

**PLANO CITY COUNCIL**  
**July 26, 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, July 26, 2010, at 7:11 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 Davidson.

The invocation was led by Executive Pastor - Grace Outreach Center, Jessie Prince and the Pledge of Allegiance was led by Cub Scout Pack 754 of Riddle and Borchardt Elementary Schools.

Mayor Dyer presented a proclamation recognizing ADA Awareness Day and recognized Bruce Glasscock for his 20-Year anniversary. Faye Moses Wilkins was not in attendance for an oath of office.

**Comments of Public Interest**

No one appeared to speak.

**Consent Agenda**

Mayor Dyer requested that Consent Agenda Item "P," a resolution to authorize naming the program room at the W.O. Haggard, Jr. library the Richard D. Tobin, Jr. Program Room, be removed for individual consideration.

Upon a motion made by Council Member Harris and seconded by Council Member LaRosiliere, 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 28, 2010 - Firing Range Field Trip  
June 28, 2010 - Council Meeting  
June 29, 2010 - Joint City ACC Meeting

**Approval of Expenditures**

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

**Bid No. 2010-157-B**, for Plano Public Safety Communications Air Conditioning Improvements, to Denali Construction Services, in the amount of \$78,091 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “B”)

**Bid No. 2010-149-C** for a one (1) year contract to purchase tires for Warehouse Inventory from A to Z Tire & Battery Inc., Blagg Tire & Service, GCR Tire Center, Southern Tire Mart, Tire Centers, LLC, & Wingfoot Commercial Tire Systems, LLC in an estimated amount of \$333,715 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “C”)

**Purchase from an Existing Contract**

To approve the purchase of six (6) Heil Automated Side Loader Bodies in the amount of \$636,830 and three (3) Heil Rear Loader Bodies in the amount of \$224,172 totaling \$861,002 from Heil of Texas, through an existing contract/agreement with TASB/Buyboard, and authorizing the City Manager to execute all necessary documents. (TASB/Buyboard contract #280-07) (Consent Agenda Item “D”)

To approve the purchase of six (6) Crane Carrier Automated Side Loader Chassis in the amount of \$935,470 and three (3) Crane Carrier Rear Loader Chassis in the amount of \$486,417 totaling \$1,421,887 from Bond Equipment Co. through an existing contract/agreement with TASB/Buyboard, and authorizing the City Manager to execute all necessary documents. (TASB/Buyboard contract #281-07) (Consent Agenda Item “E”)

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

To approve an Engineering Services Contract by and between the City of Plano and Burgess & Niple, Inc. in the amount of \$162,485 for I/I Program (2010) Pittman Creek Basin and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “F”)

### **Approval of Contract Modification**

To approve a Second Modification to a professional services agreement by and between the City of Plano, Texas and RCC Consultants, Inc. in the amount of \$49,954.00 through an existing agreement 2008-157-I with RCC Consultant for Phase III Implementation Services for Mobile Data Project; authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “G”)

To approve the Third Modification of the contract by and between the City of Plano and Hay Group, Inc. (Contract No. 2006-154-C) for Employee Benefits Consulting Services to increase the contract 25% from \$110,000 to \$137,500 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “H”)

### **Approval of Change Order**

To ARK Contracting Services, LLC, increasing the contract by \$102,693 for Erosion Control Briarwood – Eight Locations, Change Order No. 2. Original Bid No. 2010-31-B. (Consent Agenda Item “I”)

### **Approval of Expenditure**

To approve of the purchase of library materials for Plano Public Library System (PPLS) in the amount of \$200,000 from Baker and Taylor through an existing contract/agreement with Texas State Contract 715-N1 Print Materials and Multimedia; and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “J”)

### **Adoption of Resolutions**

**Resolution No. 2010-7-1(R):** To approve the terms and conditions of an agreement by and between North Texas Municipal Water District and the City of Plano; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “K”)

**Resolution No. 2010-7-2(R):** To nominate Denbury Onshore , LLC, 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 “L”)

**Resolution No. 2010-7-3(R):** To approve the terms and conditions of an Interlocal Agreement by and between the City of Plano, Texas and Texas Department of Transportation (“TxDOT”) for participation in the Scofflaw Program in accordance with Section 702.003 of the Texas Transportation Code for the collection of outstanding warrant fees; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “M”)

**Resolution No. 2010-7-4(R):** To approve the terms and conditions of an Easement for Encroachments by and between Legacy North PT MFA III, L.P. and the City of Plano; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “N”)

