensee of the Uretek Method® and Uretek 486, a high-density polyurethane material used for street and alley pavement repair; authorizing the City Manager to take such action and execute such documents as necessary to effectuate this expenditure; and providing an effective date; and further to adopt Resolution No. 2001-11-24(R).

Public Hearing to receive input from the citizens and receive Council direction regarding the proposed water and sewer rate increase options. [Regular Agenda Item (1)]

Senior Budget Analyst Mark Israelson stated that components of Option 1 (conservation option) include the commercial rate class participating in an irrigation rate, Plano Independent School District (PISD) moving from a special rate class into the commercial rate, all minimum bills would be increased by one dollar in the first fiscal year and would not be raised for subsequent years and that the North Texas Municipal Water District (NTMWD) increases will be passed along directly to the volumetric rates. He stated that on the sewer side, the main component of Option 1 would be a phased-in increase in the wastewater cap with a move to winter quarter averaging in fiscal year 2005-06, PISD would move into the commercial rate class and for both water/sewer all classes share the same rate.

Mr. Israelson spoke regarding Option 2 stating that it preserves the existing philosophy, does not implement irrigation rates for the commercial rate class, all volumes over 5,000 gallons would cost the same, and costs from NTMWD would be passed through as is. He stated that regarding sewer rates, the 9,000 cap for residential class would remain in place for all five years and all classes would share in the same rates for water and sewer. Mr. Israelson restated that Option 1 moves towards conservation and Option 2 retains the current structure and philosophy.

City Manager Muehlenbeck responded to Council Member Stovall stating that the Water/Sewer Fund is operated as an enterprise fund with the revenues generated at least equaling the expenditures and no tax dollars are intermingled. Mr. Muehlenbeck spoke regarding the growth of the City and the benefits derived from the contract with NTMWD stating that once the minimum "take or pay" has been met, the City has been able to purchase water inexpensively for the balance of that fiscal year. He stated that the next year, water must be purchased at the regular cost, a new "ceiling" is created, and that if the City does not take the same amount as the previous year, it must pay the difference even though it was not taken or consumed. Mr. Muehlenbeck and Mr. Israelson spoke regarding NTMWD increases in both the water and sewer.

Mayor Akers opened the Public Hearing. Jim Wilck, representing the Plano Homeowners Council, stated concern that the rates are increasing but spoke positively regarding the City's proposition to alter rates in a fair manner. He spoke in favor of Option 1 that promotes conservation, addresses inequities and is phased-in over a five-year period.

Ronnie Morrison, President of the Plano Chamber of Commerce, spoke to meetings held by business leaders to formulate a proposal. Harvey Fishero, Chairman of the Board of Directors of the Plano Chamber of Commerce, spoke to members of the Chamber's Government Relations Committee meeting with City Staff and stated that the board appreciates the position of the City. Larry Flannery, Vice-Chairman of the Chamber's Government Relations Division, spoke to the board's concern regarding the timing and further requested utilizing reserves to mitigate the increases the first year so that business customers might better plan. He stated concern that there might be another increase from NTMWD in the next few years and spoke to communications with the district. Mr. Flannery spoke regarding costs associated with the construction of infrastructure to accommodate new member cities and the possibility of a different rate or entry fee, encouraging water conservation and including usage on bills. The Council spoke to usage indication on bills.

Donavan Drews, citizen of the City, stated concern regarding notification and spoke to monies spent on radio transmitters. No one else spoke either for or against the request. The Public Hearing was closed.

Mr. Muehlenbeck spoke to considering notification on utility bills, the City's outreach efforts, the low number of meter readers and the electronic system assisting employees, cutting costs and being phased-in over several years. He spoke regarding advisement during the budget process that an increase from NTMWD was anticipated, changes that have occurred in the economy since September 11, and Staff's work with the Council committee to review rates and develop options.

Mr. Muehlenbeck cited factors the committee considered including achieving equity between the residential and commercial rates and spoke regarding the caps on the residential side, phasing in an increase over five years and the use of winter-quarter averaging. He spoke to bringing all users into one classification or the other and regarding the history of PISD rates, stating that the City pays for water/sewer at the commercial rate. Mr. Muehlenbeck spoke to promoting conservation through the rate structure, expenditures for maintaining an aging system, water extensions (which have been funded from cash rather than debt), and the five-percent reduction in rates over the last three years. He spoke to future plans to provide water to the area, the need for water/sewer projects and to the importance of all member cities being operated on the same rate structure.

