

**PLANO CITY COUNCIL  
PRELIMINARY OPEN MEETING AND REGULAR SESSION  
December 20, 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 called the meeting to order at 6:30 p.m., Tuesday, December 20, 2011, in Training Room A of the Municipal Center, 1520 K Avenue. All Council Members were present. Mayor Dyer then stated that the Council would retire into Executive Session in compliance with Chapter 551, Government Code, Vernon's Texas Codes, Annotated, in order to consult with an attorney and receive Legal Advice and discuss Litigation, Section 551.071; and to receive information regarding Economic Development, Section 551.087; for which a certified agenda will be kept in the office of the City Secretary for a period of two years as required.

Mayor Dyer reconvened the meeting back into the Preliminary Open Meeting and Regular Session at 7:02 p.m.

**Consideration and action resulting from Executive Session discussion**

No items were brought forward.

Jessie Prince, Executive Pastor of Grace Outreach Center led the invocation and Cub Scout Pack 280 of First United Methodist Church of Plano led the Pledge of Allegiance.

**COMMENTS OF PUBLIC INTEREST**

No one appeared to speak.

**Council items for discussion/action on future agendas**

No items were discussed.

## **Consent and Regular Agendas**

Mayor Dyer requested that Consent Agenda Item “B” be removed for individual consideration due to a possible conflict of interest.

### **CONSENT AGENDA**

Upon a motion made by Council Member Harris and seconded by Deputy Mayor Pro Tem Smith, 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”)

December 8, 2011

December 12, 2011

December 12, 2011 (Presentation)

#### **Approval of Expenditures**

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

To approve the purchase of Scott Self-Contained Breathing Apparatus (SCBA) equipment for the Fire Department in the amount of \$245,838 from Municipal Emergency Services through an existing contract with the City of Fort Worth and authorizing the City Manager to execute all necessary documents. (City of Fort Worth Contract # 07-0191) (Consent Agenda Item “C”)

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

To approve a Professional Services Agreement by and between the City of Plano and RLK Engineering, Inc., in the amount of \$106,760 for Intersection Improvements - Coit Road at 15th Street and Custer Road at Plano Parkway, Project No. 6157, and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “D”)

To approve a Professional Services Agreement by and between the City of Plano and Binkley & Barfield, Inc., in the amount of \$120,000 for Bridge Repairs Project No. 6154; and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “E”)

#### **Adoption of Resolutions**

**Resolution No. 2011-12-10(R):** To ratify the City’s acceptance of a fire response apparatus pursuant to the terms and conditions of the Texas Intrastate Fire Mutual Aid System (TIFMAS) Grant Assistance Program administered by the Texas Forest Service; authorizing the execution of any and all documents in connection therewith by the City Manager; and providing an effective date. (Consent Agenda Item “F”)

**Resolution No. 2011-12-11(R):** To approve the terms and conditions of an agreement by and between the City of Plano, Texas and Prescott Realty Group, to provide an exclusive period for the negotiation of a development agreement 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 “G”)

**Resolution No. 2011-12-12(R):** To approve the terms and conditions of an annual maintenance contract by and between the City of Plano and Motorola Solutions, Inc., the sole source provider for depot repairs, and technical support for the City of Plano’s MESH data devices; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “H”)

### **Adoption of Ordinances**

**Ordinance No. 2011-12-13:** To amend Section 3-4 (Permit required; fees) and Section 3-8 (Late hours permit; fees) of Chapter 3 (Alcoholic Beverages) of the City of Plano Code of Ordinances, to revise the term of permits granted to establishments selling alcoholic beverages in the City of Plano providing a penalty clause, repealer clause, savings clause, severability clause, and an effective date. (Consent Agenda Item “I”)

### **END OF CONSENT**

Mayor Dyer stepped down from the bench on the following item due to a possible conflict of interest.

**CSP No. 2011-315-C** for a one (1) year contract with four (4) City optional renewals for Towing Services to Signature Towing, Inc. in the estimated amount of \$3,000 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “B”)

Police Chief Rushin spoke to the use of towing services by the department, efforts of departmental and purchasing Staff to secure proposals and committee review. Administrative Manager Brashear spoke to consideration of the vendors’ ranges of services, storage facilities, record keeping and work history in evaluation. He stated that Signature Towing, Inc. was recommended based on a more diverse and larger fleet, experience in facilitating police investigations and experience supporting municipal needs. Mr. Brashear advised that upgrades made by Jordan Towing were factored into the final evaluation without an additional visit.