**Resolution No. 2010-7-5(R):** To approve the terms and conditions of an Interlocal Agreement by and between the City of Plano and the North Central Texas Council of Governments for Traffic Signal Retiming; authorizing its execution by the City Manager to execute any documents deemed necessary; and providing an effective date. (Consent Agenda Item “O”)

**Resolution No. 2010-7-6(R):** To terminate the Interlocal Cooperation Agreement by and between the City of Plano, Texas and the City of Allen, Texas for library automation services; approving its execution by the City Manager; and providing an effective date. (Consent Agenda Item “Q”)

**Resolution No. 2010-7-7(R):** To terminate the Interlocal Cooperation Agreement by and between the City of Plano, Texas and the City of Allen, Texas for library courier services; approving its execution by the City Manager; and providing an effective date. (Consent Agenda Item “R”)

### **Adoption of Ordinances**

**Ordinance No. 2010-7-8:** To repeal Ordinance No. 2009-5-26, entitled “Health Categories and Fees”, and replacing it with this ordinance, to be entitled “Health Categories and Fees” to amend Animal Services and Health fees; providing a repealer clause, a severability clause, and an effective date. (Consent Agenda Item “S”)

**Ordinance No. 2010-7-9:** To amend a section of Ordinance No. 2008-9-35 codified as Section 18-25, Article I of Chapter 18, Solid Waste, of the City of Plano Code of Ordinances to revise the service fee schedule for the collection of solid waste for downtown properties; and providing a repealer clause, a savings clause, a severability clause, and an effective date. (Consent Agenda Item “T”)

**Ordinance No. 2010-7-10:** To repeal Ordinance No. 2009-9-26; establishing the number of certain classifications within the Police and Fire Departments for fiscal year 2009-10; establishing the authorized number and effective dates of such positions for each classification effective October 1, 2009, December 1, 2009, and August 1, 2010 respectively; establishing a salary plan for the Police and Fire Departments effective September 28, 2009; and providing a repealer clause, a severability clause and an effective date. (Consent Agenda Item “U”)

**Ordinance No. 2010-7-11:** To repeal Section 12-104.5 and enacting a new Section 12-104.5 to Chapter 12 (Traffic Code) of the City of Plano Code of Ordinances regulating the parking of motor vehicles in certain designated public parking lots within the Business Government district; 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 “V”)

**Ordinance No. 2010-7-12:** To abandon all right, title and interest of the City, in and to the remainder of that Variable Width Drainage Easement recorded in Volume 2242, Page 945 of the Deed Records of Collin County, Texas and being situated in the Collin Country School Survey, Abstract No. 150, which is located within the city limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such easement to the abutting property owner, Pizza Hut of America, Inc., to the extent of its interest; authorizing the City Manager or his authorized designee, to execute any documents deemed necessary; and providing an effective date. (Consent Agenda Item “W”)

#### **END OF CONSENT**

**Resolution No. 2010-7-13(R):** To authorize the naming of the program room at the W. O. Haggard, Jr. Library the Richard D. Tobin, Jr. Program Room in memory of Mr. Richard D. Tobin, Jr. and to honor Mr. Tobin’s years of service and dedication to Plano Public Library System, and providing an effective date. (Consent Agenda Item “P”)

Fred Frawley, representing the Friends of the Plano Library, spoke to Mr. Tobin’s role as a mentor and member of many library organizations. Members of Mr. Tobin’s family thanked the Council for this recognition.

Upon a motion made by Mayor Pro Tem Dunlap and seconded by Deputy Mayor Pro Tem Miner, the Council voted 7-0 to authorize naming the program room at the W.O. Haggard Jr. Library in memory of Mr. Richard D. Tobin, Jr.

**Resolution No. 2010-7-14(R):** To approve the terms and conditions of an Economic Development Incentive Agreement by and between the City of Plano, Texas, and Advocare International, LP., a Delaware Limited Partnership; authorizing its execution by the City Manager; and providing an effective date. (Regular Agenda Item “1”)

Director of Finance Tacke advised that Advocare International, LP would occupy no less than 97,000 square feet of existing commercial space and retain, transfer or create up to 103 full-time jobs by June 30, 2011. She advised that the terms of the agreement run from June 30, 2011 through June 29, 2021, that Advocare will add business personal property of no less than \$1 million and real property of no less than \$1.2 million and further that the agreement is in the amount of \$75,000.

