

PLANO CITY COUNCIL
February 17, 2009

COUNCIL MEMBERS

Pat Evans, Mayor
Jean Callison, Mayor Pro Tem
Harry LaRosiliere, Deputy Mayor Pro Tem
Pat Miner
Scott Johnson
Mabrie Jackson
Sally Magnuson
Lee Dunlap

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 Evans convened the Council directly into the Regular Session from the Preliminary Open Meeting on Tuesday, February 17, 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 Deputy Mayor Pro Tem LaRosiliere.

The invocation was led by Deacon Mike Seibold with St. Elizabeth Ann Seton Catholic Church and The Pledge of Allegiance was led by Brownie Troop 8859 from Harrington Elementary School.

Mayor Evans recognized Fallon Cole – 2008 Texas Junior Pre-Teen Cover Girl and administered oaths of office to incoming board/commission members.

COMMENTS OF PUBLIC INTEREST

No one appeared to speak.

CONSENT AND REGULAR AGENDA

Staff requested that Consent Agenda Items “Q,” an ordinance to repeal Ordinance No. 2003-4-18, which set fees for Animal Services; and repealing Ordinance No. 2008-11-15, entitled “Health Categories and Fees”; and replacing both with this ordinance, to be entitled “Health Categories and Fees”; and “R,” an ordinance to repeal Ordinance Nos. 94-12-16, 96-8-7, 99-8-11 codified as Chapter 4, Animal Regulations, Code of Ordinances of the City of Plano and adopting a new Chapter 4, Animal Regulations be removed for individual consideration.

CONSENT AGENDA

Upon a motion made by Council Member Miner and seconded by Council Member Johnson, the Council voted 7-0 to approve and adopt all remaining items on the consent agenda as recommended and as follows:

Approval of Minutes

January 26, 2009 [Consent Agenda Item (A)]

Approval of Expenditures

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

CSP No. 2009-27-C for Security Control System Upgrade and Maintenance for the Robinson Justice Center and Police Building in the amount of \$704,500 to Redhawk, a UTC Fire & Security Company, for the security upgrade and an estimated annual amount of \$13,000 for maintenance, for a first year total of \$717,500 and authorizing the City Manager to execute all necessary documents. This will establish an annual fixed price contract with three optional one-year renewals for the maintenance. [Consent Agenda Item (B)] (See Exhibit "A")

Purchase from an Existing Contract

To approve the purchase of one Caterpillar Backhoe Loader (416E) in the amount of \$66,950 from Holt Cat through an existing contract/agreement with Texas Association School Buyboard Purchase Program, and authorizing the City Manager to execute all necessary documents. (#268-07) [Consent Agenda Item (C)]

To authorize the purchase of CommVault Email Archiving Solution for eDiscovery, in the amount of \$165,573 from Dell, through a Department of Information Resources (DIR) contract, and authorizing the City Manager to execute all necessary documents. (DIR-SDD-890) [Consent Agenda Item (D)]

Contract Modification

To approve and authorize Contract Modification No. 2 with Carter & Burgess, Inc. for additions and deletions in Architectural Services in conjunction with improvements to Oak Point Park and Nature Preserve resulting in a net reduction in the contract amount by \$73,351 and authorizing the City Manager to execute any and all documents necessary to effectuate the contract modifications. [Consent Agenda Item (E)]

Approval of Change Order

To Hencie International, Inc., increasing the contract by \$32,507 for the 2007-2008 Residential Concrete Pavement Rehabilitation Project, Zone I8, Project No. 5890, Change Order No. 2, Bid No. 2008-95-B. This change order is for additional alley repairs. [Consent Agenda Item (F)]

To Jerusalem Corporation, increasing the contract by \$82,675 for the 2007-2008 Residential Concrete Pavement Rehabilitation Project, Zone L5, Project No. 5936, Change Order No. 1, Bid No. 2008-205-B. This change order is for additional street pavement repairs due to the drought/wet conditions and shrinkage/swelling of the base soil under the street pavement. [Consent Agenda Item (G)]

Adoption of Resolutions

Resolution No. 2009-2-1(R): To approve the terms and conditions of a Second Modification of Contract by and between Otto Container Management, L.L.C. and the City of Plano, Texas for maintenance, repair, replacement and distribution of roll out trash and recyclable carts; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (H)]