Council Member Stahel spoke to the subcommittee goals to encourage summer irrigation and move to a rate where each group pays its costs and regarding the City's usage and rates. Mr. Stahel spoke to the business community's concern regarding the effect of an increase on their 2002 budgets. He recommended utilizing Option 2 for this fiscal year (keeping the formula the same and passing on the direct cost increase), and beginning in October of 2002 utilize a rate structure incorporating the principles laid out in Option 1. Mr. Stahel spoke to subsidizing from the reserve fund during the time Option 2 is in effect.

Mayor Pro tem Neudorff spoke to the history of rates and stated agreement with passing along the incremental cost of the water as in Option 2 and then doing more the following year.

Deputy Mayor Pro tem Dyer spoke regarding the City's history of keeping the costs down and concern that the reserves might be depleted in one year under the proposal by Council Member Stahel (Option 2 implemented for this fiscal year and beginning in October of 2002 a rate structure incorporating the principles laid out in Option 1). Budget Director Rhodes advised that if Option 2 were implemented for this fiscal year, \$5.9 of \$13 million would be utilized and Mr. Muehlenbeck spoke regarding the permanent fund and capital reserve fund and stated that using the \$5.9 million the first year would not require the shifting of capital expenditures. Mr. Dyer spoke to Option 1 in the long-term with Option 2 for the first year. He spoke to NTMWD's methods of addressing conservation and to giving the school district consideration citing costs being passed on to taxpayers.

Council Member Stovall spoke in agreement with Option 2 then moving to Option 1.

Council Member McGee spoke to Option 2 then Option 1, conservation and getting a "buy in" from NTMWD, stated concern that businesses with required landscaped areas may not keep them up and recommended a communication or education program to partner in the process of conservation. Mr. Muehlenbeck spoke regarding providing a Staff member to improve the education process.

Council Member Lambert spoke regarding Option 2's use of reserves and this possibly resulting in higher rates than those proposed under Option 1. He spoke regarding Option 1 phasing-in over a five-year period utilizing the reserve fund to lessen the overall impact of rate changes. Mr. Lambert spoke regarding there being no conservation built-in to the current rates, the level of increase for commercial and residential customers, and future negotiations with NTMWD. He spoke in support of Option 1 as being a prudent fiscal plan, keeping reserves, and spreading increases out over five years, and regarding Council's desire to proceed as Council Member Stahel has recommended. Mr. Lambert spoke to moving ahead and establishing rates, giving notice of increases and regarding other school districts within the City limits paying the commercial rate.

Ms. Rhodes responded to Council Member Johnson stating that if Option 2 is implemented for the first year, reserves will not go below the minimum level and stated that for the last three years, Staff has indicated that reserves would be used to offset in the case of a rate increase. She responded that if Option 1 were chosen at this time, the reserve would be spread out over a four-year period and if Option 2 were chosen, it would run out in two years. Mr. Johnson stated that if an adequate reserve is retained, he would opt for Option 2 for the first year, then Option 1 for the second through fifth years.

Mayor Akers spoke to balancing the needs of citizens in terms of cost and making certain the City has a safe, pure and reliable supply of water and regarding notification from the NTMWD. He spoke regarding past rate reductions made with the understanding that when there was a shortfall, rates would need to be raised, regarding the City's usage, the need for conservation, and to being responsive. Mayor Akers stated the Council's general consensus to adopt Option 2 for this fiscal year and Option 1 effective the first of next fiscal year.

Ms. Rhodes stated that under this proposal her estimate is that the reserves would run out in three to four years, but that Staff would re-run the model, and subsequent years would require higher increases. Council Member Lambert spoke to the increase that would be needed next October if Option 2 were utilized for the first year and stated that Option 2 would not be a savings for those commercial users of 50,000 gallons. He spoke regarding the savings for some of the lower-end users and stated concern regarding the reserve fund. Mayor Akers requested information on the "real dollar cost" of the increase as compared to what rates were prior to reductions. Mr. Israelson stated that with regards to the sewer portion, the bill would be slightly increased over what it was three years ago.

Mr. Muehlebeck spoke to Staff bringing forward data as well as Option 1 and Option 2 for consideration. Mayor Akers requested Staff bring forward the proposal for utilization of Option 2 with Option 1 taking effect in October 2002. Council Member Lambert clarified that Option 2 would be the interim rate for this year and going to the permanent rate in October and requested that action be taken to set the rates for next October.

