PLANO CITY COUNCIL
March 22, 2010

COUNCIL MEMBERS
Phil Dyer, Mayor
Harry LaRosiliere, Mayor Pro Tem
Lee Dunlap, Deputy Mayor Pro Tem
Pat Miner
Ben Harris
Mabrie Jackson (resigned)
Lissa Smith
Jean Callison

STAFF
Thomas H. Muehlenbeck, City Manager
Frank Turner, Deputy City Manager
Bruce Glasscock, Deputy City Manager
Mark Israelson, Assistant City Manager
LaShon Ross, Assistant City Manager
Diane C. Wetherbee, City Attorney
Diane Zucco, City Secretary

Mayor Dyer convened the Council into the Regular Session on Monday, March 22, 2010, 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 Bryan Stamper of Grace Presbyterian Church and the Pledge of Allegiance was led by Daisy Girl Scout Troop 3037 of Shepard Elementary.

Mayor Dyer and City Manager Muehlenbeck presented Budget Director Karen Rhodes-Whitley with her 20-Year Anniversary Certificate and Mayor Dyer administered an oath of office to Shep Stahel, incoming member of the North Texas Municipal Water District Board.

Comments of Public Interest

Citizen of the City T.J. Johnson requested a future agenda item to discuss suspension of negotiations with the Boys and Girls Club for management of the Douglass Community Center, finding different ways to address the City budget and working with the community to determine the identity of the center and strategies for enhancing is success. She spoke to determining whether the center should be treated as a park (not requiring fees) or as a recreation center, its historic significance, and the public's right to view the contract. Citizen of the City Eleanor Evans requested the Council not approve the contract, spoke to the center's designation in 1987, its historic significance and to consideration of its viability. Citizen of the City Ralph Williams spoke to activities at the center and requested an agenda item directing Staff to find another solution.

Citizen of the City Thomas A. Ashmore spoke to the center as a reference for cultural education and to budget issues of the Boys and Girls Clubs. Pastor Joshua of Shiloh Baptist Church spoke to preserving the heritage, historical significance and dignity of the Center and giving community leaders an opportunity to find an alternative. He requested an agenda item suspending negotiations and spoke to Council approval of funds for improvement of the Pecan Hollow Golf Course. Citizen of the City Grady L. Dunbar spoke regarding his pride in the City and the history of the center. Citizen of the City Dollie Thomas spoke to dedication of the center, questions regarding its function and requested reconsideration of the contract. Citizen of the City David M. Smith spoke regarding the need for citizen input and requested a future agenda item to suspend negotiations and allow for a visioning process and request for proposals. Citizen of the City David L. Perry, Sr. spoke to the function of the center, its service to the whole community and requested considering alternatives.

Consent Agenda

Deputy Mayor Pro Tem Dunlap requested that Consent Agenda Item "E" be removed for individual consideration due to a possible conflict of interest.

Upon a motion made by Mayor Pro Tem LaRosiliere and seconded by Council Member Miner, the Council voted 7-0 to approve all remaining items on the agenda as recommended and as follows.

Approval of Minutes
March 8, 2010 (Consent Agenda Item "A")

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

Bid No. 2010-64-B for the purchase of Audio/Video Media Equipment for the Police Department in the amount of $70,104 to The Whitlock Group, and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item "B")

Bid No. 2010-68-B for Police Building Evidence Storage Ventilation Improvements, in the amount of $146,463 to Gulf Energy Systems, Inc., and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item "C")

Bid No. 2010-69-B, 2009-10 Pavement Maintenance Phase I – F Avenue, Park Boulevard, Spring Creek Parkway and Wyeth Drive to Hencie International, Inc. in the amount of $426,366. (Consent Agenda Item "F")

Bid No. 2010-52-B for one (1) McCloskey model 733 REW, Trommel Screen for the Sustainability Department to McCourt and Son's Equipment, Inc. in the amount of $513,980. (Consent Agenda Item "G")

Purchase from an Existing Contract

To approve an expenditure for a maintenance agreement between Motorola and the City of Plano in the amount of $209,950 for Wireless Mesh Network Devices through an existing contract with the Houston-Galveston Area Council, and authorizing the City Manager to execute all necessary documents. (HGAC Contract No. RA-01-08). (Consent Agenda Item "H") (Item pulled)

To approve an expenditure for an annual mesh hardware maintenance contract between Scientel Wireless, LLC and the City of Plano in the amount of $440,000 through an existing contract with the Houston-Galveston Area Council, and authorizing the City Manager to execute all necessary documents. (HGAC Contract No. CW10-09). (Consent Agenda Item "A")

