

PLANO CITY COUNCIL

August 23, 2010

COUNCIL MEMBERS

Phil Dyer, Mayor
Lee Dunlap, Mayor Pro Tem
Pat Miner, Deputy Mayor Pro Tem
Ben Harris
André Davidson
Lissa Smith
Harry LaRosiliere
Jean Callison

STAFF

Thomas H. Muehlenbeck, City Manager
Frank Turner, Deputy City Manager
Bruce Glasscock, Deputy City Manager
LaShon Ross, Deputy City Manager
Mark Israelson, Assistant City Manager
Diane C. Wetherbee, City Attorney
Diane Zucco, City Secretary

Mayor Dyer convened the Council into the Regular Session on Monday, August 23, 2010, at 7:15 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. Leon Aduddell of First Baptist Church of Plano and the Pledge of Allegiance was led by Mayor Dyer.

Comments of Public Interest

Citizen Ed Nalley requested the Council consider relocating the Christmas parade to the east side of the City. He spoke to limitations of parking at the current location and the large number of street closures. Mayor Dyer spoke to Staff review.

Consent Agenda

Upon the request of Mayor Pro Tem Dunlap, Consent Agenda Items "B" and "C" were removed for individual consideration due to possible conflicts of interest.

Upon the request of Staff, Consent Agenda Item "Q" was removed for individual consideration.

Upon a motion made by Mayor Pro Tem Dunlap and seconded by Deputy Mayor Pro Tem Miner, 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 9, 2010

Approval of Expenditures

Approval of Contract Modification

To approve and authorize Contract Modification No. 4 for the purchase of engineering design services for Communications Parkway – Spring Creek Parkway to Tennyson Parkway in the amount of \$32,583 from Dannenbaum Engineering-Dallas, LLC. This modification will provide for relocation of storm drain system to accommodate adjoining property owner. (Consent Agenda Item “D”)

Adoption of Strategic Plan

Adoption of the City Council Strategic Plan for 2010-2025 (Consent Agenda Item “E”)

Adoption of Resolutions

Resolution No. 2010-8-10(R): To authorize continued participation with the Atmos Cities Steering Committee; authorizing the payment of two cents per capita to the Atmos Cities Steering Committee to fund regulatory and related activities related to Atmos Energy Corporation; and providing an effective date. (Consent Agenda Item “F”)

Resolution No. 2010-8-11(R): To approve the terms and conditions of an Interlocal Agreement by and between the City of Plano, Texas and the Frisco Independent School District; providing terms and conditions for the operation of the Police/School Liaison Program; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “G”)

Resolution No. 2010-8-12(R): To approve the terms and conditions of an Interlocal Agreement by and between the City of Plano, Texas and the Plano Independent School District; providing terms and conditions for the operation of the Police/School Liaison Program; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “H”)

Resolution No. 2010-8-13(R): To approve the terms and conditions of Amendment Three to Verizon Business Services Agreement by and between Verizon Business Network Services, Inc. on behalf of MCI Communications Services, Inc. and the City of Plano; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “I”)

Resolution No. 2010-8-14(R): To nominate Tektronix Texas, LLC ("Tektronix" or the "Company"), to the Office of the Governor, Economic Development and Tourism through the Texas Economic Development Bank for designation as an Enterprise Project under the Texas Enterprise Zone Program pursuant to the Texas Enterprise Zone Act, Texas Government Code, Chapter 2303; and providing an effective date. (Consent Agenda Item “J”)

Resolution No. 2010-8-15(R): To approve the terms and conditions of a Real Estate Contract between the City of Plano and Baccus Partnership, LLC, for the purchase of 73,613 sq. ft. of land and 80,103 sq. ft. of temporary construction easement for Communications Parkway north of Spring Creek Parkway, situated in the H.B. Miller Survey, Abstract 614; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “K”)

Resolution No. 2010-8-16(R): To authorize the purchase of software maintenance and system support from GIS Information Systems, Inc. d/b/a Polaris Library Systems, a sole source provider for providing maintenance service for the Polaris software system at the Plano Public Library System in the amount of \$82,964 for a twelve month service term, authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “L”)