Resolution No. 2009-2-2(R): To approve the terms and conditions of an Agreement by and between the City of Plano and the Presbyterian Plano Diagnostics Surgery Center for the use of the Allen/Frisco/Plano Trunked Radio System by PPCDS; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (I)]

Resolution No. 2009-2-3(R): To approve the Investment Portfolio Summary for the quarter ending December 31, 2008 prepared by Valley View Consulting, L.L.C.; and providing an effective date. [Consent Agenda Item (J)]

Resolution No. 2009-2-4(R): To approve the terms and conditions of an Amended Economic Development Incentive Agreement by and between the City of Plano, Texas and Diodes Incorporated, a Delaware corporation; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (K)]

Resolution No. 2009-2-5(R): To approve the terms and conditions of an Amended Agreement by and between the City of Plano, Texas, the County of Collin, Texas, and Diodes Incorporated, a Delaware corporation, and providing for a real and business personal property tax abatement, and authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (L)]

Resolution No. 2009-2-6(R): To approve the terms and conditions of a Real Estate Contract by and between Preston Legacy Holdings, L.P., and the City of Plano; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (M)]

Resolution No. 2009-2-7(R): To authorize outside employment with Southern Methodist University for the City Attorney, Diane Wetherbee; and providing an effective date. [Consent Agenda Item (N)]

Resolution No. 2009-2-8(R): To authorize the City Manager to enter into a Joint Election Agreement with the Plano Independent School District and Frisco Independent School District for the purpose of conducting a joint election on May 9, 2009; and providing an effective date. [Consent Agenda Item (O)]

Adoption of Ordinances

Ordinance No. 2009-2-9: To order an election to be held on May 9, 2009 for the purpose of electing four (4) members of Council, Place No. 2 (District 2), Place No. 4 (District 4), Place No. 6 (Mayor), and Place No. 8, to the City Council to hold office for a period of three years; designating locations of polling places; ordering notices of election to be given as prescribed by law in connection with such election; and providing an effective date. [Consent Agenda Item (P)]

Ordinance No. 2009-2-10: To amend Ordinance 2008-12-4, currently codified as Chapter Six, Article XIII, Irrigation Systems, to amend the regulations including listed and approved devices, a correct filing date of reports and requirement of freeze sensors for installation on irrigation systems within the city limits of the City; and providing a repealer clause, a severability clause, a penalty clause, a publication clause and an effective date. [Consent Agenda Item (S)]

Ordinance No. 2009-2-11: To amend the City's ordinances providing for the issuance of City of Plano, Texas, General Obligation Bonds, Series 2007, General Obligation Bonds, Series 2008 and General Obligation Bonds, Series 2009; and providing an effective date. [Consent Agenda Item (T)]

Ordinance No. 2009-2-12: 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 certain sections of Headquarters Drive and Parkwood Boulevard 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 (U)]

END OF CONSENT

Ordinance No. 2009-2-13: To repeal Ordinance Nos. 94-12-16, 96-8-7, 99-8-11 codified as Chapter 4, Animal Regulations, Code of Ordinances of the City of Plano and adopting a new Chapter 4, Animal Regulations, Code of Ordinances of the City of Plano incorporating updates to State law and adding provisions regulating: sterilization; multiple pets; pet identification through microchips; certain businesses which deal with animals; and, the use of tethers; providing a repealer clause, a severability clause; a penalty clause; a savings clause; providing an effective date; and providing for publication. [Consent Agenda Item (R)]

Director of Health Collins spoke to the request representing the first revision to the Animal Ordinance in over ten years and being necessitated by changes in the environment, population and experiences in animal services. Animal Shelter Advisory Committee Vice Chair Dubrow spoke to collaborative efforts over the last 4-5 years, ordinances provided from other cities and states for review, addressing emergency services such as those experienced during Hurricane Katrina, open meetings providing for citizen input/comment, and addressing dangerous dogs through specific incidents rather than by breed.

Ordinance No. 2009-2-13 (cont'd)

Animal Services Manager Cantrell spoke to inviting public comment during meetings, and to average pet owners or breeders experiencing no more or less restrictions than under current regulations. He spoke to there being no change in the definition of commercial breeders, adding limitations for the number of pets and to working on behalf of all citizens of the City. Mr. Cantrell advised that there are no major changes in the ordinance and no mandatory spaying/neutering or micro chipping.

