

PLANO CITY COUNCIL

August 27, 2012

COUNCIL MEMBERS PRESENT

Phil Dyer, Mayor

Lissa Smith, Mayor Pro Tem

Ben Harris, Deputy Mayor Pro Tem

Pat Miner

André Davidson

James Duggan

Patrick Gallagher

Lee Dunlap

STAFF PRESENT

Bruce Glasscock, City Manager

LaShon Ross, Deputy City Manager

Diane Wetherbee, City Attorney

Diane Zucco, City Secretary

Mayor Dyer convened the Council into the Regular Session on Monday, August 27, 2012, 2012, at 7:02 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. A quorum was present.

Reverend Alice Coder of First United Methodist Church in Plano led the invocation and Cadette Girl Scout Troop 656 led the Pledge of Allegiance.

PROCLAMATIONS & SPECIAL RECOGNITION

Mayor Dyer presented proclamations recognizing Plano ISD PTA's celebration of Family Engagement Month and The InTouch Credit Union Plano Hot Air Balloon Festival. City Manager Glasscock recognized Nancy Nevil, Director of the Plano Sustainability & Environmental Services Department for her thirty years of service.

COMMENTS OF PUBLIC INTEREST

Citizen Denise Midgley requested information regarding the placement of bicycle path signs along roadways and stated concern regarding on street cycling. City Manager Glasscock advised that Staff will respond to Ms. Midgley's request.

CONSENT AGENDA

Upon the request of Council Member Dunlap, Consent Agenda Item "B" was removed for individual consideration due to a possible conflict of interest.

Upon the request of Mayor Dyer, Consent Agenda Item "K" was removed for individual consideration.

Upon a motion made by Council Member Miner and seconded by Deputy Mayor Pro Tem Harris, 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 8, 2012
August 13, 2012
August 18, 2012

Approval of Expenditures

Award/Rejection of Bid/Proposal: (Purchase of products/services through formal procurement process by this agency)

Bid No. 2012-223-B to approve the purchase of two (2) Portable Video Surveillance Towers, at a total cost of \$99,000 from Cameras Onsite LLC, through the 2010 COPS Child Sexual Predator Grant and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “C”)

To terminate Contract No. 2011-204-C Tires – New, and award Bid No. 2012-260-C for a one (1) year contract with three (3) city optional renewals to purchase Tires – New for Inventory Control & Asset Disposal (ICAD) from A to Z Tire & Battery, Inc., American Tire Distributors, and Southern Tire Mart in an estimated amount of \$316,686 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “D”)

Purchase from an Existing Contract

To approve the purchase of the installation of conduits and cabling for the Technology Services Data Center Renovation project, in the amount of \$149,948 from Able Communications, Inc. through an existing contract and authorizing the City Manager to execute all necessary documents. (City of Plano Contract Number 2011-195-C) (Consent Agenda Item “E”)

Adoption of Resolutions

Resolution No. 2012-8-10(R): To extend the time limits of an exclusive period for development of a preliminary project design and the negotiation of the terms and conditions of a development agreement by and between the City of Plano, Texas and Prescott Realty Group for the redevelopment of 4.6± acres located at the northwest corner of Park Boulevard and K Avenue in the City of Plano; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “F”)

Resolution No. 2012-8-11(R): To approve the terms and conditions of an agreement by and between the City of Plano, Texas and Alcatel-Lucent USA, Inc., a sole source provider, to purchase services and products related to the Phase 7 upgrade and replacement of the existing microwave radio system in the amount of \$677,448; authorizing its execution by the City Manager and providing an effective date. (Consent Agenda Item “G”)

Resolution No. 2012-8-12(R): To find Officer Samuel Mark McClendon is entitled to defense representation pursuant to the City Code of Ordinances in connection with the matter of Roger C. Fountain v. City of Plano Police Department, et al., in the United States District Court for the Eastern District of Texas, Sherman Division, Case No. 4:12-cv-00026; and providing an effective date. (Consent Agenda Item “H”)

Resolution No. 2012-8-13(R): To find Officer Stan Roady is entitled to defense representation pursuant to the City Code of Ordinances in connection with the matter of Roger C. Fountain v. City of Plano Police Department, et al., in the United States District Court for the Eastern District of Texas, Sherman Division, Case No. 4:12-cv-00026; and providing an effective date. (Consent Agenda Item “I”)

