

**PLANO CITY COUNCIL**  
**December 14, 2009**

**COUNCIL MEMBERS**

Phil Dyer, Mayor  
Harry LaRosiliere, Mayor Pro Tem  
Lee Dunlap, Deputy Mayor Pro Tem  
Pat Miner  
Ben Harris  
Mabrie Jackson (resigned)  
Lissa Smith  
Jean Callison

**STAFF**

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

Mayor Dyer convened the Council into the Regular Session on Monday, December 14, 2009, at 7:01 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present with the exception of Council Member Miner.

The invocation was led by Deputy Mayor Pro Tem Dunlap and the Pledge of Allegiance was led Douglass Community Center Seniors.

**COMMENTS OF PUBLIC INTEREST**

No one appeared to speak

**CONSENT AGENDA**

Upon a request by Council Member Harris, Consent Agenda Item "J" was pulled for individual consideration due to a possible conflict of interest.

Upon a motion made by and seconded by the Council voted 6-0 to approve and adopt all remaining items on the Consent Agenda as recommended and as follows:

**Approval of Minutes** (Consent Agenda Item "A")

November 18, 2009  
November 23, 2009

### **Approval of Expenditures**

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

**Bid No. 2009-192-C** for Annual Supply Contract for Herbicides, Insecticides, and Miscellaneous Chemicals in the estimated annual amount of \$78,149 to Red River Specialties, Mann Farm and Ranch, Estes Inc., CWC Chemical Inc., BWI Companies, Univar USA, and Helena Chemical Co., and authorizing the City Manager to execute all necessary documents. This will establish an annual fixed price contract with three optional one-year renewals. (Consent Agenda Item “B”)

**Bid No. 2009-143-B** for construction of the McDermott Road from Ohio Drive to Coit Road project to Tiseo Paving Company in the amount of \$2,132,270. The project consists of the construction of the widening of McDermott Road to a six lane road from Coit Road to Razor Boulevard and a four lane road from Razor Boulevard to Ohio Drive. The project also includes a bridge over White Rock Creek between Robinson Road and Razor Boulevard. (Consent Agenda Item “C”)

#### **Purchase from an Existing Contract**

To approve the purchase of GIS Maintenance Expenses as designated in the amount of \$58,700 from ESRI, Inc. through a State of Texas Department of Information Resources (DIR) Contract, and authorizing the City Manager to execute any and all necessary documents. (DIR-SDD-492) (Consent Agenda Item “D”)

#### **Approval of Contract: (Purchase of products/services exempt from State of Texas Competitive Bid Laws)**

To approve a Professional Services Agreement contract between the City of Plano and Mandy Vassigh Engineering, Inc., in the amount of \$64,850 for the engineering design of Screening Wall – Parker Road and Independence Parkway and authorizing the City Manager to execute all necessary documents. This is for the engineering design and specifications for the reconstruction of screening walls at the following two locations: (1) On the south side of Parker Road from 560 feet west of Alma Drive to Spring Creek Parkway – Length 1,400 LF and (2) On the west side of Independence Parkway from approximately 140 feet north of Lanarc Drive to approximately 150 feet south of Sebring Drive – Length 380 LF. (Consent Agenda Item “E”)

To approve a Professional Services Agreement by and between the City of Plano and BW2 Engineering, Inc., in the amount of \$97,450 for Dallas North Estates 3, and authorizing the City Manager to execute all necessary documents. This includes the complete reconstruction of existing street pavement, sidewalks and waterlines at the following locations: Edgefield Drive-Janwood Drive to Springbrook Road, Linden Drive-Edgefield Drive to Ridgefield Drive and Meadowcrest Drive-Springbrook Drive to Ridgefield Drive. (Consent Agenda Item “F”)

To approve a contract made and entered into by and between the City of Plano and Sharon Rowe, the Elections Administrator of Collin County, Texas, pursuant to the authority in Subchapter D, Section 31.092, of Chapter 31, of the Texas Election Code, regarding the coordination, supervision, and running of the City’s January 30, 2010, Special Election in the estimated amount of \$68,149. (Consent Agenda Item “G”)