Donna Ewing stated opposition to the ordinance and spoke to experiences provided through shows/trials in the area and training conducted at Bob Woodruff Park. Citizen of the City Mary Stabile requested delay of the item to provide time for further research into areas such as the requirement to spay/neuter four-month old animals. She responded to Council Member Jackson regarding the immaturity of animals at this age and the possible impact on those looking to purchase a dog. Mr. Cantrell spoke to the restriction being in place for animals being sold and four months as the time to vaccinate against rabies, microchip and sterilize as endorsed by the American Veterinarian Association, American Animal Hospital Association and taught at universities. He spoke to traditions associated with sterilization and studies on both sides of the issue. Mr. Cantrell responded to Council Member Jackson that four months was chosen to closely mirror rabies requirements and to it being easier to place a younger animal. He advised regarding issues related to identifying a four month old versus a five month old puppy and stated that definitions for commercial breeders have not changed and there would be no effect on dog shows if sponsored. Mr. Cantrell responded to Mayor Pro Tem Callison, stating that those animals given away or sold prior to four months do not have to be spayed/neutered and the frustration of neighbors when there are a large number of animals in a residence.

Citizen of the City VerJean Lunenschloss requested the item be pulled, spoke to the differences between a shelter and a responsible breeder, the difficulty in evaluating an animal in four months, and the need to wait two years to determine an animal's potential. Citizen of the City Judy Cerney spoke to changes affecting owners/breeders and urged a vote in opposition. She spoke to bone structure that does not develop until dogs are older, hip dysphasia issues and the differences between shelters and breeders. Citizen of the City Carolyn Kobut spoke in opposition and to participation in various groups and the investment in time and money in animals. Citizen of the City Jon Jacobson spoke to concerns of those who foster animals. Richard A. Caldwell, of Lavon, Texas spoke to hobby breeding offering high-quality pets and issues for breeders.

Mr. Cantrell responded to Council Member Magnuson stating that fostering would not be affected, puppies/kittens do not count towards a limit of 10 per home, and the availability of a multi-pet permit. He spoke to requirements for commercial breeders as similar to those of the shelter itself, restrictions allowing no more than one litter at a time and to revenues if everyone complied with current regulations (\$1.2 million). Mr. Cantrell spoke to 94% of pets being unregistered, the difficulty in keeping track of animals that are exempted from sterilization for 2.5 years, and those unable to sell an entire litter bringing the remainder to the shelter.

Ordinance No. 2009-2-13 (cont'd)

Mr. Cantrell advised that information is not used to track the number of animals per household. Judy Cerney responded to Mayor Evans that it takes two years to determine if a dog is suitable for breeding and requested an opportunity to express concerns of breeders and clarify language. VerJean Lunenschloss advised Mayor Evans that while there may be some issue with Section 4.200 *Inhumane treatment of animals* as related to pure-bred breeders, there is no major disagreement with this section, Section 4-500 *Permit required for multiple pets*, or Article VIII *Animal Businesses*. Mayor Evans spoke to agreement on Section 4-300 *Nuisances*. Ms. Lunenschloss stated that with regard to Section 4-809 *Private Animal Sales* there maybe some question as to definitions of non-commercial/commercial breeders and kennels that may need to be addressed. Mayor Evans requested that Staff, Council Liaisons, Chair of the Animal Shelter Advisory Committee, Ms. Lunenschloss and an individual of her choosing meet to bring forward recommendation and information on Section 4-809.

Upon a motion made by Mayor Pro Tem Callison and seconded by Council Member Magnuson, the Council voted 7-0 to repeal Ordinance Nos. 94-12-16, 96-8-7, 99-8-11 codified as Chapter 4, Animal Regulations, Code of Ordinances of the City of Plano and adopting a new Chapter 4, Animal Regulations, Code of Ordinances of the City of Plano incorporating updates to State law and adding provisions regulating: sterilization; multiple pets; pet identification through microchips; certain businesses which deal with animals; and, the use of tethers; as recommended excluding Section 4-809; providing a repealer clause, a severability clause; a penalty clause; a savings clause; providing an effective date; and providing for publication; and further to adopt Ordinance No. 2009-2-13 as revised.