Upon a motion made by Council Member Callison and seconded by Deputy Mayor Pro Tem Miner, the Council voted 7-0 to approve an Economic Development Incentive Agreement between the City and Advocare International, LP. and further to adopt Resolution No. 2010-7-14(R).

**Resolution No. 2010-7-15(R):** To approve the terms and conditions of an Economic Development Incentive Agreement by and between the City of Plano, Texas, and Women of Faith, Inc., a Delaware corporation; authorizing its execution by the City Manager; and providing an effective date. (Regular Agenda Item “2”)

**Resolution No. 2010-7-15(R) (cont'd)**

Director of Finance Tacke advised that Women of Faith, Inc. would occupy no less than 23,000 square feet of new commercial space and retain, transfer or create 80 full-time jobs by November 1, 2010 with up to an additional 50 full-time jobs by December 31, 2012. She advised that the terms of the agreement run from November 1, 2010 through May 1, 2018 in an amount of up to \$66,500.

Upon a motion made by Council Member LaRosiliere and seconded by Deputy Mayor Pro Tem Miner, the Council voted 7-0 to approve an Economic Development Incentive Agreement between the City and Women of Faith, Inc. and further to adopt Resolution No. 2010-7-15(R).

**Public Hearing and adoption of Ordinance No. 2010-7-16** as requested in Zoning Case 2010-07 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to amend Planned Development-377-Retail/General Office on 22.7± acres out of the William Beverly Survey, Abstract No. 75, located at the northeast corner of Plano Parkway and Custer Road in the City of Plano, Collin County, Texas, to increase the maximum height allowed for church steeples; 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: Messiah Lutheran Church (Regular Agenda Item "3")

Director of Planning Jarrell advised that this item requests amendment only to the portion of the planned development addressing the church steeple height. She advised that the proposal meets setback requirements and that the Planning and Zoning Commission recommends approval as follows: (Additions are indicated in underlined text; deletions are indicated in strike through text.)

Amend Planned Development-377-Retail/General Office as follows:

6.d. Between 200 feet from the north property line and the south property line - church steeple maximum height ~~85~~ 140 feet.

Mayor Dyer opened the Public Hearing. James Hewlett, representing the applicant, spoke regarding plans for the sanctuary and communication with homeowners. Robert Miller representing Dallas North Estates Homeowners Association spoke in support. No one else spoke either for or against the item. The Public Hearing was closed.

Upon a motion made by Council Member Harris and seconded by Deputy Mayor Pro Tem Miner, the Council voted 7-0 to amend the Comprehensive Zoning Ordinance of the City, so as to amend Planned Development-377-Retail/General Office to increase the maximum height allowed for church steeples; as requested in Zoning Case 2010-07 and as recommended by the Planning and Zoning Commission; and further to adopt Ordinance No. 2010-7-16.

**Ordinance No. 2010-7-17:** To repeal Section 14-6, Drug Paraphernalia, of Article I, In General, of Chapter 14, Offenses-Miscellaneous of the Code of Ordinances of the City of Plano, Texas and adopting a new Article X, Illegal Smoking Products and Ingestion Devices to Chapter 14, Offenses-Miscellaneous to prohibit the use, purchase, possession and sale of illegal smoking products containing certain plant, plant products or derivatives, chemical compounds applied to plants, and plant products and their derivatives or other substances, and ingestion devices used in connection with the illegal smoking products; dispensing with a culpable mental state and providing a penalty; providing an affirmative defense for authorized medical use or use in landscaping; and providing a repealer clause, a severability clause, a savings clause, and an effective date. (Regular Agenda Item “4”)

Police Chief Rushin spoke to the proposed ordinance which defines illegal smoking products (plants or substances) including chemicals contained by K2 and Salvia and paraphernalia used to ingest the substances. He advised that some ingestion devices can be utilized for legal purposes and that there will be two defenses: prescriptions for either and ornamental landscaping for salvia. Chief Rushin advised that the maximum fine would be \$500 and that an out-of-state lab has been identified so that enforcement would take place following testing of confiscated products. He spoke to the proliferation of items in the City and advised that Staff will begin notifying retail locations upon passage of the ordinance. He further spoke to removal of outdated language covered by state statute.