## **Approval of Change Order**

To Smith Contracting, Inc., increasing the contract by \$43,351 for the 2008-2009 Arterial Concrete Pavement Rehabilitation Project, Enterprise Drive and Premier Drive, Project No. 5892, Change Order No. 1, Bid No. 2009-133-B. (Consent Agenda Item “H”)

## **Adoption of Resolutions**

**Resolution No. 2009-12-1(R):** To approve receipt of funds in the amount of \$158,403 from the Texas State Library and Archives Commission – Loan Star Libraries to fund the following for the Plano Public Library System; tagging Library materials for Radio Frequency Identification (RFID) implementation, English and Spanish Microsoft computer class instructors; books; large print books, World Language materials, and CDs and DVDs; and authorizing the City Manager to execute all necessary documents for receipt of the funding. (Consent Agenda Item “I”)

**Resolution No. 2009-12-2(R):** To authorize an Interlocal Cooperation Agreement between the City of Plano, and the City of Murphy for backup assistance in Building Plans Examination and Building Inspection; and providing for an immediate effective date. (Consent Agenda Item “K”)

**Resolution No. 2009-12-3(R):** To approve and adopt an amendment to the City of Plano Supplemental Savings Plan (Governmental Money Purchase Plan); authorizing its execution by the City Manager; approving the termination of the Plan; delegating to the City Manager the authority to submit the Plan to the Internal Revenue Service for a determination as to its qualified status upon termination; and providing an effective date. (Consent Agenda Item “L”)

**Resolution No. 2009-12-4(R):** To approve the terms and conditions of a Texas Traffic Safety Program Grant Agreement by and between the State of Texas and the City of Plano, Texas; authorizing the City Manager to execute the Grant Agreement and any other documents necessary to effectuate the action taken; and providing an effective date. (Consent Agenda Item “M”)

**Resolution No. 2009-12-5(R):** To approve the terms and conditions of a First Amendment to a Development Agreement between the City of Plano and RH 15<sup>th</sup> Condos One, Ltd. for the development of 15<sup>th</sup> Street Village; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “N”)

## **Adoption of Ordinances**

**Ordinance No. 2009-12-6:** To transfer the sum of \$79,954 from the General Fund Unappropriated Fund Balance for Fiscal Year 2009-10 to the General Fund Operating Appropriation for the purpose of providing additional funding for the estimated costs associated with conducting a Special Election on January 30, 2010 to fill the vacant Place 3 City Council position; amending the budget of the City and Ordinance 2009-9-13, as amended, to reflect the actions taken herein; declaring this action to be a case of public necessity; and providing an effective date. (Consent Agenda Item “O”)

**Ordinance No. 2009-12-7:** To amend Ordinance No. 2007-5-20 relating to City of Plano Retirement Security Plan as restated January 1, 2007 as follows: the last paragraph of Section 2.1(b) "Mortality Assumption" to comply with certain provisions of the Worker, Retiree, and Employee Recovery Act of 2008 ("WRERA") effective January 1, 2009 and the second paragraph of Section 12.3 "Non-Alienation of Benefits" to adopt the provisions of Subchapters A and C of Chapter 804 of the Texas Government Code effective January 1, 2010; authorizing its execution by the City Manager; providing a repealer clause, a severability clause, a savings clause, and an effective date. (Consent Agenda Item "P")

**Ordinance No. 2009-12-8:** To adopt and enact Supplement Number 88 to the Code of Ordinances for the City of Plano; providing for amendment to certain sections of the Code; and providing an effective date. (Consent Agenda Item "Q")

### **END OF CONSENT**

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

**Resolution No. 2009-12-9(R):** To approve the terms and conditions of a Real Estate Contract and Lease by and between the Jason Byron Sowell Jr. Trust and the City of Plano for the purchase and lease of approximately 80 acres of land located at the intersection of Spring Creek Parkway and Windhaven Parkway, Plano, Collin County, Texas; authorizing the City Manager to execute such contract; and providing an effective date. (Consent Agenda Item "J")

Upon a motion made by Council Member Callison and seconded by Deputy Mayor Pro Tem Dunlap, the Council voted 5-0 to approve a real estate contract and lease by and between the Jason Byron Sowell Jr. Trust and the City of Plano for the purchase and lease of land located at the intersection of Spring Creek Parkway and Windhaven Parkway; and further to adopt Resolution No. 2009-12-9(R).