Public Hearing and adoption of Ordinance No. 2001-11-25 as requested in Zoning Case 2001-19 – To amend Section 1-600 (Definitions) of Article 1, Subsection 2-502 (Schedule of Permitted Uses) of Section 2-500 (Permitted Uses) of Article 2, Subsection 3-116 (Tattooing and Permanent Cosmetics) of Section 3-100 (Supplementary Regulations for Principal Permitted Uses and Specific Uses) of Article 3 and other related sections of the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, concerning regulations for body piercing; 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)]

Director of Planning Phyllis Jarrell advised the Council that the Planning and Zoning Commission recommended approval of the request subject to the following stipulations:

Section 1-600 (Definitions) to add the following definition:

Body Piercing - The creation of an opening in an individual's body, other than in an individual's ear lobe, to insert jewelry or other decoration.

Subsection 2-502 (Schedule of Permitted Uses) as follows:

Add "Body Piercing" to the list of uses, and reference End Note 37 in the O-1, O-2, R, LC, CC, RE, RC, CE, CB-1, RT, LI-1, and LI-2 districts. End Note 37 shall continue to read as follows:

"37. Permitted as an accessory use to a personal service shop and allowed in districts where that use is permitted; allowed by specific use permit as a primary use in the Retail, Corridor Commercial, Light Commercial, Light Industrial-1, and Light Industrial-2 districts (see Section 3-116 and reference use charts.)"

Subsection 3-116 as follows:

"3-116 Tattooing, Permanent Cosmetics, and Body Piercing

1. Facilities that offer tattooing, permanent or intradermal cosmetic services, and body piercing must be licensed by the State of Texas and must meet all environmental health requirements of the City of Plano.

Ordinance No. 2001-11-25 (cont'd)

2. Tattooing, permanent cosmetics, and body piercing may be practiced as an accessory use to a personal service shop. As a primary use requiring a specific use permit, a facility offering these services shall be prohibited within 1,000 feet of any church, residentially zoned district or public or parochial school. The distance shall be measured in a straight line from the front door of the facility to the nearest property of the church, public or parochial school, or to the closest residential district boundary line. The 1,000 foot distance may be reduced to 300 feet if City Council finds that issuance of the specific use permit would not be detrimental or injurious to the public health, safety, or general welfare, or otherwise offensive to the neighborhood.”

Ms. Jarrell advised of the commission’s consideration regarding body piercing in retail stores and their determination to address this in the same manner as tattooing.

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

Upon a motion made by Council Member Stovall and seconded by Deputy Mayor Pro tem Dyer, the Council voted 7-0 to amend Section 1-600 (Definitions) of Article 1, Subsection 2-502 (Schedule of Permitted Uses) of Section 2-500 (Permitted Uses) of Article 2, Subsection 3-116 (Tattooing and Permanent Cosmetics) of Section 3-100 (Supplementary Regulations for Principal Permitted Uses and Specific Uses) of Article 3 and other related sections of the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as requested in Zoning Case 2001-19 as heretofore amended, and as recommended by the Planning and Zoning Commission concerning regulations for body piercing; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date; and further to adopt Ordinance No. 2001-11-25. (Mayor Akers was away from the bench.)

Public Hearing and adoption of Ordinance No. 2001-11-26 as requested in Zoning Case 2001-40 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, granting Specific Use Permit No. 456 so as to allow the additional use of a Private Club on one lot on 2.0± acres of land out of the Daniel Rowlett Survey, Abstract No. 738, located on the west side of U. S. Highway 75, 840± feet north of Ruisseau Drive in the City of Plano, Collin County, Texas, presently zoned Corridor Commercial; 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 #36. Applicant: Fairview Farm Land Company, Ltd. [Regular Agenda Item (3)]

Ordinance No. 2001-11-26 (cont'd)

Director of Planning Phyllis Jarrell advised the Council that the Planning and Zoning Commission recommended approval of the request as submitted and responded to Deputy Mayor Pro tem Dyer that the applicant has requested additional parking.

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

Upon a motion made by Council Member Lambert and seconded by Deputy Mayor Pro tem Dyer, the Council voted 8-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 86-3-14, as heretofore amended, as requested in Zoning Case 2001-40 granting Specific Use Permit No. 456 so as to allow the additional use of a Private Club on one lot on 2.0± acres of land out of the Daniel Rowlett Survey, Abstract No. 738, located on the west side of U. S. Highway 75, 840± feet north of Ruisseau Drive in the City of Plano, Collin County, Texas, presently zoned Corridor Commercial as recommended by the Planning and Zoning Commission; 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. 2001-11-26.

There being no further discussion, Mayor Akers adjourned the meeting at 8:42 p.m.

Jeran Akers, **MAYOR**

ATTEST:

Elaine Bealke, **City Secretary**