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

To approve a contract for the purchase of Structural and Roof Repairs at Harrington Library in the amount of $67,987 from Weatherproofing Technologies, Inc. through an existing contract/agreement with The Cooperative Purchasing Network (TCPN) and authorizing the City Manager to execute all necessary documents. (TCPN Contract Number R4812) (Consent Agenda Item "A")

To approve of an engineering contract by and between the City of Plano and Lina T. Ramey and Associates, Inc. in the amount of $212,000 for the engineering design of the Intersection Improvements – Plano Parkway & Los Rios Boulevard Project, and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item "A")

Approval of Change Order

To Hencie International, Inc., increasing the contract by $82,983 for the 2008-2009 Residential Concrete Pavement Rehabilitation Project, Zone I4, Project No. 5969, Change Order No. 1, Bid No. 2009-79-B. (Consent Agenda Item "A")

To Weir Bros. Inc., increasing the contract by $85,622 for Rasor Road from Ohio Drive to SH 121, Project No. 5715, Change Order No. 3, Bid No. 2009-81-B. (Consent Agenda Item "A")

To Motorola USA, Inc., increasing the contract by $1,521,001 for CSP P25 Trunk Radio System simulcast site additions to Communications Tower and Schoolhouse, Change Order No. 2, Bid No. 2009-137-C. (Consent Agenda Item "A")

Adoption of Resolutions

Resolution No. 2010-3-8(R): To endorse certain legislative changes relating to the Sunset Review of the Texas Public Utility Commission and the Special Purpose Review of the Electric Reliability Council of Texas, and providing an effective date. (Consent Agenda Item "A")

Resolution No. 2010-3-9(R): To approve the terms and conditions of a grant awarded by the American Recovery and Reinvestment Act of 2009; Edward Byrne Memorial Justice Assistance (JAG) State Formula Program through the Criminal Justice Division of the Office of the Governor of Texas to the City of Plano, Texas for Audio/Visual Media equipment; authorizing the execution of any and all documents in connection therewith by the City Manager; and providing an effective date. (Consent Agenda Item "A")

Resolution No. 2010-3-10(R): To authorize the filing of application for federal funds in an amount not to exceed $59,500 under the Edward Byrne Memorial Justice Assistance (JAG) State Formula Program through the Office of the Governor of Texas, Criminal Justice Division; designating Gregory W. Rushin as authorized representative of the City of Plano for the purpose of giving required assurances and acting in connection with said application and providing required information; and declaring an effective date. (Consent Agenda Item "A")

Resolution No. 2010-3-11(R): To approve the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano and Collin County, Texas, concerning intersection improvements at Custer Road and Park Boulevard, Spring Creek Parkway and Jupiter Road, Ohio Drive and SH 121, and Independence Parkway and Parkhaven Drive; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item "A")

Resolution No. 2010-3-12(R): To authorize outside employment with Southern Methodist University for the City Attorney, Diane Wetherbee; and providing an effective date. (Consent Agenda Item "A")

Resolution No. 2010-3-13(R): To authorize the City to enter into a lawsuit against the Texas Commission on Environmental Quality with regard to the Voda Petroleum Site; authorizing the City Attorney to enter into any and all agreements in connection therewith; and providing an effective date. (Consent Agenda Item "A")

Adoption of Ordinances

Ordinance No. 2010-3-14: To amend section 9-22(c) of Article II, Food Care and sections 9-31 and 9-32 of Article III, Personnel, of Chapter 9, Food Code, to incorporate new health and cleanliness standards for food establishment employees as allowed by State law and to correct a reference under the food care regulation; and providing a penalty clause; a severability clause; a repealer clause, a savings clause; a publication clause and an effective date. (Consent Agenda Item "A")

Ordinance No. 2010-3-15: To amend Sections 14-114(a), 14-116, 14-117, and 14-120 of Article VIII, Additional Regulations for Tattoo and Certain Body Piercing Studios, to Chapter 14, Offenses-Miscellaneous, of the Code of Ordinances to clarify penalties, incorporate the name change of the Department of State Health Services; providing new language for Inspections and Permitting Regulations and providing a penalty clause, a savings clause, a severability clause, a repealer clause, a publication clause and an effective date. (Consent Agenda Item "A")

Ordinance No. 2010-3-16: To approve the terms and conditions of a Boundary Adjustment Agreement between the City of Plano, Texas and the Town of Hebron, Texas; authorizing the City Manager to execute the agreement on behalf of the City of Plano; and providing an effective date. Consent Agenda Item "A")