Ordinance No. 2009-2-14: To repeal Ordinance No. 2003-4-18, which set fees for Animal Services; and repealing Ordinance No. 2008-11-15, entitled "Health Categories and Fees"; and replacing both with this ordinance, to be entitled "Health Categories and Fees" to provide for the addition of Animal Services fees; providing a repealer clause, a severability clause, and an effective date. [Consent Agenda Item (Q)]

Upon a motion made by Council Member Magnuson and seconded by Council Member Jackson, the Council voted 7-0 to repeal Ordinance No. 2003-4-18, which set fees for Animal Services; and repealing Ordinance No. 2008-11-15, entitled "Health Categories and Fees"; and replacing both with this ordinance, to be entitled "Health Categories and Fees" to provide for the addition of Animal Services fees; providing a repealer clause, a severability clause, and an effective date and further to adopt Ordinance No. 2009-2-14.

Ordinance 2009-2-15: To amend specific sections of Ordinance No. 2008-1-9 codified as Sections 21-135, 21-136 and 21-147, of Article IV, Service Charges Generally, of Chapter 21, Utilities, of the Code of Ordinances of the City of Plano, to reflect the new rates and increase the fee schedules for water and sewer services effective March 1, 2009, and providing a repealer clause, a severability clause, a savings clause, and an effective date. [Regular Agenda Item (1)]

Ordinance 2009-2-15 (cont'd)

Upon a motion made by Council Member Magnuson and seconded by Council Member Johnson, the Council voted 7-0 to amend specific sections of Ordinance No. 2008-1-9 codified as Sections 21-135, 21-136 and 21-147, of Article IV, Service Charges Generally, of Chapter 21, Utilities, of the Code of Ordinances of the City of Plano, to reflect the new rates and increase the fee schedules for water and sewer services effective March 1, 2009, and providing a repealer clause, a severability clause, a savings clause, and an effective date; and further to adopt Ordinance 2009-2-15.

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

Ordinance 2009-2-16: To authorize a three-year renewal of the Private Franchise Agreement by and between the City of Plano, Texas and Allied Waste Systems, Inc. d/b/a Trinity Waste Services, for collection and disposal of solid waste for commercial customers located within the City of Plano and a non-exclusive private franchise for collection of recyclable materials from commercial customers located in the City of Plano; and authorizing the City Manager to execute any and all documents necessary to effectuate this renewal; providing a repealer clause, a severability clause, a savings clause, a penalty clause, and providing for publication and an effective date. (Second Reading, First Reading approved January 12, 2009) [Regular Agenda Item (2)]

Commercial Recycling Supervisor Day responded to City Manager Muehlenbeck advising that expedient handling of calls is a factor in the positive feedback received for this program.

Upon a motion made by Mayor Pro Tem Callison and seconded by Council Member Johnson, the Council voted 6-0 to authorize a three-year renewal of the Private Franchise Agreement by and between the City of Plano, Texas and Allied Waste Systems, Inc. d/b/a Trinity Waste Services, for collection and disposal of solid waste for commercial customers located within the City of Plano and a non-exclusive private franchise for collection of recyclable materials from commercial customers located in the City of Plano; and authorizing the City Manager to execute any and all documents necessary to effectuate this renewal; providing a repealer clause, a severability clause, a savings clause, a penalty clause, and providing for publication and an effective date; and further to adopt Ordinance 2009-2-16.

Council Member Magnuson resumed her place at the bench.

Resolution No. 2009-2-17(R): To approve the Investment Portfolio Summary for the quarter ending September 30, 2008 prepared by Valley View Consulting, L.L.C.; and providing an effective date. [Regular Agenda Item (3)]

Director of Finance Tacke advised that for compliance with the Public Funds Investment Act the City must prepare quarterly portfolio summaries and provide an annual report.

Resolution No. 2009-2-17(R) (cont'd)

Susan Anderson of Valley View Consulting LLC, advised that this report coincides with the City's fiscal year end, spoke to inclusion of a strategy statement, focusing on the end book value being lower than the end market value, diversity in the portfolio, average yield and comparison to benchmarks. She responded to Council Member Johnson regarding inflows and outflows of the account, and information provided regarding the treasury yield and Standard and Poor's 500. Ms. Anderson spoke to a recommendation that Staff ladder accounts to lock in some longer term rates and provide diversity and spoke to the conservative management of the portfolio.

