

**PLANO CITY COUNCIL**  
**May 22, 2006**

**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 directly into the Regular Session on Monday, May 22, 2006, at 7:06 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All members were present with the exception of Mayor Pro Tem Johnson.

The invocation was led by Pastor Barry Gin of Plano Chinese Alliance Church.

The Pledge of Allegiance was led by Brownie Troop 2194 of Thomas Elementary School.

Mayor Evans presented a certificate of appreciation to Victoria Hoyos Arango for her service on the Community Relations Commission.

Mayor Evans read proclamations recognizing National Public Works Week – 2006 and DART – 10<sup>th</sup> Anniversary of Light Rail.

**Dart Status Report**

DART Board of Directors member Pope advised that approval of the full funding grant agreement has been received from the Federal Transit Administration with final approval expected by the end of June. He stated that construction of the next expansion is expected to begin June 7. Mr. Pope advised that ridership continues to grow.

**GENERAL DISCUSSION**

Tim Bednar, citizen of the City, spoke to the efficient use of water by full-service car washes and requested they not be closed down as a result of water conservation efforts.

## **BOARD/COMMISSION REPORTS**

Plano Transition/Revitalization Commission Chair Kissick spoke to the study of urban centers and efforts to identify and consider their role in the City, advising that recommendations would be coming forward to the Council this summer. He spoke regarding the Workforce Housing Study and the difficulties of gathering specific data, advising that an interim report will be presented in August. Mr. Kissick spoke regarding a review of implementation activities related to the Plano at Maturity Report with a summary and recommendation coming forward in August/September. Council Member Stahel complimented the commission on their work.

### **Sustainability Concept Recommendation**

Director of Sustainability and Environmental Services Nevil spoke to the elements needed to develop a successful program including an understanding of its scope, top down leadership, employee involvement, education/training, measurable goals and communication. She advised that as director, she would provide centralized coordination and guidance regarding the development and implementation of the sustainability plan while working with a diverse range of City departments. Ms. Nevil stated that the Education and Community Outreach Committee would work closely in identifying and prioritizing sustainability concepts and practices that will become the focus of the educational campaign. She spoke to utilizing one identifier to present a unified overarching message to the community. Ms. Nevil advised that the Finance and Capital Appropriations Committee will research and recommend means of incorporating sustainability into City purchases, community improvement projects and departmental operations. She spoke to efforts to identify funding sources and pursuit of grants.

Ms. Nevil advised that the Green Builder Committee would research and recommend revised policies, development codes, amendments to standards and ordinances to incorporate sustainable design features and methods into all new commercial and residential development as well as future remodel and redevelopment projects. She spoke to the Resource Conservation Committee that will recommend policies and practices regarding water, energy/fuel efficiency, waste minimization and green space preservation and enjoyment.

Ms. Nevil advised that committee work will begin in July with action recommendations coming forward to the Council in February 2007. She stated that another project's grant included funding for an "expo" and that this would help facilitate a kick-off of the program in May 2007. Mayor Evans spoke to her meetings with the National League of Cities and the focus on "green building."

### **Discussion and Direction Regarding Options for Temporary Off-Site Signs**

City Attorney Wetherbee advised that she has brought forward alternatives for allowing off-site signs on private property and not in rights-of-way. She advised that currently the only exception is for garage sale signs and stated that rather than allowing the option for any type of sign there is case law supporting the isolation of the message for just real estate signs.

Ms. Wetherbee advised that Option 1a allows the placement of off-site real estate signs on residential property with the consent of the owner for up to four days per calendar year and is limited to one per lot; Option 1b would allow off-site real estate signs on residential property from 9:00 a.m. Saturday until 6:00 p.m. the following Sunday with the consent of the owner and is limited to one per lot and; Option 2 would allow all off-site temporary signs for up to four days per calendar year with permission of the property owner and shall be limited to one per lot. She stated that Option 1b is preferred by Building Inspection Staff. Ms. Wetherbee advised that a mandatory review could be included in the ordinance and requested Council direction

Deputy Mayor Pro Tem Magnuson spoke in favor of Option 1b and Council Member Callison spoke to inclusion of a review to check with Building Inspections and the realtors. Ms. Wetherbee advised that there is case law supporting a City's right to limit messages on signs in support of their regulation and spoke to the temporary nature of real estate signs. Craig Perry, representing area realtors spoke to getting information out to the association.