Council Member Harris resumed his seat at the bench.

**Public Hearing and adoption of Ordinance No. 2009-12-10 as requested in Zoning Case 2009-19** to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 602 so as to allow the additional use of Day Care Center on 3.0± acres of land located on the south side of McDermott Road, 800± feet east of Independence Parkway, in the City of Plano, Collin County, Texas, presently zoned Single-Family Residence-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. Applicant: Northpointe Assembly of God (Regular Agenda Item "1")

Director of Planning Jarrell advised that the request for a day care center in this location requires a specific use permit and that it has direct access to a median opening and meets required parking, loading and unloading specifications. She advised that, while not necessary, the applicant intends to put in a landscape boundary between the site and adjacent residential property and that the Planning and Zoning Commission has recommended approval as submitted.

**Ordinance No. 2009-12-10**

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

Upon a motion made by Mayor Pro Tem LaRosiliere and seconded by Deputy Mayor Pro Tem Dunlap, the Council voted 6-0 to grant Specific Use Permit No. 602 allowing a day care center at McDermott Road and Independence Parkway as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2009-19; and further to adopt Ordinance No. 2009-12-10.

**Resolution No. 2009-12-11(R):** To approve the terms and conditions of an Economic Development Incentive Agreement by and between the City of Plano, Texas and Allied Solutions, LLC; authorizing its execution by the City Manager and providing an effective date. (Regular Agenda Item “2”)

Director of Finance Tacke advised that Allied Solutions, LLC would occupy no less than 19,500 square feet of commercial space and retain no less than 78 full-time jobs by January 1, 2010. She advised that the terms of the agreement run from January 1, 2010 – December 31, 2014 for a grant in the amount of \$54,600.

Upon a motion made by Council Member Callison and seconded by Council Member Smith, the Council voted 6-0 to approve an Economic Development Incentive Agreement between the City of Plano, Texas and Allied Solutions, LLC. And further to adopt Resolution No. 2009-12-11(R).

**Resolution No. 2009-12-12(R):** A Resolution to approve the terms and conditions of an Economic Development Incentive Agreement by and between the City of Plano, Texas and Tektronix Texas, LLC; authorizing its execution by the City Manager and providing an effective date. (Regular Agenda Item “3”)

Director of Finance Tacke advised that Tektronix Texas, LLC would occupy no less than 125,000 square feet of commercial space and transfer or create up to 450 full-time jobs by August 1, 2010 with the creation or transfer of 25 additional jobs by December 31, 2012. She advised that the terms of the agreement run from August 1, 2010 – December 31, 2022 in the total amount of \$593,750.

Upon a motion made by Council Member Harris and seconded by Council Member Smith, the Council voted 6-0 to approve an Economic Development Incentive Agreement between the City of Plano, Texas and Tektronix Texas, LLC. And further to adopt Resolution No. 2009-12-12(R).

**Public Hearing pursuant to Chapter 26 of the Texas Parks and Wildlife Code** pertaining to the use or taking of a portion of a City of Plano park and known as the Bluebonnet Trail site for a Communications Facilities License Agreement for cellular equipment attached to and at the base of the existing Oncor Electric transmission tower. (Regular Agenda Item “4”)

Assistant City Manager Israelson spoke to the request for a ground lease for Clear Wireless, LLC at Bluebonnet Trail, advising that the request has been approved by the Parks and Recreation Planning Board. Mr. Israelson stated that the project includes all reasonable planning to minimize harm to the land resulting from the use and spoke to there being no feasible and prudent alternative to the use of this land.

