

PLANO CITY COUNCIL
February 26, 2007

COUNCIL MEMBERS

Pat Evans, Mayor
Scott Johnson, Mayor Pro Tem
Sally Magnuson, Deputy Mayor Pro Tem
Shep Stahel
Jean Callison
Loretta L. Ellerbe
Harry LaRosiliere
Lee Dunlap

STAFF

Thomas H. Muehlenbeck, City Manager
Frank Turner, Executive Director
Bruce Glasscock, Executive Director
Rod Hogan, Executive Director
Diane C. Wetherbee, City Attorney
Elaine Bealke, City Secretary

Mayor Evans convened the Council into the Regular Session on Monday, February 26, 2007, at 7:06 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present.

The invocation was led by Reverend Alice Coder of First United Methodist Church – Plano.

The Pledge of Allegiance was led by Cub Scout Pack 265 of Huffman Elementary.

Mayor Evans read a proclamation recognizing *Colorectal Cancer Awareness Month*.

Mayor Evans presented certificates of appreciation to Holly R. Linskie for her service on the Keep Plano Beautiful Commission and Michael Coleman for his service on the Public Arts Committee.

Mayor Evans administered oaths of office to Michael Coleman as an incoming member of the Planning and Zoning Commission and to Javed Azam as an incoming member of the Technology Commission.

COMMENTS OF PUBLIC INTEREST

No one appeared to speak.

BOARD AND COMMISSION REPORT

Environmental Education and Community Outreach Supervisor Merchant introduced Keep Plano Beautiful Commission Chair John Caldwell who spoke regarding the mission of the board to help Plano residents reduce litter, beautify the community, and increase the involvement of children. He stated that one goal of the board is to increase community involvement and awareness through expanded public relations and spoke regarding the Environmental Community Awards presented and participation in City parades and the Plano Balloon Festival. Mr. Caldwell stated that another goal is to create a more beautiful and litter-free community and spoke regarding the Great American Cleanup, Adopt-A-Highway Program, HOA Beautification Grant Program, HOA Neighborhood Dumpster Program, Cigarette Litter Education Program and other accomplishments. He spoke to a third goal being to create business resource support for the board's efforts and to collaborating with local businesses and community organizations to build a volunteer base. Mr. Caldwell spoke to an upcoming retreat for members to review programs. Ms. Merchant advised the Council that conducting a litter index is part of the Keep America Beautiful Program and that Staff currently does not have a comparison to neighboring cities, but will request this information. She spoke to receipt of positive comments regarding the City of Plano's program at conferences. Deputy Mayor Pro Tem Magnuson spoke to the City hosting Keep Texas Beautiful last year.

CONSENT AGENDA

Upon the request of Council Member Stahel, Consent Agenda Items "B" and "E" were removed for individual consideration due to possible conflicts of interest.

Upon a motion made by Council Member LaRosiliere and seconded by Mayor Pro Tem Johnson, 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"]

February 12, 2007

Approval of Expenditures

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

Bid No 2007-74-B for Dallas North Trunk Main Rehabilitation to Miller Pipeline Company in the amount of \$3,915,952. The project consists of the rehabilitation of sanitary sewer along Plano Parkway from west of Coit Road to east of Independence Parkway. [Consent Agenda Item "C"] (See Exhibit "A")

Bid No 2007-79-B for Tulane – East of Preston Road to McMahon Contracting, LP in the amount of \$231,002. The project consists of construction of approximately 400 feet of the two westbound lanes of Tulane Drive, east of Preston Road, including a right-turn lane at Preston Road. [Consent Agenda Item “D”] (See Exhibit “B”)

Purchase from Existing Contract/Agreement: (Purchase of products/services through Cooperative Purchasing Interlocal Contract with another governmental/quasi-governmental agency or an additional purchase from current City of Plano annual purchase agreement).

To approve the purchase of one (1) Mack Granite 24” Flat Bed Tandem Axle Truck for Compost Operations in the amount of \$109,904 from Dallas Mack Sales through an existing contract/agreement with Texas Association School Buyboard Purchase Program, and authorizing the City Manager to execute all necessary documents. (#208-04) [Consent Agenda Item “F”]

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

To approve an Engineering Contract by and between the City and GSWW, Inc., in the amount of \$150,050, for Electro Scan 2007 and authorizing the City Manager to execute all necessary documents. This agreement is for an engineering study to include infiltration/inflow testing of certain existing sanitary sewers and a report to be used for future sanitary sewer rehabilitation in the City of Plano. [Consent Agenda Item “G”]