Chief Building Official Mata spoke to Option 1b simplifying the criteria and having the least impact on enforcement efforts. He spoke to the number of signs being picked up by Staff and to homeowners removing signs that were placed without their permission. Council Member Stahel spoke to the cumbersome nature of filing a complaint and Mr. Perry spoke to providing information to realtors clarifying the placement requirements and to the advantages of signs in drawing interested buyers to a property.

City Attorney Wetherbee spoke to information on the signs being general in nature and that being particular on the specificity of the message may cause enforcement issues. The Council stated a consensus directing Staff to prepare an ordinance including Option 1b and a twelve month review to come back at the June 12, 2006 meeting.

## **Personnel Appointments**

### Community Relations Commission

Upon a motion made by Council Member LaRosiliere and seconded by Council Member Stahel, the Council voted 7-0 to appoint Betty Monday Mahan to an interim term.

### Retirement Security Plan Committee

City Manager Muehlenbeck recommended appointment of Stephen E. Doud and Kien Liew as Chair. Upon a motion made by Council Member Callison and seconded by Council Member Stahel, the Council voted 7-0 to appoint Stephen E. Doud to an interim term and Kien Liew as Chair.

## **Council Items for Discussion/Action on Future Agendas**

No items were discussed.

## **Consent and Regular Agenda**

City Attorney Wetherbee responded to Council Member LaRosiliere stating that the property referenced in Consent Agenda Item "G," a resolution authorizing the City to satisfy a mortgage lien, had been subject to a number of City enforcement liens and is now struck off to the City but subject to a first mortgage. She stated that the City will get the house on the market as soon as possible to recoup expenses and get the property in responsible ownership and advised that the City continues to care for it. Ms. Wetherbee advised that the alternative would be to wait for a foreclosure and that the financial cost would be in the continuance of the maintenance.

## **Council Reports**

No reports were given.

## **CONSENT AGENDA**

Upon a motion made by Council Member Stahel and seconded by Council Member LaRosiliere, the Council voted 7-0 to approve and adopt all items on the Consent Agenda as recommended and as follows:

### **Approval of Minutes** [Consent Agenda Item (A)]

May 8, 2006

### **Approval of Expenditures**

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

**Bid No. 2006-131-B** for the 2005-2006 Residential Street & Alley Pavement Rehabilitation Project, Zones M7, L8 & K8 to Jerusalem Corporation in the amount of \$1,042,450. This project involves the replacement of street and alley pavement in the residential areas bounded by Legacy Drive on the south, Central Expressway on the east, Hedgcoxe Road on the north and Custer Road on the west. [Consent Agenda Item (B)] (See Exhibit "A")

**Bid No. 2006-137-B** for Riverbend Lakes Dredging to Rimrock Enterprises, Inc. in the amount of \$299,950. The project consists of dewatering, dredging and disposal of approximately 3,000 cubic yards of silt and soil from eight existing lakes, seeding and sodding of disturbed areas, site stabilization, clean-up and associated items. [Consent Agenda Item (C)] (See Exhibit "B")

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

To approve a contract for Broker and Loss Control Services with Merit Insurance Services, Inc. and authorizing the City Manager to execute all necessary documents. (C112-03). [Consent Agenda Item (D)]

To approve the terms and conditions of an engineering services contract by and between the City and Freeman-Millican, Inc. in the amount of \$114,500 for Cloisters Water Rehabilitation and authorizing the City Manager to execute all necessary documents. [Consent Agenda Item (E)]

**Reimbursement of Oversize Participation**

To approve and authorize reimbursement to Wal-Mart Real Estate Business Trust for oversize participation for oversize paving improvements on Park Boulevard in the amount of \$32,319. [Consent Agenda Item (F)]

