

**PLANO CITY COUNCIL**  
**July 25, 2011**

**COUNCIL MEMBERS**

Phil Dyer, Mayor  
Pat Miner, Mayor Pro Tem  
Lissa Smith, Deputy Mayor Pro Tem  
Ben Harris  
André Davidson  
James Duggan  
Patrick Gallagher  
Lee Dunlap

**STAFF**

Bruce Glasscock, City Manager  
Frank Turner, Deputy City Manager  
LaShon Ross, Deputy City Manager  
Diane C. Wetherbee, City Attorney  
Diane Zucco, City Secretary

Mayor Dyer convened the Council into the Regular Session on Monday, June 27, 2011, at 7:03 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present with the exception of Mayor Pro Tem Miner.

The invocation was led by Associate Pastor Melissa Hatch of First United Methodist Church Plano and the Pledge of Allegiance was led by Webelos - Pack 220 of Harrington Elementary.

**COMMENTS OF PUBLIC INTEREST**

John McGee of ER Centers of America, Inc. requested consideration of the City transporting emergency room patients to licensed ER facilities not attached to a hospital as an alternative. City Manager Glasscock advised that Staff would review the request.

**CONSENT AGENDA**

Council Member Dunlap requested that Consent Agenda Items "E" and "F" be removed due to possible conflicts of interest.

Upon a motion made by Deputy Mayor Pro Tem Smith and seconded by Council Member Harris, the Council voted 7-0 to approve and adopt all remaining items on the Consent Agenda as recommended and as follows:

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

June 27, 2011

### **Approval of Expenditures**

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

**Bid No. 2011-217-B** for Ventura – Old Shepard Screening Walls project to Tracon Ventures Ltd. in the amount of \$53,110 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “B”)

**Bid No. 2011-170-B** for Sherrye Drive Lift Station Replacement to J & K Excavation, LLC in the amount of \$293,989 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “C”)

**Bid No. 2011-209-B** for the 2010-11 Arterial Concrete Pavement Rehab Project – Coit Road – Plano Parkway to Spring Creek Parkway, Project No. 6117 to Jerusalem Corporation in the amount of \$698,525 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “D”)

**Bid No. 2011-233-B** for Custer Pump Station to Archer Western Construction, LLC in the amount of \$5,453,000 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “G”)

**CSP No. 2011-36-C** for an initial two (2) year contract with three (3), one (1) year City optional renewals for EMS Billing and Collection Services from Digitech Computer, Inc., to be utilized by the Fire Department in the estimated annual amount of \$173,250 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “H”)

**Bid No. 2011-174-B** for the purchase of ten (10) Utility Body Trucks 3/4 Ton & 1 Ton for Fleet Services to be utilized by Municipal Drainage, Pumping Operations, Park Support Services, Utility District #2, Meter Services, Utility Cut Services, & Sport Turf Maintenance from Reliable Chevrolet in the amount of \$293,551 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “I”)

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

To approve a contract for the purchase of Altiris 7 Migration Software in the amount of \$71,400 from Intuitive Technology Group through a Department of Information Resources (DIR) Contract, and authorizing the City Manager to execute all necessary documents. (DIR-SDD-600) (Consent Agenda Item “J”)

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

To approve an Engineering Services Agreement by and between the City of Plano and ARCADIS U.S., Inc., in the amount of \$283,305 for 2011 Water Quality Study and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “K”)

To approve an Engineering Services Agreement by and between the City of Plano and TranSystems Corporation in the amount of \$284,492 for Legacy Drive Corridor Intersection Improvements project and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “L”)

**RFP No. 2011-46-C** designating the Credit Union of Texas as program administrator for the Energy Efficiency Loan Loss Reserve Program created by City of Plano Sustainability and Environmental Services Department to expend federal grant funds in the amount of \$700,000 provided under the American Recovery & Reinvestment Act; approving the terms and conditions of the Depository Contract; and authorizing the City Manager to execute all necessary documents, and providing an effective date. (Consent Agenda Item “M”)

### **Adoption of Resolutions**

**Resolution No. 2011-7-1(R):** To approve the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano and Collin County, Texas, providing terms and conditions for the construction of Communications Parkway from Spring Creek Parkway to Tennyson Parkway; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “N”)

**Resolution No. 2011-7-2(R):** To approve the terms and conditions of an Interlocal Agreement by and between the City of Plano and North Texas Municipal Water District (NTMWD) for the construction of a Water Metering Station in conjunction with Plano's Custer Pump Station project; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “O”)

**Resolution No. 2011-7-3(R):** To approve the terms and conditions of an Assignment Agreement by and between Southwest General Services of Dallas, L.L.C., Municipal Computing Services, Inc. and City of Plano for ambulance billing and collection services; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “P”)