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

**Ordinance No. 2009-12-13:** to approve the use and taking by Clear Wireless, LLC, a Nevada limited liability company, of a portion of City of Plano public park land known as Bluebonnet Trail Park (near Stillwell Road between Brunchberry Lane and Ashington Lane); finding and determining that there is no feasible and prudent alternative to the proposed use or taking of the park land and that the proposed project includes all reasonable planning to minimize harm to the land, the park and the recreation area; and providing an effective date. (Regular Agenda Item "5")

Upon a motion made by Council Member Callison and seconded by Mayor Pro Tem LaRosiliere, the Council voted 6-0 to approve the use and taking by Clear Wireless LLC of a portion of Bluebonnet Trail Park and further to adopt Ordinance No. 2009-12-13.

**Resolution No. 2009-12-14(R):** To approve the terms and conditions of a Communications Facilities License Agreement by and between the City of Plano, Texas, and Clear Wireless, LLC, a Nevada limited liability company, to locate, place, attach, install, and operate, telecommunications ground equipment in certain specific portions of City of Plano public park land, known as the Bluebonnet Trail site, authorizing its execution by the City Manager and providing an effective date. (Regular Agenda Item "6")

Upon a motion made by Mayor Pro Tem LaRosiliere and seconded by Council Member Harris, the Council voted 6-0 to approve an agreement between the City of Plano and Clear Wireless LLC for ground equipment at Bluebonnet Trail and further to adopt Resolution No. 2009-12-14(R).

**Public Hearing pursuant to Chapter 26 of the Texas Parks and Wildlife Code** pertaining to the use or taking of a portion of a City of Plano park and known as the Preston Ridge site for a Communications Facilities License Agreement for cellular equipment attached to and at the base of the existing Oncor Electric transmission tower. (Regular Agenda Item "7")

Assistant City Manager Israelson spoke to the request for a ground lease for Clear Wireless, LLC at Preston Ridge site, advising that the request has been approved by the Parks and Recreation Planning Board. Mr. Israelson stated that the project includes all reasonable planning to minimize harm to the land resulting from the use and spoke to there being no feasible and prudent alternative to the use of this land.

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

**Ordinance No. 2009-12-15:** An Ordinance to approve the use and taking by Clear Wireless, LLC, a Nevada limited liability company, of a portion of City of Plano public park land known as Preston Ridge Trail Park (near Legacy Drive between Rock Springs Drive and Los Altos Drive); finding and determining that there is no feasible and prudent alternative to the proposed use or taking of the park land and that the proposed project includes all reasonable planning to minimize harm to the land, the park and the recreation area; and providing an effective date. (Regular Agenda Item “8”)

Upon a motion made by Deputy Mayor Pro Tem Dunlap and seconded by Council Member Callison, the Council voted 6-0 to approve the use and taking by Clear Wireless, LLC of a portion of Preston Ridge Trail Park and further to adopt Ordinance No. 2009-12-15.

**Resolution No. 2009-12-16(R):** to approve the terms and conditions of a Communications Facilities License Agreement by and between the City of Plano, Texas, and Clear Wireless, LLC, a Nevada limited liability company, to locate, place, attach, install, and operate, telecommunications ground equipment in certain specific portions of City of Plano public park land, known as the Preston Ridge site, authorizing its execution by the City Manager and providing an effective date. (Regular Agenda Item “9”)

Upon a motion made by Council Member Callison and seconded by Deputy Mayor Pro Tem Dunlap, the Council voted 6-0 to approve an agreement between the City of Plano and Clear Wireless LLC for ground equipment at Preston Ridge Trail Park and further to adopt Resolution No. 2009-12-16(R).

**Resolution No. 2009-12-17(R):** Relating to the giving of notice of intention to issue City of Plano, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2010; and providing an effective date. (Regular Agenda Item “10”)

Upon a motion made by Mayor Pro tem LaRosiliere and seconded by Council Member Smith the Council voted 6-0 to give notice of intention to issue City of Plano Combination Tax and Revenue Certificates of Obligation and further to adopt Resolution No. 2009-12-17(R).

There being no further discussion, Mayor Dyer adjourned the meeting at 7:19 p.m.

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**Phil Dyer, MAYOR**

ATTEST:

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Diane Zucco, City Secretary