**Adoption of Resolutions**

**Resolution No. 2006-5-17(R):** To authorize the City to satisfy the mortgage lien for the property located at 2109 Los Rios Boulevard in the amount not to exceed \$90,000; authorizing the City Manager to execute any and all documents necessary to satisfy such lien and transfer title to the City; and providing an effective date. [Consent Agenda Item (G)]

**Resolution No. 2006-5-18(R):** To redesignate the deferred compensation plan administered by the ICMA Retirement Corporation for participation by part-time, seasonal, and temporary employees (PTS) into two separate accounts as Plan 1 for those employees whose positions normally require less than a 1000 hours annually and Plan 2 for those employees whose positions normally require more than a 1000 hours in a year; and providing an effective date. [Consent Agenda Item (H)]

**Resolution No. 2006-5-19(R):** To approve a drainage easement to the City of Parker, Texas being located in the Charles F.M. Gooderin Survey, Abstract Number 353, City of Plano, Collin County, Texas and being a portion of Lot 79, Block A, Stoney Hollow, Phase Six, an addition to the City of Plano, Texas recorded in Volume N, Page 328, Plat Records, Collin County, Texas, across a portion of undeveloped park land; and authorizing the execution of the easement by the City Manager; and providing an effective date. [Consent Agenda Item (I)]

**Resolution No. 2006-5-20(R):** To approve a gas line easement to Atmos Energy Corporation, a Texas corporation, being located in the Charles F.M. Gooderin Survey, Abstract Number 353, City of Plano, Collin County, Texas and being a portion of Lot 79, Block A, Stoney Hollow, Phase Six, an addition to the City of Plano, Texas recorded in Volume N, Page 328, Plat Records, Collin County, Texas across a portion of undeveloped park land, and authorizing the execution of the easement by the City Manager; and providing an effective date. [Consent Agenda Item (J)]

**Resolution No. 2006-5-21(R):** To approve the purchase of a Gas Tight Option Upgrade in the amount of \$72,500 from NABCO, Inc., the sole source vendor of such equipment and services; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the purchase; and providing an effective date. [Consent Agenda Item (K)]

**Resolution No. 2006-5-22(R):** To adopt and implement a Clean Fleet Vehicle Policy to improve air quality within the City; and providing an effective date. [Consent Agenda Item (L)]

**END OF CONSENT**

**Council discussion and direction on** whether the Tax Increment Financing Board qualifies as a City Board and is subject to Charter Section 4.07. [Regular Agenda Item (1)]

City Attorney Wetherbee advised that this item came from a request to determine whether a person serving on two boards, one being the Tax Increment Financing No. 2 (TIF 2) Board, was eligible to serve on another City board. She advised that the charter prevents service on more than two permanent boards of the City at one time and spoke to the TIF board being a creation of state law with all taxing units participating appointing a representative. Ms. Wetherbee spoke to the existence of the TIF depending upon this participation. She stated that if the Council determines this board is non-permanent, Staff would prepare a resolution stating such.

Council Member Callison and Council Member Stahel spoke to appointments by other entities being beyond the City's control and to deeming this a non-city board. Ms. Wetherbee spoke to considering the TIF 2 as a non-City board because the Council does not have unilateral control over its elimination. The Council spoke to being balanced in their appointments and not having one person serving multiple roles. It was the consensus of the Council to move forward and deem TIF 2 a non-City board. City Attorney Wetherbee advised that she would research into TIF 1 and bring back a resolution for Council consideration.

**Public Hearing and adoption of Ordinance No. 2006-5-23** repealing Ordinance No. 2001-12-19, codified as Division 4, Drought Contingency Plan, of Article II, Water of Chapter 21, Utilities, of the Code of Ordinances of the City of Plano; adopting a new drought contingency plan; establishing procedures and criteria for declaring a water emergency and implementing and terminating drought response stages; establishing restrictions on certain water uses during drought response stages; establishing penalties for violating the restrictions and provisions for enforcement of these restrictions; establishing procedures for granting variances; and providing a repealer clause, a severability clause, a savings clause; an effective date; and providing for the publication of the caption hereof. [Regular Agenda Item (1)]

Director of Public Works Foster clarified that neither Stage 3 or 4 would close down car washes.