Adoption of Ordinances

Ordinance No. 2012-8-14: To amend Section 12-74(b) of Chapter 12, Motor Vehicles and Traffic, of the Code of Ordinances of the City of Plano, Texas to amend the prima facie maximum speed limits for motor vehicles operating on certain sections of Park Boulevard within the corporate limits of the City of Plano; providing a fine for criminal penalties not to exceed \$200.00 for each offense; and providing a repealer clause, a penalty clause, a severability clause, a savings clause, a publication clause, and an effective date. (Consent Agenda Item “J”)

END OF CONSENT

Due to a possible conflict of interest, Council Member Dunlap stepped down from the bench on the following item.

Bid No. 2012-269-B for the 2011-2012 Residential Concrete Pavement Project Zone I10 & J9, Project No. 6211 to Jerusalem Corporation in the amount of \$1,370,742 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “B”)

Upon a motion made by Mayor Pro Tem Smith and seconded by Council Member Miner, the Council voted 7-0 to approve Bid No. 2012-269-B for the 2011-2012 Residential Concrete Pavement Project Zone I10 & J9, Project No. 6211 to Jerusalem Corporation in the amount of \$1,370,742.

Council Member Dunlap resumed his seat at the bench.

Consideration of an Ordinance to repeal Ordinance No. 2011-9-31 and approve the updated classification, including the number of positions and compensation plan, for the Fire Department sworn personnel for fiscal year 2011-2012 effective August 28, 2012; and providing a repealer clause, a severability clause and an effective date. (Consent Agenda Item “K”)

Interim Fire Chief Peterson advised that the proposed ordinance would establish positions to implement the pilot program to place Engine #8 in service on October 1. Fire Captain Biggerstaff spoke regarding the process of responding to emergencies and in opposition to the proposal revising the number of personnel on an engine from four to three. He spoke to the importance of the first few moments at the scene of a fire and the potential impact on service and safety.

Fire Rescue Specialist McCutcheon stated agreement with utilizing Engine #8 at Station 8, but disagreement with doing so prior to hiring additional staff. He spoke to research which indicates the effectiveness of four-member staffing, the impact on firefighter safety and paramedic outcomes. Mr. McCutcheon requested the Council reverse their decision.

City Manager Glasscock advised that the ordinance addresses promotions needed to implement the program for which Staff had received direction. Chief Peterson spoke to differing studies regarding the need for four-man staffing, being responsive to the needs of the north and west portion of the City, and operating in a cost-effective manner. He stated that he did not recommend: implementing three-man staffing department-wide, sending fewer fire fighters than indicated by a particular call, decreasing the minimum daily staffing level below 81, accepting a decreased level of service, risking lives, or removing medical units during typical low-incident times. Mr. Glasscock spoke to considering the level of service provided by every department, costs, and the importance of public safety. He spoke to getting equipment on the street, potential savings and requested Council direction.

Council Member Gallagher stated his respect for the firefighters and their position. He spoke to Staff time spent evaluating the expenses of all departments and in support of a pilot program. Mr. Gallagher requested the firefighters assist by proving metrics for the program.

Chief Peterson responded to Council Member Davidson, advising that without the program, Engine #8 would begin service in October 2013 and provided information on other Texas cities utilizing four-man staffing. He further responded, advising that additional resources for an emergency can be provided from other stations if needed. He responded to Mayor Pro Tem Smith, advising that the number of staff responding to a fire scene can be defined in the program and spoke regarding current response times. In response to Council Member Dunlap, he advised that the equipment sent to a structure fire include two engines, one aerial ladder, an ambulance and a battalion chief. He responded to Council Member Miner advising that, should the pilot not prove successful, those promoted can fill vacancies and to Deputy Mayor Pro Tem Harris that the City's medical director has indicated that a response of three people on an engine and two on an ambulance are adequate in the case of a medical emergency and that a matrix for evaluation will be developed.

Fire Apparatus Operator Moberly spoke to cities using four-man staffing and the relatively similar response times between an engine and the truck currently serving from Station #8. Fire Rescue Specialist Gillespie spoke to Chief Peterson's service as chair of the committee that established the recommendation of four-man staffing. He spoke to the staffing plan in place, approval of the bond referendum by voters and the requirement that new fire fighters already have certification shortening the time before full staffing can be achieved. Chief Peterson spoke to the recommendation of four-man staffing as an appendix to documentation standards and representing a recommendation, rather than a requirement.