To approve an Engineering Contract by and between the City and Halff Associates, Inc., in the amount of \$75,175, for Dallas North Trunk Sewer Main Rehab – Phase II and authorizing the City Manager to execute all necessary documents. This agreement is for the engineering design to rehabilitate the Dallas North Trunk Sewer Main from east of Independence Parkway to west of Custer Road. [Consent Agenda Item “H”]

Reimbursement of Oversize Participation

To approve and authorize reimbursement to Wattsec, Ltd. for oversize paving and water line participation in the amount of \$378,191 on Parkwood Boulevard and Windhaven Parkway. [Consent Agenda Item “I”]

Adoption of Resolutions

Resolution No. 2007-2-11(R): To find Rodney D. Patten is entitled to defense representation pursuant to City Code of Ordinances in connection with the matter of Richard Jean Florance, Jr. v. Jerry Buchmeyer, Robert J. Davis, Matthews etc. LLP, Brenda Taylor, Collin County TX, State of Texas, et. al.; and providing an effective date. [Consent Agenda Item “J”]

Resolution No. 2007-2-12(R): To appoint William J. Roberts and James P. Reid to serve for two year terms as investigators as required by Section 2-104 of the Code of Conduct of the City of Plano; and providing an effective date. [Consent Agenda Item “K”]

Resolution No. 2007-2-13(R): To approve the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano, Texas, and the North Central Texas Council of Governments providing terms and conditions for the funding for Clean Fleet Vehicle Project; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item “L”]

Adoption of Ordinance

Ordinance No. 2007-2-14: To transfer the sum of \$4,500,000 from the Water & Sewer Fund Unappropriated Fund Balance to the Water & Sewer CIP Fund Appropriation for Fiscal Year 2006-07 for the purpose of providing additional funding for Emergency Sewer Repair; amending the budget of the City and Ordinance 2006-9-9, 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 “M”]

END OF CONSENT

Due to possible conflicts of interest, Council Member Stahel stepped down from the bench on the following two items.

Bid No. 2007-71-B for implementation of the Altiris Total Management Suite to Dell Marketing, L.P. in the amount of \$115,837. [Consent Agenda Item “B”] (See Exhibit “C”)

Upon a motion made by Council Member LaRosiliere and seconded by Council Member Callison, the Council voted 7-0 to approve Bid No. 2007-71-B for implementation of the Altiris Total Management Suite to Dell Marketing, L.P. in the amount of \$115,837.

Purchase from Existing Contract/Agreement: To authorize the purchase of Netqos Network Management Software and Consulting in the amount of \$190,000 from Anixter, Inc. through a Department of Information Resources (DIR) Contract, and authorizing the City Manager to execute all necessary documents. (DIR-SDD-271) [Consent Agenda Item “E”]

Upon a motion made by Deputy Mayor Pro Tem Magnuson and seconded by Council Member Callison, the Council voted 7-0 to authorize the purchase of Netqos Network Management Software and Consulting in the amount of \$190,000 from Anixter, Inc. through a Department of Information Resources (DIR) Contract, and authorizing the City Manager to execute all necessary documents.

Council Member Stahel resumed his seat at the bench.

Public Hearing and adoption of Ordinance No. 2007-2-15 as requested in Zoning Case 2006-29 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to rezone 75.5± acres located at the northwest corner of Spring Creek Parkway and Tennyson Parkway in the City of Plano, Denton and Collin Counties, Texas, from Commercial Employment to Single-Family Residence Attached, Patio Home, and Single-Family Residence-9; 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: Welwood-Hawkins Homes Tabled 12-11-06 and 01-22-07 [Regular Agenda Item “1”]

Upon a motion made by Council Member Dunlap and seconded by Council Member Callison, the Council voted 8-0 to remove the item from the table.

Director of Planning Jarrell advised the Council that the Future Land Use Plan designates the property as appropriate for low intensity office uses and that most of the surrounding area is zoned Commercial Employment. She advised that upon review, the Planning and Zoning Commission considered the rezoning appropriate and stated that although it is separated by Spring Creek Parkway from single-family property to the south, they felt this was not a barrier to being considered a part of that neighborhood. Ms. Jarrell further stated that the Commission felt the topography, shape and size of the development did not lend itself to the type of corporate campuses nearby and considered the flood plain and greenbelt separation.

Ms. Jarrell responded to the Council regarding access provided to adjacent property and options for maintenance of the lake such as it being placed in a drainage easement where the City has the right but not necessarily the responsibility for maintenance, the homeowners' association retaining ownership and maintenance, or commercial participation when the north side develops. She stated that the City is not necessarily obligated to maintenance, but spoke to circumstances that might affect drainage systems of the City and to provisions allowing assessment to abutting property owners. Ms. Jarrell stated that there is no easement at this point to allow access to the property.