**Ordinance No. 2006-5-23 (cont'd)**

Mayor Evans opened the Public Hearing. Tim Bednar, citizen of the City, expressed gratitude to the Council and advised he would provide information regarding commercial car washes and their use of water to the City. No one else spoke either for or against the request. The Public Hearing was closed.

Upon a motion made by Council Member LaRosiliere and seconded by Deputy Mayor Pro Tem Magnuson, the Council voted 7-0 to repeal Ordinance No. 2001-12-19, codified as Division 4, Drought Contingency Plan, of Article II, Water of Chapter 21, Utilities, of the Code of Ordinances of the City of Plano; adopting a new drought contingency plan; establishing procedures and criteria for declaring a water emergency and implementing and terminating drought response stages; establishing restrictions on certain water uses during drought response stages; establishing penalties for violating the restrictions and provisions for enforcement of these restrictions; establishing procedures for granting variances with revision to Section 21-60(j)(2) to read, "*Pools may be filled to maintain operation levels. The use of potable water to refill ponds and lakes is prohibited*"; and providing a repealer clause, a severability clause, a savings clause; an effective date; and providing for the publication of the caption hereof and further to adopt Ordinance No. 2006-5-23 with revision.

**Public Hearing and adoption of Ordinance No. 2006-5-24 as requested in Zoning Case 2006-08** to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, amending H-1 Designation to grant additional development standards for fences on one lot on 4.0± acres located at the southeast corner of 15th Street and Pitman Drive in the City of Plano, Collin County, Texas, zoned Single-Family Residence-9 (SF-9) with Heritage Resource Designation (H-1), to allow for a taller fence; 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: City of Plano [Regular Agenda Item (1)]

Heritage Preservation Officer Watson advised that the property requesting the amendment is the Heritage Farmstead which is a working farm museum. He stated that the applicant is proposing to replace the existing living screen and wire fence along the north, west, and south sides of the property with an eight-foot tall tubular steel and masonry column fence to protect animals, mitigate noise and other potential negative impacts of the museum to the adjacent neighborhood. Mr. Watson advised that the Heritage Commission and Planning and Zoning Commission have both approved the request as follows:

- The maximum height of a fence in a required front yard shall not exceed eight feet, and the 50% open construction requirement shall not apply.

Mr. Watson stated that each heritage designation carries its own number and so stipulations will apply only to this property.

**Ordinance No. 2006-5-24 (cont'd)**

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 Deputy Mayor Pro Tem Magnuson and seconded by Council Member Stahel, the Council voted 7-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, amending H-1 Designation to grant additional development standards for fences on one lot on 4.0± acres located at the southeast corner of 15th Street and Pitman Drive in the City of Plano, Collin County, Texas, zoned Single-Family Residence-9 (SF-9) with Heritage Resource Designation (H-1), to allow for a taller fence as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2006-08; 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. 2006-5-24.

**Public Hearing and adoption of Ordinance No. 2006-5-25 as requested in Zoning Case 2006-07** to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to rezone 9.9± acres located on the north side of Legacy Drive, 748± feet east of Chase Oaks Boulevard in the City of Plano, Collin County, Texas, from Corridor Commercial to Planned Development-277-Retail/General Office; 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: Fellowship Bible Church – North [Regular Agenda Item (1)]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission recommended approval as submitted. She spoke regarding recent enactment of additional landscaping requirements for properties that provide more than the required parking.

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 LaRosiliere and seconded by Deputy Mayor Pro Tem Magnuson, the Council voted 7-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to rezone 9.9± acres located on the north side of Legacy Drive, 748± feet east of Chase Oaks Boulevard in the City of Plano, Collin County, Texas, from Corridor Commercial to Planned Development-277-Retail/General Office; directing a change accordingly in the official zoning map of the City as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2006-07; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date; and further to adopt Ordinance No. 2006-5-25.

There being no further discussion, Mayor Evans adjourned the meeting at 8:32 p.m.

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**Pat Evans, MAYOR**

ATTEST:

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**Elaine Bealke, City Secretary**