Rick Chron of Signature Towing, Inc. thanked the Council for their consideration. Joe Counter, representing Jordan Towing, spoke to their standing as the sole provider for the North Texas Tollway Authority, level of customer service and on-time scene arrival. He spoke to their fleet of 20 vehicles, the offer of a lower fee schedule and providing towing for all City vehicles at no charge. Mr. Counter spoke to the lack of City response to placement of security cameras and requested the item be tabled for further consideration. Mr. Brashear responded to Deputy Mayor Pro Tem Smith that Staff was aware that Signature Towing, Inc. was removed from the Collin County Sheriff’s list of towing services, advising that this was not a contract position but was related to the difficulty they had reaching areas of the County.

**CSP No. 2011-315-C (cont'd)**

Upon a motion made by Council Member Dunlap and seconded by Council Member Gallagher, the Council voted 7-0 to approve CSP No. 2011-315-C for a one (1) year contract with four (4) City optional renewals for Towing Services to Signature Towing, Inc.

Mayor Dyer resumed his seat on the bench.

**Public Hearing and Comment - Review of the Consolidated Annual Performance Report** for the use of Federal Funds 2010-2011. This report details how the City used U.S. Department of Housing and Urban Development funds during the 2010-2011 grant year. (Regular Agenda Item "1")

Community Services Manager Day advised that this report represents the first year of operation under the 2010-2014 Consolidated Plan of Housing and Community Development Needs and spoke to the City's use of American Recovery and Reinvestment Act funds to address homelessness, grant funds for construction efforts and providing any comments received to the Department of Housing and Urban Development.

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

**Public Hearing and consideration of an Appeal** of the Planning & Zoning Commission's Denial of Zoning Case 2011-29 - Request for Specific Use Permit for Day Care Center (In-home) on 0.1± acre located at the northwest corner of Oakland Hills Drive and Norman Drive. Zoned Single- Family Residence-7. Applicant: Roberta Cosgrove. (Regular Agenda Item "2")

Planning Manager Firgens spoke to the Zoning Ordinance defining in-home day care centers as providing care for up to 12 children with provisions permitting eight by right. She advised that caring for more than eight requires a specific use permit, and spoke to the history of the existing center, and Planning and Zoning Commission's denial based on concerns related to caring for more than eight children and denial of a previous case by the City Council. She advised that Commissioners voting in opposition to the denial felt the property was appropriate for the use based upon its configuration, location adjacent to a collector street and staggered drop-off/pick-up times.

Mayor Dyer opened the Public Hearing. Mr. Alexander, representing the applicant, spoke to the loss of income, the home's configuration for this purpose, the lack of complaints from neighbors or state licensing agencies, and documentation provided by the homeowners association recognizing the use. He responded to Mayor Pro Tem Miner and spoke to the benefits of operating as an in-home provider rather than at a commercial location. Mr. Alexander spoke to the center contributing to the City's quality of life as stated in its mission statement. Citizen Randall Huff, residing in proximity to the location, spoke in support of the appeal and advised that there have been no issues associated with the use. Citizen and neighbor Josh Rubio spoke to benefits to the community and advised that he had no concerns regarding the use. No one else spoke for or against the request. The Public Hearing was closed.

**Appeal - Zoning Case 2011-29 (cont'd)**

Planning Manager Firgens responded to the Council, advising that Staff found the site appropriate for the use based on its location as a corner lot adjacent to a collector street. She could not respond regarding City revenues and she spoke to enforcement typically driven by neighbor complaints. Director of Planning Jarrell spoke to state regulations setting the maximum number of students at 12 and Mr. Alexander advised regarding annual state inspections. Ms. Jarrell further advised regarding a revision in paperwork that now requires information regarding the number of children cared for in facilities.

Council Member Gallagher stated concern related to the operation of commercial businesses in residential neighborhoods. Council Member Dunlap stated concern based on the property's location within the neighborhood with no adjacency to commercial property. Council Member Duggan stated concern that residential properties are not designed to accommodate large day-care centers. Council Member Davidson spoke in support, citing current regulations allowing eight children by right and this location providing care with no issues. Ms. Jarrell reviewed the development of regulations in 1993 which permit eight children by right.

A motion was made by Council Member Dunlap and seconded by Council Member Gallagher to deny the request. The Council voted 6-2 with Council Members Harris and Davidson voting in opposition. The motion carried.

Nothing further was discussed. Mayor Dyer adjourned the meeting at 7:58 p.m.

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**Phil Dyer, MAYOR**

ATTEST

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Diane Zucco, City Secretary