Mayor Evans opened the Public Hearing. Cheryl Williams of Zone Systems, representing the applicant, advised that the intent for the creek/floodplain and lake is that they are amenities owned and maintained by the homeowners' association. She spoke to the growing demand for luxury housing of all types in the City and the location being appropriate due to its natural extension of residential development to the south and the unique physical characteristics of the property. Ms. Williams spoke regarding the increase in property valuation that will occur, adequate infrastructure in place, minimal impact on schools, and support in the area. No one else spoke either for or against the request. The Public Hearing was closed.

Ordinance No. 2007-2-15 (cont'd)

Ms. Jarrell responded to the Council, stating that the Subdivision Ordinance governs the way drainage areas are treated and contains a provision for the City to enter if necessary, to do maintenance and repairs and to assess abutting property owners. She spoke to working out details in the subdivision plat stage. Ms. Jarrell stated that Commercial Employment zoning does not have a height limit, but does include setback requirements from residential development.

Upon a motion made by Council Member Callison and seconded by Deputy Mayor Pro Tem Magnuson, the Council voted 8-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to rezone 75.5± acres located at the northwest corner of Spring Creek Parkway and Tennyson Parkway in the City of Plano, Denton and Collin Counties, Texas, from Commercial Employment to Single-Family Residence Attached, Patio Home, and Single-Family Residence-9 as requested in Zoning Case 2006-29 and as recommended by the Planning and Zoning Commission; 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; and further to adopt Ordinance No. 2007-2-15.

Transmittal of Fiscal Year 2005-2006 Affirmative Action Report [Regular Agenda Item "2"]

Director of Human Resources Ross advised the Council that the data sources used for the report are the City of Plano PeopleSoft System and 2000 US Census Information with comparison based on the Collin County civilian labor force and the City of Plano employee workforce. She advised that the level of females in the City has been consistent from 2004 through 2006 and that with regard to ethnicity, we mirror the county's labor force. Ms. Ross spoke to those positions that may be typically low in terms of female or minority representation, review of utilization analysis and ongoing education and recruitment efforts. Ms. Ross reviewed statistics related to new hires, promotions, applications received and candidates tested. She spoke to recruitment efforts and the City's philosophy in terms of affirmative action to make sure that all job opportunities are open and that there is a level playing field. Ms. Ross spoke to the City providing professional development and training opportunities for employees. She advised that the Community Relations Commission accepted the report and that it is presented for Council consideration. Council Member Dunlap spoke to the possible impacts of DART and the availability of affordable housing and Ms. Ross advised she would look into those areas.

Upon a motion made by Deputy Mayor Pro Tem Magnuson and seconded by Council Member Dunlap, the Council voted 8-0 to accept the 2005-2006 Affirmative Action Report.

Ordinance No. 2007-2-16: To amend Ordinance No. 2006-5-9 as codified in Article VIII. Special Events of Chapter 11 Licenses and Business Regulations of the Code of Ordinances of the City of Plano by deleting the exception of funeral processions and official activities of governmental agencies from the application of this ordinance; adding the exception of motorcades from the application of this ordinance; providing for notification of adjacent property owners along a proposed parade route; and other related matters; providing a repealer clause, a savings clause; a severability clause and providing an effective date. Tabled 02-12-07 [Regular Agenda Item “3”]

Upon a motion made by Council Member Ellerbe and seconded by Council Member Stahel, the Council voted 8-0 to remove the item from the table.

City Attorney Wetherbee spoke to concerns raised by members of the community regarding application of the ordinance and review by Staff to determine the types of activities that might require police protection, street closure, etc. She advised that if a motorcade is traveling through the City in compliance with all traffic laws, there would be no need for regulation and further that funeral processions complying with laws would not need a permit.

Upon a motion made by Deputy Mayor Pro Tem Magnuson and seconded by Council Member Ellerbe, the Council voted 8-0 to amend Ordinance No. 2006-5-9 as codified in Article VIII. Special Events of Chapter 11 Licenses and Business Regulations of the Code of Ordinances of the City of Plano by deleting the exception of funeral processions and official activities of governmental agencies from the application of this ordinance; adding the exception of motorcades from the application of this ordinance; providing for notification of adjacent property owners along a proposed parade route; and other related matters; providing a repealer clause, a savings clause; a severability clause and providing an effective date; and further to adopt Ordinance No. 2007-2-16.

