

PLANO CITY COUNCIL
August 22, 2005

COUNCIL MEMBERS

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

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, August 22, 2005 at 7:05 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 Stahel.

The invocation was led by Jeff Babbitt with the Bahai Faith of Plano.

The Pledge of Allegiance was led by Pack 297, Troop 25 and Pack 1225.

Mayor Evans presented a Certificate of Appreciation to Mitch L. Goldstein for his service on the Keep Plano Beautiful Commission.

Mayor Evans presented proclamations recognizing Library Card Sign-up Month – September 2005 and Boy Scout Recruitment Week. The Council received a presentation from the Plano Art Association.

GENERAL DISCUSSION

Betty Sewell, representing the committee to save Rice Field for the children of Plano presented a petition to stop the building of townhouses at Rice Field. She spoke to the number of children utilizing the field for sports and the benefits derived from participation. Ms. Sewell spoke to excess traffic that will result from the development and requested the Council reconsider the project. Nakita Weseman, citizen of the City, spoke in opposition to the development of townhouses at Rice Field.

Jack Lagos, citizen of the City, spoke to the Council taking time to gain an understanding of what is occurring with the Arts of Collin County and to receiving input from the Council.

BOARD/COMMISSION REPORTS

Plano Housing Authority Director Macey thanked the Council for the opportunity to speak and the board of commissioners for their service. She spoke to the authority's mission statement "To provide quality affordable housing to low income families while offering opportunities that enable families to achieve self sufficiency," reviewed the demographics of those being assisted, stated that the primary source of income comes from the Social Security Administration and advised that less than 1% of the clients receive no income. Ms. Macey stated that 100% of the funding is received from the Department of Housing and Urban Development and spoke to the public housing program and Section 8 Housing Choice voucher program. She spoke to awards received by the authority, the purchase of land for an administration building, the assistance received from the City and to serving Plano well. Ms. Macey responded to the Council that the waiting list being compiled at this time is expected to be over 1,000 families and that it will not open again until the majority of these clients are served.

Self Sufficiency Committee Coordinator Rios thanked the Mayor and Council, spoke to the Committee overseeing the program administered by the Plano Housing Authority and to helping families to become financially independent. She spoke to goal completion, candidate selection, the level of participation and community partners. Ms. Rios spoke regarding those participants who have earned college degrees, education scholarships, the Committee's support of the "business spirit" and the positive investment made in the community.

CONSENT AGENDA

City Secretary Bealke advised the Council that Staff has requested that Consent Agenda Item "G" be removed for individual consideration.

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

Approval of Minutes [Consent Agenda (A)]

August 8, 2005
August 13, 2005

Approval of Expenditures

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

To approve Bid No. 2005-208-C for Contract Hauling of Construction Debris to D and D Trucking Company in the amount of \$320,000. This will establish an initial term of a period commencing upon the effective date of the contract and expiring at the time the total dollar value is completed, with an option for two (2) renewals for a like dollar amount. [Consent Agenda (B)] (See Exhibit "A")

To approve Bid No. 2005-213-B for Steel Signal Pole Assembly to The Pole Company in the amount of \$52,400. [Consent Agenda (C)] (See Exhibit "B")

To approve Bid No. C193-05 for an annual fixed price contract for Litter and Restroom Service Contract Bid Alternate "Group A" for Parks and Recreation to Northstar Facility Services in the estimated annual amount of \$93,606. This will establish a two-year contract with three optional one-year renewals. Staff recommends rejection of all bids submitted for "Group B" locations as they exceeded estimated expenditures. [Consent Agenda (D)] (See Exhibit "C")

To approve Bid No. 2005-221-B for one (1) Ford F-450 Extended cab and chassis with service body and air compressor to Westway Ford in the amount of \$37,338. [Consent Agenda (E)] (See Exhibit "D")

To approve Bid No. 2005-227-B for Shiloh Road – Royal Oaks Drive to Parker Road to JRJ Paving, L.P. in the amount of \$2,293,784. The project consists of the construction of the two southbound lanes of Shiloh Road from Royal Oaks Drive to Parker Road, the construction of the southbound bridge over Brown Branch Creek, landscaping and irrigation of the parkway. [Consent Agenda (F)] (See Exhibit "E")

To reject the \$161,312 purchase and construction bid of a restroom at Cheyenne Park from ROMTEC. This purchase was originally awarded by the City Council at the April 11, 2005 meeting. [Consent Agenda (H)] (See Exhibit "F")

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 authorize the purchase of one (1) GMC TC 8500 Cab and Chassis in the amount of \$51,163 from Rush Truck Center and one (1) Petersen TL-3 Boom with Dump Body in the amount of \$40,710 from Heil of Texas through H-GAC Cooperative Purchasing Program contract and authorizing the City Manager to execute any and all documents necessary to effectuate this purchase. (VE10-03; GR01-04). [Consent Agenda (I)]