Adoption of Ordinances

Ordinance No. 2010-8-17: To repeal Ordinance No. 2001-2-27 codified as Section 2-9 Lawsuits and Risk Management of Article I In General, of Chapter 2 Administration of the Code of Ordinances of the City of Plano, Texas and replacing it with a new Section 2-9 to revise the settlement authority of the City Council and the City Manager regarding City claims or lawsuits, and to dissolve the Risk Management Steering Committee; providing a severability clause, a repealer clause, a savings clause, a publication clause and an effective date. (Consent Agenda Item “M”)

Ordinance No. 2010-8-18: To amend Article I of Chapter 14, Offenses - Miscellaneous of the City of Plano Code of Ordinances to add a new section prohibiting the intent to commit prostitution in a public place; providing a penalty clause, a severability clause, a savings clause, and an effective date. (Consent Agenda Item “N”)

Ordinance No. 2010-8-19: To determine the public use, need and necessity for the acquisition of a permanent street easement on a 0.0073 acre (317 square feet) tract of land located in the James Beverly Survey, Abstract No. 120 and situated at the northwest corner of the intersection of Jupiter Road and Summit Avenue, in the City of Plano, Collin County, Texas, for the purpose of constructing, reconstructing and maintaining street and highway facilities and related public improvements in the City of Plano, Collin County, Texas; authorizing the City Attorney to file proceedings in eminent domain to acquire the needed real property; and providing an effective date. (Consent Agenda Item “O”)

Ordinance No. 2010-8-20: To amend Section 12-74(b) of Chapter 12 (Traffic Code) of the Code of Ordinances to establish prima facie maximum speed limits for motor vehicles operating upon Rasor Boulevard, repeal the prima facie maximum speed limits for motor vehicles operating on certain sections of Yeary Road and Farm to Market Road (FM) 544, amend the prima facie maximum speed limits for motor vehicles operating on certain sections of Hedgcoxe Road and Preston Meadow Drive, revise the limits of the speed zones for certain sections of Custer Road and Headquarters Drive, and change the name of Spring Creek Parkway Highway 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 severability clause, a savings clause, a publication clause, and an effective date. (Consent Agenda Item “P”)

Ordinance No. 2010-8-21: To repeal Ordinances 88-1-8 and 2001-6-2 codified as section 1-4 General Penalty; continuing violations of Chapter 1, General Provisions of the Code of Ordinances of the City of Plano Texas and adopting a new section 1-4 General Penalty; continuing violations of Chapter 1, General Provisions of the Code of Ordinances of the City of Plano providing for references to the maximum penalties for specified conduct and to incorporate State requirements for establishing a culpable mental state in any prosecution filed under this Code; and providing a severability clause; a repealer clause, a savings clause; and an effective date. (Consent Agenda Item “R”)

ITEMS FOR INDIVIDUAL CONSIDERATION:

Due to possible conflicts of interest, Mayor Pro Tem Dunlap stepped down from the bench on the following two items which were considered concurrently.

Bid No. 2010-178-B for the 2009-2010 Arterial Concrete Pavement Rehab - Custer Road, N. President George Bush Highway to State Highway 121 to Hencie International, Inc. in the amount of \$909,115 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item "B")

Bid No. 2010-186-B for the 2009-2010 Residential Concrete Pavement Rehab, Zone G7 & J4 to Jerusalem Corporation, Inc. in the amount of \$1,591,765 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item "C")

Upon a motion made by Deputy Mayor Pro Tem Miner and seconded by Council Member Harris, the Council voted 7-0 to approve Bid No. 2010-178-B for the 2009-2010 Arterial Concrete Pavement Rehab – Custer Road to Hencie International, Inc. in the amount of \$909,115 and Bid No. 2010-186-B for the 2009-2010 Residential Concrete Pavement Rehab to Jerusalem Corporation, Inc. in the amount of \$1,591,765.

Mayor Pro Tem Dunlap resumed his seat at the bench.