Public Hearing pursuant to Chapter 26 of the Texas Parks and Wildlife Code pertaining to use or taking of a portion of Legacy Trail located in the City of Plano for Force Main Easements to North Texas Municipal Water District. [Regular Agenda Item “4”]

Director of Parks and Recreation Wendell advised that this is a request for the granting of an easement to the North Texas Municipal Water District for a sanitary sewer line through a portion of Legacy Trail greenbelt in far northwest Plano. He stated that in accordance with Chapter 26, the Council may make a determination that there is no feasible and prudent alternative to the using of the parkland for this purpose and that the project includes all reasonable planning to minimize harm to the parkland resulting from the use. Mr. Wendell stated that the Parks and Recreation Planning Board has reviewed the request and recommends approval.

Bruce Cole of the North Texas Municipal Water District advised the Council that the line requested is part of the Upper East Fork Collection System which serves most of Plano and several other cities and directs flow from the west side of the City ending at the Wilson Creek Treatment Plant. He spoke to the growth in both Plano and Frisco and stated that expansion will take place in two phases with the first primarily in Plano including two additional pumps at the Preston Road Lift Station and a force main from the lift station to the west Rowlett Creek Interceptor in the City of Allen. Mr. Cole spoke to the second phase, which would run from there to the Wilson Creek Interceptor in McKinney.

Robert McGee of Freese and Nichols spoke to consideration of the alignment and stated that it would result in minimal tree removal, does not interfere with wetlands mitigation areas, and has a minimal impact on developed residential areas. He spoke to avoidance of trees along the route and stated that the three trees removed will be replaced. Mr. McGee spoke to hike and bike trails that would remain open during construction, restoration of disturbed areas by seeding, and stated that the contractor would be responsible for site safety. He spoke to the contractor being limited to opening no more than 150 feet of trench at any one time during construction and stated that no trench would be left open overnight. Mr. McGee spoke to the importance of tree preservation and advised that all trees were tagged and the design developed to protect as many as possible. He provided information on a tentative schedule with the bid opening and award in April and pipe construction completed in the fall.

Council Member Dunlap spoke to possible consideration of sprigging or sodding. Mr. Wendell responded to the Council, stating that the method of reestablishment would depend on when the project is completed, spoke to possible sodding, the lack of irrigation in the area and working to ensure the park is restored as quickly as possible.

Council Member Ellerbe stated concern that during construction some may park heavy vehicles under trees for shade. Jeff Paine of Freese and Nichols advised that contractors are directed to utilize City of Plano details with regard to tree protection which include fencing and the prohibition of excavation fill in the drip line and that the district will have inspectors in the field to monitor compliance. Mr. Cole clarified that the term "force main" is used for a pumped waste water line. Mayor Evans opened the Public Hearing. No one spoke either for or against the request. The Public Hearing was closed.

Ordinance No. 2007-2-17: To approve a project granting four permanent sanitary sewer force main easements to the North Texas Municipal Water District requiring the use or taking of a portion of City of Plano public park land, known as Legacy Trail; providing for a determination 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 and the park and recreation area resulting from the use; and providing an effective date. [Regular Agenda Item "5"]

Upon a motion made by Council Member Dunlap and seconded by Council Member Callison, the Council voted 8-0 to approve a project granting four permanent sanitary sewer force main easements to the North Texas Municipal Water District requiring the use or taking of a portion of City of Plano public park land, known as Legacy Trail as recommended by the Parks and Recreation Planning Board; providing for a determination 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 and the park and recreation area resulting from the use; and providing an effective date; and further to adopt Ordinance No. 2007-2-17.

Resolution No. 2007-2-18(R): To approve the granting of four permanent sanitary sewer force main easements to the North Texas Municipal Water District being in the Crystal Creek Addition, Preston Creek Addition, Hidden Creek Estates, Phase 3 & 4, and Villages of White Rock Creek, Phase Four, Collin County, Texas across a portion of City of Plano park known as Legacy Trail and authorizing the execution of the easements by the City Manager; and providing an effective date. [Regular Agenda Item "6"]

Upon a motion made by Council Member Stahel and seconded by Mayor Pro Tem Johnson, the Council voted 8-0 to approve the granting of four permanent sanitary sewer force main easements to the North Texas Municipal Water District being in the Crystal Creek Addition, Preston Creek Addition, Hidden Creek Estates, Phase 3 & 4, and Villages of White Rock Creek, Phase Four, Collin County, Texas across a portion of City of Plano park known as Legacy Trail and authorizing the execution of the easements by the City Manager; and providing an effective date; and further to adopt Resolution No. 2007-2-18(R).

There being no further discussion, Mayor Evans adjourned the meeting at 8:20 p.m.

Pat Evans, MAYOR

ATTEST:

Elaine Bealke, City Secretary