Upon a motion made by Council Member Miner and seconded by Council Member Johnson, the Council voted 7-0 to approve the Investment Portfolio Summary for the quarter ending September 30, 2008 prepared by Valley View Consulting, L.L.C.; and providing an effective date; and further to adopt Resolution No. 2009-2-17(R).

Resolution No. 2009-2-18(R): To approve the terms and conditions of an Economic Development Incentive Agreement by and between the City of Plano, Texas and Interphase Corporation, a Texas corporation; authorizing its execution by the City Manager; and providing an effective date. [Regular Agenda Item (4)]

Director of Finance Tacke advised that the company is currently headquartered in Plano; agrees to occupy 22,228 square feet of space for a term of five years; maintain 42 jobs throughout the agreement; and has an estimated annual payroll of \$5 million. She advised that the grant is in the amount of \$42,000 and responded to Council Member Dunlap stating that the real property value is \$88,000 and the business personal property value is \$528,500.

Upon a motion made by Council Member Magnuson and seconded by Council Member Dunlap, the Council voted 7-0 to approve the terms and conditions of an Economic Development Incentive Agreement by and between the City of Plano, Texas and Interphase Corporation, a Texas corporation; authorizing its execution by the City Manager; and providing an effective date; and further to adopt Resolution No. 2009-2-18(R).

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

Resolution No. 2009-2-19(R): To approve the terms and conditions of an Economic Development Incentive Agreement by and between the City of Plano, Texas and Robot Entertainment, Inc., a Delaware corporation; authorizing its execution by the City Manager; and providing an effective date. [Regular Agenda Item (5)]

Director of Finance Tacke advised that the company is relocating headquarters to Plano; agrees to occupy not less than 14,500 square feet of office space; retain, create or transfer 45 jobs by March 31, 2009 and will increase to 50 by December 31, 2010; has an anticipated annual payroll of \$4.25 million; and term of the lease is six years. She advised that the grant is in the amount of \$45,000 initially up to \$50,000 with five additional positions and responded to Council Member Dunlap stating that the real property value is \$500,000 and the business personal property value is \$500,000.

Resolution No. 2009-2-17(R) (cont'd)

Upon a motion made by Council Member Miner and seconded by Council Member Dunlap, the Council voted 6-0 to approve the terms and conditions of an Economic Development Incentive Agreement by and between the City of Plano, Texas and Robot Entertainment, Inc., a Delaware corporation; authorizing its execution by the City Manager; and providing an effective date; and further to adopt Resolution No. 2009-2-19(R).

Council Member Jackson resumed her place at the bench.

Public Hearing and adoption of Ordinance No. 2009-2-20 to amend the Comprehensive Plan originally adopted by Resolution No. 86-11-22(R) to include a Mixed-use Policy Statement with guidelines for reviewing zoning requests for mixed-use projects; providing procedures approving the utilization of said policy statement by the appropriate personnel and departments of the City of Plano for the purpose of guiding future development within the City of Plano, Texas; and providing an effective date. Applicant: City of Plano [Regular Agenda Item (6)]

Senior Planner Perry advised that the purpose of the Policy Statement is to provide additional guidance for mixed-use development in Plano including location, site attributes, expected benefits and key characteristics and stated that if adopted, it will become part of the Comprehensive Plan. She spoke to the project as a part of the work program of the Planning and Zoning Commission who conducted research and discussed key elements and who recommend approval as submitted. Ms. Perry advised that the statement notes potential benefits, identifies possible areas for development, provides guidelines. She spoke to use of the policy as a guide and not an exact prescription and offered examples where the intent may be met.

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

Upon a motion made by Council Member Miner and seconded by Council Member Magnuson the Council voted 7-0 to amend the Comprehensive Plan originally adopted by Resolution No. 86-11-22(R) to include a Mixed-use Policy Statement with guidelines for reviewing zoning requests for mixed-use projects; providing procedures approving the utilization of said policy statement by the appropriate personnel and departments of the City of Plano for the purpose of guiding future development within the City of Plano, Texas as recommended by the Planning and Zoning Commission; and providing an effective date; and further to adopt Ordinance No. 2009-2-20.

Council items for discussion/action on future agendas

No items were discussed.

There being no further discussion, Mayor Evans adjourned the meeting at 8:59 p.m.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, City Secretary