Mr. Glasscock advised that the plan is not to reduce staffing across the board, but to address expenses and possibly recapture some savings. Council Member Duggan stated concern regarding the uncertainty of when reduced levels would be utilized and potential injury risks.

Chief Peterson spoke to four vehicles out of the department's 17 that would be impacted by decreased staffing. Council Member Miner questioned the use of a pilot program and spoke to citizens accepting a tax increase rather than a decrease in levels of public safety. In response to Mayor Pro Tem Smith, Chief Peterson advised that Staff would bring forward updates as the program progresses and continue its use until fifteen personnel are included in the budget for four-man staffing.

Mayor Dyer spoke to significant savings only being achieved through expansion of the program and Chief Peterson advised that his recommendation is for no fewer than 81 employees per shift.

Mr. Glasscock advised that the pilot program would allow management to evaluate whether or not to call in additional personnel on overtime. Chief Peterson spoke regarding his experience in fire protection, taking different approaches to individual circumstances and the current/anticipated departmental budget. He responded to Council Member Dunlap, advising that if the program is not implemented, the biggest impact would be on responses to structural service calls. Director of Budget and Research Rhodes-Whitley advised that an additional \$1.2 million would be needed to hire 15 firefighters on January 1.

Deputy Mayor Pro Tem Harris spoke to the importance of discussing direction for all departments, considering citizen demands, the lack of a matrix to evaluate the program and its benefits and in support of four-man staffing. Council Member Davidson stated respect for the time and effort put forth by the City Manager and Chief; but, stated concern with the structure of the pilot program and its evaluation. She spoke to other major Texas cities, recommendations by the American Heart Association and in support of four-man staffing. Mayor Dyer advised that if a majority of the Council is not in support, no motion is necessary and that silence will be interpreted as support for a failure of the item and an associated change in direction (not pursuing the pilot program).

No motion was made and the item died for lack thereof.

Public Hearing on a proposal to increase total tax revenues from properties on the tax roll in the preceding tax year by 0.65 percent (percentage by which proposed tax rate exceeds lower of rollback tax rate or effective tax calculated under Chapter 26, Tax Code). (Regular Agenda Item "1")

Director of Budget and Research Rhodes advised that the proposed rate is 48.86 cents per \$100 valuation and that the rollback rate is 48.54 cents.

Mayor Dyer opened the Public Hearing. No one spoke for or against the item. The Public Hearing was closed.

Public Hearing and adoption of Ordinance No. 2012-8-15 as requested in Zoning Case 2012-20 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 630 so as to allow the additional use of Private Club on 0.7± acre of land located on the north side of Spring Creek Parkway, 470± feet east of Custer Road, in the City of Plano, Collin County, Texas, presently zoned Retail; 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, a publication clause, and an effective date. Applicant: Iraj Zilaie (Regular Agenda Item “2”)

Planning Manager Firgens advised that the Planning and Zoning Commission recommends approval of the request as submitted and stated that if approved, annual audits shall be provided for compliance review.

Ordinance No. 2012-8-15 (cont'd)

Mayor Dyer opened the Public Hearing. No one spoke for or against the item. The Public Hearing was closed.

Upon a motion made by Council Member Miner and seconded by Council Member Gallagher, the Council voted 8-0 to grant Specific Use Permit No. 630 so as to allow the additional use of Private Club on 0.7± acre of land located on the north side of Spring Creek Parkway, 470± feet east of Custer Road as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2012-20; and further to adopt Ordinance No. 2012-8-15

Public Hearing and adoption of Ordinance No. 2012-8-16 as requested in Zoning Case 2012-21 to amend Section 1.600 (Definitions) of Article 1 (General Regulations), Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses), and Subsection 3.102 (Day Care Centers, Day Care Centers (In-home), and Day Care Centers (Accessory)) of Section 3.100 (Supplementary Regulations for Principal Permitted Uses and Specific Uses) of Article 3 (Supplementary Regulations) and related sections of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, regarding day care centers (in-home); and providing a publication clause, a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: City of Plano (Regular Agenda Item “3”)