Ordinance No. 2010-3-17: To transfer the sum of $8,616 from the General Fund unappropriated fund balance to the General Fund operating appropriation for fiscal year 2009-10 for the purpose of providing additional funds for the difference in preliminary estimated costs and actual costs associated with conducting a Special Election on January 30, 2010 to fill the vacant Place 3 City Council position; amending the budget of the City and Ordinance 2009-9-13, 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 "A")

Ordinance No. 2010-3-18: To amend Section 12-104.5 of Article V Stopping, Standing and Parking, of Chapter 12 Motor Vehicles and Traffic, of the Code of Ordinances of the City of Plano by deleting the provision regarding parking at the Municipal Center; providing a repealer clause, a severability clause, a savings clause, a penalty clause, a publication clause and an effective date. (Consent Agenda Item "A")

Ordinance No. 2010-3-19: To amend Sec. 10-16 Membership of Article II Advisory Board of Chapter 10 Library, of the Code of Ordinances of the City of Plano, to increase the number of members and increase the number required for a quorum; and providing a repealer clause, a severability clause, and an effective date. (Consent Agenda Item "A")

END OF CONSENT

Due to a possible conflict of interest, Deputy Mayor Pro Tem Dunlap stepped down on the following item.

Bid No. 2010-60-B, 2008-2009 Sidewalk Construction Project to HMC Asphalt and Concrete, Inc. in the amount of $214,900. (Consent Agenda Item "E")

Upon a motion made by Council Member Callison and seconded by Council Member Smith, the Council voted 6-0 to approve Bid No. 2010-60-B, 2008-2009 Sidewalk Construction Project to HMC Asphalt and Concrete, Inc. in the amount of $214,900.

Deputy Mayor Pro Tem Dunlap resumed his seat at the bench.

Presentation of the 2009-10 Status Report and Three-Year Financial Forecast to City Council. (Regular Agenda Item "1")

Budget Director Rhodes-Whitley advised that the forecast provides an opportunity to identify challenges and opportunities facing the City over the next three years; stated that the annual budget adopted must be balanced; fund deficits are assumed to be rectified in the year projected; and that the forecast does not include any reductions set to be discussed during the Core Business Matrix Session.

Ms. Rhodes-Whitley spoke to projected deficits in the General Fund ($15.4 million in 2010-11, $29.9 million in 2011-12 and $28.1 million in 2012-13) and the transfer needed from operations to debt (1.66 cents in 2010-11). She spoke to the impact of events on the budget including a decline in sales tax, an estimated decrease in total property values of 5%, a decrease in gas franchise fees, and a large increase in the number of homeowners applying for the over-65 tax freeze. Mr. Muehlenbeck spoke to bonds approved by citizens and issues related to continuing to support debt through General Fund transfers.

Ms. Rhodes-Whitley advised that projections include no salary increases; attrition at the rate of 2.5% for the General Fund and .5% for others; health insurance and RSP increases; 1% increase to fund TMRS system changes; funding of the Economic Development Incentive Program; operations/maintenance expenditures increasing at the rate of inflation; and $1 million for library books. She advised that Community Investment Projects will be absorbed in the existing tax rate including the opening of Fire Station#13 and debt for the Arts of Collin County to be sold within the forecast, but that program enhancements/discretionary items are not included. Ms. Rhodes-Whitley spoke to increases from the North Texas Municipal Water District proposed to be passed through October 1 of each year and declines in the hotel/motel tax revenues resulting in lower grant amounts. She spoke regarding proactive measures taken including Core Business Matrix Worksessions and a City Manager appointed Budget Reduction Committee. City Manager Muehlenbeck requested more information regarding rollback rates. Ms. Rhodes-Whitley spoke to the proactive measures taken by Staff resulting in a lower deficit than first anticipated and responded to the Council regarding payments for debt service.

Public Hearing on the need to continue the City of Plano's Juvenile Curfew Ordinance (Ordinance No. 94-11-11); to receive a city staff report on the effectiveness of the Juvenile Curfew Ordinance; and to determine whether the ordinance should be abolished, continued, or modified. (Regular Agenda Item “2”)

Assistant Chief Drain spoke to the requirement to hold a Public Hearing to review the curfew ordinance, reviewed its history and spoke to defenses to prosecution and enforcement. He spoke to the small increase in population and the decrease in juvenile crime over the last ten years and cited the ordinance as an effective tool.

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

Upon a motion made by Mayor Pro Tem LaRosiliere and seconded by Council Member Miner, the Council voted 7-0 to continue the ordinance (Ordinance No. 94-11-11).