**Resolution No. 2011-7-4(R):** To approve the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano and City of Richardson for jail and detention services for prisoners from the City of Richardson and University of Texas at Dallas; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “Q”)

### **Adoption of Ordinances**

**Ordinance No. 2011-7-5:** To amend Section 12-74(b) of Chapter 12 (Traffic Code) of the Code of Ordinances to amend the prima facie maximum speed limits for motor vehicles operating on certain sections of Legacy Drive 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 “R”)

**Ordinance No. 2011-7-6:** To amend Section 12-12(b) of Chapter 12 (Traffic Code) of the Code of Ordinances establishing a one way operation at all times on Ruthie Road 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 “S”)

**Ordinance No. 2011-7-7:** To transfer the sum of \$300,000 from the Water & Sewer Fund unappropriated fund balance for Fiscal Year 2010-11 to the Water & Sewer Fund operating appropriation for the purpose of providing funds for an Engineering Service Agreement for a water quality study; amending the budget of the City and Ordinance 2010-9-8; declaring this action to be a case of public necessity; and providing an effective date. (Consent Agenda Item “T”)

**Ordinance No. 2011-7-8:** To transfer the sum of \$900,000 from the Water & Sewer Fund unappropriated fund balance for Fiscal Year 2010-11 to the Water & Sewer Fund capital appropriation for the purpose of providing funds to Archer Western Construction, LLC the lowest responsible bidder to upgrade the Custer Pump Station; amending the budget of the City and Ordinance 2010-9-8; declaring this action to be a case of public necessity; and providing an effective date. (Consent Agenda Item “U”)

#### **END OF CONSENT**

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

**Bid No. 2011-211-B** for the 2010-11 Residential and Industrial Concrete Pavement Rehab Project, Zone N2 & P2, Project No. 6148 to Jerusalem Corporation in the amount of \$927,535 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “E”)

**Bid No. 2011-206-B** for Park Estates Water Rehabilitation to RKM Utility Services, Inc. in the amount of \$1,536,896 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “F”)

Upon a motion made by Council Member Harris and seconded by Deputy Mayor Pro Tem Smith, the Council voted 6-0 to approve Bid No. 2011-211-B for the 2010-11 Residential and Industrial Concrete Pavement Rehab Project, Zone N2 & P2, Project No. 6148 to Jerusalem Corporation in the amount of \$927,535 and Bid No. 2011-206-B for Park Estates Water Rehabilitation to RKM Utility Services, Inc. in the amount of \$1,536,896.

Council Member Dunlap resumed his place at the bench.

**Public Hearing and adoption of Resolution No. 2011-7-9(R)** to approve the terms and conditions of an Interlocal Agreement between the City of Plano, the City of McKinney and the Collin County Sheriff's Office for the disbursement of the 2011 Edward Byrne Justice Assistance Grant funds; authorizing its execution by the City Manager; and providing an effective date. (Regular Agenda Item “1”)

**Resolution No. 2011-7-9(R) (cont'd)**

Chief Rushin spoke to monies shared among entities with the City of Plano receiving \$35,523 that can be spent in several law enforcement areas. He advised that funding has been of similar amounts over the last three years and stated that the recommended purpose is the funding of ballistic vests for the tactical team.

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

Upon a motion made by Deputy Mayor Pro Tem Smith and seconded by Council Member Dunlap, the Council voted 7-0 to approve the terms and conditions of an Interlocal Agreement between the City of Plano, the City of McKinney and the Collin County Sheriff's Office for the disbursement of the 2011 Edward Byrne Justice Assistance Grant funds; and further to adopt Resolution No. 2011-7-9(R).

**Public Hearing and consideration of an Ordinance as requested in Zoning Case 2011-16**, to amend Section 1.600 (Definitions) of Article 1 (General Regulations) and related sections of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, to amend the definition of Community Center; 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 "2")

Planning Manager Firgens advised that this item is the result of an appeal of the Director of Planning's interpretation of the appropriate use classification for outdoor athletic fields operated by a non-profit organization as a *Community Center* (CC) ("a building or complex of buildings that house cultural, recreational, athletic, or entertainment facilities owned and/or operated by a governmental agency or private non-profit agency"). She spoke to the Planning and Zoning Commission's recommendation of a revised definition to include outdoor athletic fields: "a place, which may include a building, complex of buildings, indoor or outdoor athletic fields, or combination thereof, that provides for cultural recreational, athletic or entertainment activities owned and/or operated by a governmental agency or private non-profit agency." Ms. Firgens stated that CC is currently allowed with a specific use permit (SUP) in single- and multi-family residential zoning and by right in non-residential districts and to Commission's request for direction from the Council regarding the definition. Council Member Dunlap spoke to other entertainment uses under CC.