To authorize the purchase of three (3) Hybrid-Electric Sedans, in the amount of \$62,253 from Philpott Motors, Inc., through H-GAC Cooperative Purchasing Program contract and authorizing the City Manager to execute any and all documents necessary to effectuate this purchase. (VE10-03). [Consent Agenda (J)]

To authorize the purchase of two (2) Ford F-450 Extended Cab/Chassis with Utility Body and Man-Lift, in the amount of \$127,493 from Philpott Motors, Inc., through H-GAC Cooperative Purchasing Program contract and authorizing the City Manager to execute any and all documents necessary to effectuate this purchase (HT11-03). [Consent Agenda (K)]

To authorize the purchase of a Premier Support Service Contract in the amount of \$56,400 from Microsoft Corporation through a State of Texas Department of Information Resources (DIR) contract, and authorizing the City Manager to execute all necessary documents. (DIR-BUSOP-180) [Consent Agenda (L)]

To authorize the purchase of restroom building materials for Cheyenne Park in the amount of \$86,812 from ROMTEC through TXMAS Contract No. 5-56030, and authorizing the City Manager to execute any and all documents necessary to effectuate the purchase. [Consent Agenda (M)]

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

To approve the terms and conditions of a contract with Halff Associates, Inc., to provide Engineering Services in conjunction with the Jack Carter Park Pool parking lot replacement in an amount not to exceed \$26,050, and authorizing the City Manager to execute any and all documents necessary to effectuate the contract. [Consent Agenda (N)]

Adoption of Resolutions

Resolution No. 2005-8-8(R): To repeal Resolution No. 2004-6-23(R) which adopted the current Public Funds Investment Policy; approving and adopting a new written Public Funds Investment Policy; and providing an effective date. [Consent Agenda (O)]

Resolution No. 2005-8-9(R): To approve and authorize refunds of property tax overpayments; and providing an effective date. [Consent Agenda (P)]

Adoption of Ordinances

Ordinance No. 2005-8-10: To adopt and enact Supplement Number 69 Revision and Supplement Number 70 to the Code of Ordinances for the City of Plano; providing for amendment to certain sections of the Code; and providing an effective date. [Consent Agenda (Q)]

Ordinance No. 2005-8-11: To abandon all right, title and interest of the City, in and to a portion of that certain variable width right-of-way called Spring Creek Parkway east of Preston Road, being situated in the Jesse Stiff Survey, Abstract Number 793, which is located within the City Limits of Plano, Collin County, Texas; also being a portion of Spring Creek Parkway from Coit Road to Preston Road as recorded in Cabinet F, Page 142 in the Land Records of Collin County, Texas, quitclaiming all right, title and interest of the City in such right-of-way to the abutting property owner, The Legacy Senior Communities, Inc., to the extent of its interest; authorizing the City Manager, to execute any documents deemed necessary; and providing an effective date. [Consent Agenda (R)]

END OF CONSENT:

To approve Bid No. C015-05 for the Red Light Camera Enforcement Program to Redflex in an amount not to exceed the revenue. [Consent Agenda (G)] (See Exhibit “G”)

Chief Rushin spoke to the number of red light running crashes and resultant fatalities and injuries in the nation as well as in the City of Plano. He spoke to the implementation of traditional methods to address crashes/injuries and reviewed enabling legislation and the passage of a City ordinance establishing a civil penalty for entering an intersection on a red light. Chief Rushin reviewed the project goals to increase traffic safety in the community by decreasing intersection and injury crashes as the result of red light running, develop a program in which costs will not exceed revenue and identify a vendor who can provide cutting edge technology with the proven ability to accurately and timely process violations. He reviewed the success of programs in other areas, the general process, restrictions on placement of cameras on state right-of-way, the RFP process and the decision by the Red Light Camera Committee (RLC) to recommend Redflex. Chief Rushin spoke to the steps that would follow Council approval including entering into a contract, identifying locations, development of internal procedures/administrative hearing procedures, preparation of a public awareness/education program and installation within 90 days.

Lieutenant Wise responded to the Council that there have been ten traffic fatalities in the City thus far this year with one being an intersection violation. Deputy Mayor Pro Tem Johnson spoke regarding the state not enforcing along their right-of-ways. Chief Rushin spoke to the penalty being a civil one in the amount of \$75. Lieutenant Wise stated that once installed, the cameras cannot be turned to other approaches and spoke regarding a mobile enforcement unit that can be utilized at various locations and further spoke to the cost per approach.