Director of Planning Jarrell spoke to operators being requested to confirm the number of children under their care by the Building Inspection’s Department and Council’s concern regarding exceeding eight children at in-home centers. She spoke to the proposal impacting both licensed and registered providers and to removing language referencing a specific use permit for those caring for more than eight children. Planner Munyaradzi responded to the Council regarding licensing in other area cities. Ms. Jarrell responded to the Council regarding enforcement challenges of permitting additional children for before/after/holiday care and advised that the Planning and Zoning Commission recommended approval as follows:

Ordinance No. 2012-8-16 (cont'd)

1. Amend Section 1.600 (Definitions) of Article 1 (General Regulations) to revise the definition for day care center (in home) and remove the word “center” as follows:

Day care ~~center~~ (in home):

An operation providing care in the caretaker’s residence for less than 24 hours a day for up to ~~4~~ 8 children under the age of 14, provided that the total number of children, including the caretaker’s own children, is no more than ~~4~~ 8 at any time.

2. Amend Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses) to add End Note number 42 to the MH, MF-1, MF-2 and MF-3 districts, delete “c” from End Note: 42 - See Subsection 3.102.2.c, and remove the word “center” as follows:

Residential Zoning Districts

Permitted Uses	Category	A- Agricultural	ED - Estate Development	SF-20 - Single-Family-20	SF-9 - Single-Family-9	SF-7 - Single-Family-7	SF-6 - Single-Family-6	2F - Two-Family (Duplex)	PH - Patio Home	SF-A - Single-Family Attached	MH - Mobile Home	MF-1 - Multifamily-1	MF-2 - Multifamily-2	MF-3 - Multifamily-3	GR - General Residential	UR - Urban Residential
Day Care Center (In-home)	Service	P 42	P 42	P 42	P 42	P 42	P 42	P 42	P 42	P 42	P <u>42</u>	P <u>42</u>	P <u>42</u>	P <u>42</u>	P 42	P 42

End Note: 42 - See Subsection 3.102.2.e

3. Amend Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses) to change any references to “day care center (in-home)” to state “day care (in-home).”
4. Amend Subsection 3.102 (Day Care Centers, Day Care Centers (In-Home), and Day Care Centers (Accessory)) of Section 3.100 (Supplementary Regulations for Principal Permitted Uses and Specific Uses) of Article 3 (Supplementary Regulations) as follows:

3.102 Day Care Centers, Day Care ~~Centers~~ (In-home), and Day Care Centers (Accessory)

1. All day care centers and day care centers (accessory) shall comply with the following standards:

Ordinance No. 2012-8-16 (cont'd)

- a. If required by the State of Texas, the day care center must be licensed or registered.
 - b. No day care center shall be part of a single-family or two-family dwelling.
 - c. A day care center shall abut and derive its primary access from a street with a pavement width of 36 feet or greater.
2. Day care center (in-home) is allowed as a home occupation (refer to Subsection 3.110) in the caretaker's residence subject to:

a. If required by the State of Texas, the day care center must be licensed or registered. Care may be provided to a maximum of eight or fewer children is allowed by right, regardless of the number of children permitted by the State of Texas or the type of state license held by the operator.

~~b. Care provided to nine or more children is allowed with approval of a specific use permit.~~

All ~~group day care homes~~ licensed child-care homes which were licensed by the State of Texas or had a license application pending on or before October 25, 1993, are considered to be a legal use in residential districts ~~and will not require specific use permit approval~~ as long as a valid license is maintained for the operation in its original location and it provides care for less than 24 hours a day for no more than 12 children (including the caretaker's and staff's children) under the age of 14.

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

Council Member Dunlap stated opposition to the request, citing the potential for approval of additional capacity at specific locations.

A motion was made by Council Member Miner and seconded by Deputy Mayor Pro Tem Harris to amend sections of the Comprehensive Zoning Ordinance of the City related to day care centers (in-home); as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2012-21; and further to adopt Ordinance No. 2012-9-16. The Council voted 7-1 with Council Member Dunlap voting in opposition. The motion carried.

Nothing further was discussed. Mayor Dyer adjourned the Open Meeting at 8:33 p.m.

Phil Dyer, MAYOR

ATTEST

Diane Zucco, City Secretary