Consideration of an ordinance to add Section 12-100.5 to Chapter 12 (Traffic Code), of the City of Plano Code of Ordinances to prohibit stopping, standing, or parking of a vehicle within ten (10) feet of a curbside residential mailbox between the hours of 8:00 a.m. and 5:00 p.m., Monday through Saturday within the City 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 severability clause, a savings clause, and an effective date. (Consent Agenda Item "Q")

Deputy City Manager Glasscock spoke to the item addressing concerns that vehicles parked in front of mailboxes prevent delivery. He spoke to the efforts of Police and Traffic Engineering Staff to address issues and requested the Council table the item for further review. James Schulze representing Dallas North Estates, spoke to the lack of enforcement of current parking ordinances.

Upon a motion made by Deputy Mayor Pro Tem Miner and seconded by Council Member LaRosiliere, the Council voted 8-0 to table the request.

Public Hearing and consideration of an Appeal of the Planning & Zoning Commission's Denial of Zoning Case 2010-09 - Request to rezone 7.1± acres located on the east side of North Star Road, 710± feet south of Plano Parkway from Research/Technology Center to Planned Development Research/Technology Center. Applicant: The Assured Group (Regular Agenda Item "1")

Director of Planning Jarrell advised the Council that the request is an appeal of the Planning and Zoning Commission's denial and proposes an addition to the base zoning of Research/Technology to allow mini-warehouses and recreational vehicle (RV) storage and stated concerns of the Commission that this would "chip away" the district, add uses not allowed by right or specific use permit elsewhere in the district, and be inconsistent with other businesses.

Public Hearing and consideration of an Appeal (cont'd)

Ms. Jarrell advised that approval by the Council would require a three-quarter vote and spoke to receipt of letters in support from area businesses. Ms. Jarrell responded that no more than one-half of the property could be used for RV storage as an accessory use.

Mayor Dyer opened the Public Hearing. Mike Anderson, representing the applicant, spoke to the company's history, reviewed the site plan and spoke to support of area businesses. He spoke to providing an incubator space for new/small business; the need for RV parking; and advised that if approved, self storage would be limited to 66 units and parking for RV's to 60 spaces with the number of enclosed spaces at ten. Mr. Anderson responded to Deputy Mayor Pro Tem Miner regarding occupancy levels at other company locations and advised that the property is under option for purchase. No one else spoke for or against the request. The Public Hearing was closed.

Mr. Anderson responded to the Council, advising that large storage units would be for RV parking only, that there would be no access from the adjacent middle school, and spoke to the unusual size/shape of the property, and possible restricted uses for office/warehouse. Ms. Jarrell responded the Council, advising that there are no prohibitions on small (incubator) spaces; spoke to the expansion of a storage center with RV parking at Los Rios and 14th Street; and advised that Light Commercial, Light Industrial or Corridor Commercial would allow RV storage and that mini-warehouse is allowed in Retail with a specific use permit but not RV storage. She spoke to considering the overall use rather than caps, which may prove difficult to monitor.

Mayor Dyer spoke to development of the R/T district, other locations for self storage and made a motion to deny the request which Mayor Pro Tem Dunlap seconded. Council Member LaRosiliere spoke to review of the district and development of a strategic view going forward. Mr. Anderson requested future consideration of another plan.

Mayor Dyer amended the motion and restated it as denial of the request without prejudice. Mayor Pro Tem Dunlap seconded the amended motion and the Council vote 8-0 in favor. The motion carried.

Public Hearing on the FY 2010-11 City Manager's Recommended Budget and the FY 2010-11 Proposed Community Investment Program (CIP). (Regular Agenda Item "2")

City Manager Muehlenbeck spoke to the challenges of budget preparation, the loss of \$1 billion in property values, the erosion of sales tax revenue, Council cuts and the recommended increase solely for debt service. He stated concern regarding borrowing from operations and maintenance to support debt, the \$11 million deficit for 2011-12 and future cuts affecting service levels.