Upon a motion made by Council Member LaRosiliere and seconded by Council Member Callison, the Council voted 7-0 to repeal Section 14-6, Drug Paraphernalia, of Article I, In General, of Chapter 14, Offenses-Miscellaneous of the Code of Ordinances and adopting a new Article X, Illegal Smoking Products and Ingestion Devices to Chapter 14, Offenses- Miscellaneous to prohibit the use, purchase, possession and sale of illegal smoking products containing certain plant, plant products or derivatives, chemical compounds applied to plants, and plant products and their derivatives or other substances, and ingestion devices used in connection with the illegal smoking products; dispensing with a culpable mental state and providing a penalty; providing an affirmative defense for authorized medical use or use in landscaping; and further to adopt Ordinance No. 2010-7-17.

**Resolution No. 2010-7-18(R):** to approve the terms and conditions of a Management Services Agreement by and between the City of Plano and the Boys and Girls Club of Collin County to operate and manage the Douglass Community Center; authorizing its execution by the City Manager; and providing an effective date. (Regular Agenda Item “5”)

Director of Parks and Recreation Fortenberry spoke to a cost-savings proposal to transfer operation of the Douglass Community Center to the Boys and Girls Club of Collin County resulting in a savings of \$508,000 annually to include provisions continuing the community center functions and retaining the name of the center and gymnasium. She spoke to the history of other centers previously located in high schools, the addition of the Douglass Center in 1987, and evolution of the department replacing school-based centers with fee-based facilities. Ms. Fortenberry advised that under the agreement, the Boys and Girls Club will offer after-school care, tutoring, GED and computer classes, sports programs, and more with no resident turned away for their inability to pay an annual fee.

**Resolution No. 2010-7-18(R) (cont'd)**

Resident Dollie Thomas thanked the Council, Mayor and City Manager for listening to concerns, spoke to the positive work of the Boys and Girls Club, and requested a task force be formed to study the impact should the center close. She spoke to those who may not wish to join the Boys and Girls Club and asked that the Douglass Community Center remain as is. Resident Reggie Push requested the vote be delayed so that data can be analyzed before a decision is made and that monies be preserved in the budget so that services outside of the Boys and Girls Club might be offered. Resident Eleanor Evans spoke to the impact on those who are not included in the target audience of the Boys and Girls Club, those that use the center but do not live in the immediate neighborhood, and requested the Council consider data provided by citizens before making a decision. Resident T.J. Johnson thanked the Council for the time spent considering the proposal, stated concern regarding how the Boys and Girls Club will operate and maintain its identity as a community center, and spoke to the Boys and Girls Club mission of dealing with youth and teens (not adults). She requested a community coordinator at the center or assigning a task force to study the impact. Citizen Terrill Brandon spoke to Staff moving toward a goal before considering the impact, the impact of closing of the Williams center, and providing options for children in the community.

Ms. Fortenberry responded to the Council, advising that children participating in programs will need to be members, but that adults or those utilizing drop-in times will not. She stated that the contract will include time for community use; advised that room rental fees would remain the same; spoke to the reduction in hours of operation; and advised that based on underutilization, schedules would be shortened should the City retain operation of the center. Tanya Greene of the Boys & Girls Club advised the Council that there will be Staff responsible for coordinating rental opportunities with the community as part of her duties. Ms. Fortenberry spoke to badminton activities moving to the Oak Point Center, retention of signage at the center, and planned improvements by a volunteer group. Ms. Greene responded to the Council, advising that board positions with the Boys and Girls Club are open and spoke to actively recruiting from communities throughout Collin County members who can build community awareness and help raise funds for the board's mission.

Council Member Smith spoke to maintaining a part-time City employee to assist in coordinating community activities and Council Member LaRosiliere spoke to retaining a sense of connection with the City and having the position serve as a bridge. Mayor Dyer spoke to the impact of the economic times, Council's support for the community and center and the reduced hours impacting as few people as possible. Council Member LaRosiliere spoke to cuts in the City's budget eventually impacting every neighborhood, the charge given by Council to find savings through the business matrix process resulting in this recommendation, and maintaining open communications.

Upon a motion made by Council Member LaRosiliere and seconded by Council Member Smith, the Council voted 7-0 to approve the terms and conditions of a Management Services Agreement by and between the City of Plano and the Boys and Girls Club of Collin County to operate and manage the Douglass Community Center as submitted; and further to adopt Resolution No. 2010-7-18(R). Council Member Smith spoke to consideration of a part-time City employee to augment some services.

Mayor Dyer adjourned the meeting at 8:25 p.m.

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**Phil Dyer, MAYOR**

ATTEST:

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Diane Zucco, City Secretary