Upon a motion made by Council Member Magnuson and seconded by Deputy Mayor Pro Tem Johnson, the Council voted 7-0 to approve Bid No. C015-05 for the Red Light Camera Enforcement Program to Redflex in an amount not to exceed the revenue.

Public Hearing on Tax Rate Increase [Regular Agenda (1)]

Director of Budget and Research Rhodes spoke to the requirement to hold two Public Hearings regarding a tax rate increase on the City's effective tax rate, advised that a second one will be held on Wednesday, August 31, 2005 at 5:00 p.m., stated that the tax rate is scheduled to be adopted on Monday, September 12, 2005 at 7:00 p.m. and further that all notices have been published.

Mayor Evans opened the Public Hearing. Jack Lagos, citizen of the City, spoke to the 2005-06 Operating Budget listing the City of Plano as paying 56.3% of the cost of the Arts of Collin County versus the City of Allen at 18.9% and the City of Frisco at 24.8% rather than each entity paying one third. City Manager Muehlenbeck spoke to there being no mandate for each entity to pay one third of the operating cost, the decision being made to pay based on population and further that this is the same recommendation as last year. Mr. Lagos spoke to there being no population formula and to not receiving any documentation regarding spending decisions. Mr. Muehlenbeck spoke to documentation when monies are spent. No one else spoke either for or against the request. The Public Hearing was closed.

Mayor Evans advised that another Public Hearing will be held on August 31, 2005 at 5:00 p.m. and further that the tax rate will be adopted on Monday, September 12, 2005 at 7:00 p.m.

Resolution No. 2005-8-12(R) of the City of Plano to establish a deferred compensation plan for its employees to be administered by the ICMA Retirement Corporation; authorizing the City Manager to be the coordinator for this program; and providing an effective date. [Regular Agenda (2)]

Consultant Al DiCristofaro spoke to the resolution establishing the deferred compensation plan and the contract with ICMA Retirement Corporation that has been recommended by a steering committee representative of employees of the City. He stated that the City made a decision to consolidate the three-vendor plan into a single plan, the RFP process resulted in eleven responses which were narrowed down to four and that ICMA was selected by the committee because their proposal represented the greatest value to the City and its employees. Mr. DiCristofaro spoke to review of the contract by the Human Resources and Legal Departments along with outside legal assistance. He spoke to benefits in terms of expenses/costs that will be paid to the new provider, the investments available and service that will be received.

Mr. DiCristofaro stated that account balances would be transferred in whole to the new plan and City Manager Muehlenbeck advised that close-out costs will be folded into the management fee and spread over a period of time which Mr. DiCristofaro clarified would be seven years and is reflected in the proposed fee for the overall administration of the plan which is less than current fees. He responded to the Council that the steering committee was made up of nine voting members, all of whom are employees, two non-voting Human Resource representatives and one non-voting representative from the Purchasing Department.

Resolution No. 2005-8-12(R) (cont'd)

Deputy Mayor Pro Tem Johnson spoke to participants being able to check the value of investments on a daily/monthly basis. Mr. DiCristofaro spoke to Retirement Corporation's arrangement with Morning Star to provide City of Plano participants specific investment advice which is not currently available and responded to Mayor Pro Tem Lambert that if an employee were to retire in the near future they would pay no penalty.

Deferred Compensation Steering Committee Member Paul Rimka and Plano Police Association President Pat Clark spoke to the "Definitions" section not including a definition of the Coordinator or explain what their duties will be and requested the item be tabled to address this concern. City Attorney Wetherbee spoke to the City Manager as head of the organization being responsible or delegating authority for administrative issues acting on behalf of the City and stated her opinion that it would not be necessary to list the coordinator in the plan. She spoke to the City Manager acting as the coordinator and having the ability to assign administrative duties to the appropriate department being called out in the resolution which is a compendium of the contract. The Council spoke to the resolution acting on Exhibit "A" and to the City Manager coordinating the day-to-day functions of the City.

Upon a motion made by Mayor Pro Tem Lambert and seconded by Council Member Magnuson, the Council voted 7-0 to establish a deferred compensation plan for its employees to be administered by the ICMA Retirement Corporation; authorizing the City Manager to be the coordinator for this program; and providing an effective date; and further to adopt Resolution No. 2005-8-12(R).