Mayor Dyer opened the Public Hearing. Resident Kevin Anderson spoke to the possibility that an increase may start a trend, in support of a .5 increase and to possible savings by changing the long-term liability on employee medical coverage. Resident Mike Openshaw spoke to delaying projects other than safety and transportation. Resident Jim Bright requested inclusion of a sunset provision on any tax increase. Resident Grady Firmin requested review of employee benefits. Resident James Harbor spoke to increased insurance costs being passed on to employees and in support of the recommended increase.

Public Hearing (cont'd)

David Hicks, representing Plano Gateway, spoke to corporate interest in Plano and in support of a small tax increase to maintain services. No one else spoke and Mayor Dyer closed the Public Hearing.

Discussion of the FY 2010-11 City Manager's Recommended Budget and the FY 2010-11 Proposed Community Investment Program (CIP). (Regular Agenda Item "3")

Director of Budget and Research Rhodes-Whitley spoke to additional revenues received from sales tax and franchise fees and to options for Council consideration: 1) City Manager Muehlenbeck's recommendation of increasing the tax rate 1.49 cents for the debt side to a rate of 50.35 cents per \$100 valuation which results in 30 days of working capital, \$2.3 million for reserves to address the anticipated deficit in 2011-12, and an increase for the average homeowner of \$14.15; 2) increasing the tax rate by .50 to 49.36 cents resulting in 30 days of working capital, no reserves, and a decrease of \$5.32 for the average homeowner; 3) increasing the tax rate to the effective rate of 52.03 cents resulting in the required 30-days of working capital, a surplus of \$6.5 million for reserves and an increase of \$47.18 for the average homeowner; or 4) maintaining the current tax rate of 48.86 cents by either reducing funds in the General Fund or utilizing a transfer of \$1.1 million for debt service resulting in a decrease of \$15.15 for the average homeowner.

Ms. Rhodes-Whitley responded to Council Member Smith, advising that the Equipment Reserve Fund has a balance of \$10 million, provides cash to purchase items including fire trucks and rescue tools, and spoke to a possible transfer of \$500,000 in funds. She spoke to the Disaster Relief Fund providing cash-on-hand to be used while awaiting reimbursement from FEMA for expenses, recent use for overtime related to storm debris collection, a balance of \$1.2 million and a possible transfer of \$500,000. Ms. Rhodes-Whitley spoke to consideration of the Capital Reserve Fund by bond rating companies and advised its balance is \$20 million. City Manager Muehlenbeck spoke to the importance of the economic development fund in bringing business to the City and consideration of fund reserves, advising they would represent one-time reductions. He responded to the Council that in the event of an emergency, the 30-day fund would be utilized followed by Capital Reserve Funds.

Mayor Pro Tem Dunlap spoke to either no increase or the City Manager's recommendation of a 1.49 cent increase. He spoke to items provided since the early 1990's with no tax increases including screening wall replacements, homeland security responsibilities, infrastructure repair, increased social service funding, enlarged library and parks/recreation services and reduced income from franchise fees, loss of development fees, and the cost of federal/state mandates. He spoke to citizen expectations and the quality of services provided in the City. Council Member Smith spoke in favor of no tax increase, citing promising sales tax figures and recognizing the economic challenges of citizens. Council Member Davidson spoke regarding no tax increase, reconsideration of closing libraries on Sunday, and the challenges of 2011-12. Deputy Mayor Pro Tem Miner stated support for no tax increase. Council Member Harris stated concern regarding the impact of utilizing reserve funds and stated support for a .5 cent increase as did Council Member Callison. Council Member LaRosiliere spoke to the business model of the City, use of the General Fund when there was growth, the low debt ratio and its impact on the bond rating, the impact on employees and in support of the City Manager's recommendation of a 1.49 cent increase.

Mayor Dyer spoke to efforts to cut the budget and raise the tax rate to pay for debt, but stated support for no tax increase recognizing the current economic challenges to citizens.

The Council directed Staff to prepare documents with no tax increase with Council Members LaRosiliere and Callison expressing opposition.

City Manager Muehlenbeck provided the Council formal notification of his plans to retire on January 31, 2011, citing the 23 years of service in Plano as the highlight of his career.

Nothing further was discussed and Mayor Dyer adjourned the meeting at 9:13 p.m.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, City Secretary