Ordinance No. 2010-3-20: To provide certain Heritage Resources located in the City of Plano, Texas, partial exemption from the current year Ad Valorem Taxation in the amount of $31,142 providing a severability clause and an effective date and consideration of an appeal of the Heritage Commission's recommended denial of tax exemption for 1004 East 15th Street. (Regular Agenda Item “3”)

Ordinance No. 2010-3-20 (cont'd)

Heritage Preservation Officer Hersch spoke to the ordinance in place providing relief and encouraging maintenance and preservation of resources and offering partial exemption based on improvements to the value of the property. She advised that all properties are surveyed each January, notices are provided to property owners with timelines for completion of projects, and that of the 73 properties surveyed in 2010, 66 are recommended for approval totaling $31,141.70 in City tax receipts. Ms. Hersch advised that the property at 1004 East 15th Street has appealed their denial and applicant Gabe Watley advised that repairs have now been completed. City Muehlenbeck requested information regarding the cost of enforcement. Staff advised the Council regarding the timeframe for submittal to the Collin County Appraisal District.

Upon a motion made by Deputy Mayor Pro Tem Dunlap and seconded by Council Member Miner, the Council voted 7-0 to provide certain Heritage Resources located in the City of Plano, Texas, partial exemption from the current year Ad Valorem Taxation with a floor amendment to approve an appeal of the Heritage Commission's recommended denial of tax exemption for 1004 East 15th Street adding its value to the exemption; and further to adopt Ordinance No. 2010-3-20.

Consideration of an Appeal of the Planning & Zoning Commission's Denial of the Preliminary Site Plan for Eastside 14th Street Addition, Block A, Lot 1 - Retail, restaurant, and general office on one lot on 0.3± acre located at the southeast corner of J Avenue and 14th Street. Applicant: Eastside 14th Street, LLC (Regular Agenda Item "4")

Director of Planning Jarrell spoke to the applicant's request for a credit to use public parking to satisfy parking requirements for a four-story building with a mix of office, retail and restaurant. She advised that the applicant proposes to provide 16 spaces of the 107 required and that the Business Government District does permit approval of credits. Ms. Jarrell advised that the Planning and Zoning Commission denied the request, finding that the credit is not a viable solution and would limit spaces available for existing/future businesses in the area. She advised that Staff has continued work with the applicant and proposes the following stipulations should Council approve the item:

1. City Council granting a credit to allow the site to use public parking in lieu of constructing required parking onsite.
2. City Council granting a variance to the Subdivision Ordinance pertaining to minimum lot frontage requirements along 14th Street and J Avenue.
3. City Council granting a variance to the Subdivision Ordinance for the requirement of two points of access.
4. The sight visibility issue be addressed by the applicant including the removal of the outdoor patio/dining area, subject to approval by the City Engineer.
5. A minimum 10-foot wide sidewalk be provided along J Avenue on the subject property by the applicant.
6. A minimum of 30 head-in general public parking spaces and sidewalk be provided at the applicant's expense (including design costs) within the J Avenue right-of-way along the east side, south of the subject property, by the applicant. The width of the sidewalk shall be a minimum five feet and maximum ten feet, subject to approval by the City Engineer.

Nathan Shae of East Side 14th Street LLC spoke to discussions held with City Staff indicating that the development could utilize available lots for parking, reviewed renderings of the building and plans to complete construction by December 2010. He spoke to the opportunity for more growth in downtown Plano, the number of spaces within one-quarter mile and to providing 30 additional spaces on J Avenue. Ms. Jarrell advised the Council that all uses in the BG district require one space for every 300 square feet and spoke to available public lots in the area. She advised that Staff would request the applicant contact property owners along J Avenue to advise regarding the addition of "head in" parking spaces. Council Member Miner stated concern regarding the lack of available parking in the downtown area and its potential to impact businesses. Ms. Jarrell spoke regarding other new developments that have provided parking. Mr. Shae spoke to establishing a walk-around area by utilizing parking lots. Ms. Jarrell advised the Council regarding the next steps including receipt of a site plan, replat, and construction plans and Development Manager Firgens spoke to issues related to structured parking on such a small tract. Council Member Miner thanked the applicants for their efforts to revitalize Downtown Plano and Mayor Dyer spoke to adding signage for downtown parking locations.

Upon a motion made by Mayor Pro Tem LaRosiliere and seconded by Deputy Mayor Pro Tem Dunlap, the Council voted 7-0 to approve an of the Planning & Zoning Commission's Denial of the Preliminary Site Plan for Eastside 14th Street Addition with stipulations as recommended by Staff.

There being no further discussion, Mayor Dyer adjourned the meeting at 9:22 p.m.

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Phil Dyer, MAYOR

ATTEST:

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Diane Zucco, City Secretary