Mayor Dyer opened the Public Hearing. Ronald Henderson, representing Custer Road United Methodist Church (CRUMC) spoke against revising the definition and its potential negative impact on property utilized by the church at Custer Road and Legacy Drive. He spoke to the location as a private facility. Bryce Green spoke to the proposed definition requiring a specific use permit and possibly interfering with church activities and Ms. Firgens spoke regarding the process for obtaining an SUP. CRUMC Executive Administrator Pulling spoke to the church falling within the current definition. No one else spoke for or against the request. The Public Hearing was closed.

### **Zoning Case 2011-16 (cont'd)**

Ms. Firgens spoke to evaluating surrounding land uses when considering zoning for a location and codes in place to address noise/light concerns. She spoke to issues related to uses that might be considered as “primary” or “accessory” and to the Commission’s concern that the current definition is not appropriate for properties where no building is present. Council Members Duggan and Gallagher spoke to enforcing current ordinances in addressing concerns. Ms. Firgens responded to Council Member Davidson, advising the Commission considered Private Recreation Facility zoning, but felt it was inappropriate for the property at Custer/Legacy.

Mayor Dyer made a motion to table the item for Commission review and consideration of the appropriateness of an SUP in residential districts, particularly multi-family-3 and Council Member Dunlap seconded. No action was taken at this time.

The Council discussed inclusion of athletic fields, requirements for a specific use permit, uses that may be incorporated, compliance with noise/light regulations, and setbacks. Council Member Harris spoke to retaining the current definition and Mayor Dyer withdrew his motion. Council Member Davidson stated concern regarding the amended definition and Ms. Firgens spoke to the classification of activities on properties and the need for guidance. The Council discussed Recreation Facility and Private Recreation Center zoning categories.

Council Member Dunlap made a motion to approve the revised definition with the removal of “entertainment.” Mayor Dyer seconded the motion and the Council voted 2-5 with Deputy Mayor Pro Tem Smith and Council Members Harris, Davidson, Duggan, and Gallagher voting in opposition. The motion failed.

A motion was made by Council Member Duggan and seconded by Council Member Davidson to deny amendment to the Community Center definition as recommended by the Commission. The Council voted 5-2 with Mayor Dyer and Council Member Dunlap voting in opposition. The motion carried.

The Council stated a consensus referring the item back to the Planning and Zoning Commission to review the definitions of private recreation facility and recreation center, as well as evaluate the zoning districts in which these two land uses are permitted.

### **Discussion and Direction regarding SB 100 - Changes to the Election Code** (Regular Agenda Item “3”)

City Secretary Zucco spoke regarding the passage of Senate Bill 100 in the legislature and its relationship to the federal Military and Overseas Voters Act passed in 2009. She advised that the uniform election dates utilized by the City for General Elections remain in May and November, but that the primary run-off has been moved to May, creating a conflict and spoke to legislation not requiring counties to administer elections in the May of even-numbered years. Ms. Zucco presented alternative options detailing their costs, concerns and impact and advised regarding the potential requirement for a charter election to change Council terms.

City Manager Glasscock spoke to indications that Collin County will not conduct city elections in even-numbered years and the deadline of September 7 for ordering a charter election. Council Member Harris spoke to notifying the public regarding the need for revisions and the Council stated a consensus in favor of Option "B" which would create four-year staggered terms of office.

**Discussion and Direction regarding Options for Revised City Council District Boundaries for Places 1-4 (Regular Agenda Item "4")**

Senior Planner Sims spoke to results of the 2010 Census indicating a population growth in the City of more than 38,000 residents. He referenced the City Charter's directions regarding equity in population across Council Districts and the standard of 25% differential between the largest and smallest districts. Mr. Sims reviewed the current map and spoke to the loss in population for District 4 as compared to gains in the other three districts and the current differential of 29%. He reviewed two options to redraw district lines to reduce the differential between districts with no impact on current Council Members. Mr. Sims and Planning Manager Firgens responded to the Council regarding the samplings taken by the American Community Survey versus the census and City Attorney Wetherbee requested Council's final determination in early fall to allow time for Department of Justice review for any forthcoming elections. The Council requested both options be provided to the public with Public Hearings be held on August 22 and September 12 and adoption on September 26.

Nothing further was discussed and Mayor Dyer adjourned the meeting at 7:28 p.m.

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Phil Dyer, MAYOR

ATTEST:

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Diane Zucco, City Secretary