To approve Bid No. C117-05 for a proposal from ICMA Retirement Corporation ("ICMA-RC") to administer the City's Deferred Compensation Plan. Fees associated with this agreement will be absorbed by the 457 Deferred Compensation Plan participants. [Regular Agenda (3)]

Deferred Compensation Steering Committee Member Paul Rimka spoke to Exhibit "A," (b) referring to fees disclosed in the Retirement Investment Guide and requested this document be included with the contract and be numbered as the others are. He spoke to the Administrative Allowance [Exhibit "A" (e)] and requested this rebate be eliminated from the contract or if approved, the money be distributed fairly among participants of the 457 Plan and further requested a code of ethics be adopted for the plan and companies that do business with the plan. Mr. Rimka requested the prospectuses of the funds selected be made a part of the contract and be numbered as such and stated that due to a lack of exercising its fiduciary duties for the past 20 years the City should pay all market value adjustments and contingent deferred sales charges that will be incurred by the plan participants. He further requested that while the item is tabled all documents be loaded to the City's website to provide for total disclosure and that participants be surveyed for comments and suggestions. Mr. Rimka responded to Council Member Ellerbe that the committee has been working for eight months and Compensation and Benefits Manager Covey advised that members were selected by the City Manager and Executive Directors with representatives provided from departments most of which had a large number of participants.

To approve Bid No. C117-05 (cont'd)

City Attorney Wetherbee spoke to the Retirement Investment Guide containing relevant information and to including a notation on where it can be reviewed, deferred to the Council regarding any administrative allowances and stated concern that information in a prospectus may be outdated by the time funds are selected. Council Member LaRosiliere stated prospectuses are fluid documents and that one would be received when a participant chooses a mutual fund. Mr. DiCristofaro spoke to the Retirement Investment Guide being a way to disclose the stable value account and some of the dynamics of the trust and further that the fees are not guided by the guide and that his recommendation would be to reference it as being available in the City Secretary's office.

Mr. DiCristofaro stated that prospectuses cannot be included per the Securities and Exchange Commission and that they would change over the time of the contract.

Police Association President Pat Clark stated concern that plan participants will incur fees when it was the City's decision to go to a single provider and that the City or the contracted company should pay the fees. Mayor Pro Tem Lambert spoke to future management fees being less than what is now being paid by participants. Deputy Mayor Pro Tem Johnson spoke to the new plan providing more options and Council Member Magnuson spoke to there being no loss in dollars as money is transferred into the new accounts. Mr. Clark stated that fees should not fall back on plan participants when some have been in the organization for a long period of time and would not have incurred back-end fees.

Mayor Pro Tem Lambert spoke to employees going into retirement shortly after conversion not losing any monies and that over the long term employees that stay will be in a better financial position. He stated concern asking the tax payers to pay these fees and spoke to employees being better off overall and stated that no individual employee will be hurt. Mr. Rimka spoke to there not being a review of the plan for twenty years, to fees paid over the years, and now being asked to pay an additional fee. Council Member LaRosiliere spoke to fees being amortized into a lower overall management fee than is being paid today. City Manager Muehlenbeck spoke to the ebb and flow of information between the City and current providers over the years, advised that he is a participant and further that he has stayed out of consideration by the committee due to his role as City Manager.

Upon a motion made by Mayor Pro Tem Lambert and seconded by Council Member Ellerbe, the Council voted 7-0 to approve Bid No. C117-05 for a proposal from ICMA Retirement Corporation ("ICMA-RC") to administer the City's Deferred Compensation Plan with revision to Exhibit "A," (b) to read:

"The fees referred to in this paragraph are disclosed in the Retirement Investment Guide, a copy of which is available in the Human Resources Department and the City Secretary's Office."

Public Hearing and adoption of Ordinance No. 2005-8-13 as requested in Zoning Case 2005-28 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, granting Specific Use Permit No. 567 so as to allow the additional use of Winery on 0.1± acre of land located 350± feet west of Preston Road and 670± feet north of Lorimar Drive in the City of Plano, Collin County, Texas, presently zoned Planned Development-447-Retail-Multifamily Residence-2; 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. Neighborhood #31. Applicant: LSM Center Partners, L.P. [Regular Agenda (4)]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission has recommended approval as submitted.

Mayor Evans opened the Public Hearing. Stephen DiNapoli, representing the applicant, requested approval of the request. No one else spoke either for or against the request. The Public Hearing was closed.

Upon a motion made by Council Member Magnuson and seconded by Council Member LaRosiliere, the Council voted 7-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, granting Specific Use Permit No. 567 so as to allow the additional use of Winery on 0.1± acre of land located 350± feet west of Preston Road and 670± feet north of Lorimar Drive in the City of Plano, Collin County, Texas, presently zoned Planned Development-447-Retail-Multifamily Residence-2 as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2005-28; 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. 2005-8-13.

Ordinance No. 2005-8-14 to find, after reasonable notice, that certain rate case expenses of CoServ Gas Ltd. are reasonable; providing for recovery of rate case expenses; providing for repeal of conflicting ordinances; and providing an effective date. [Regular Agenda (5)]

Assistant to the City Manager Israelson advised that this item approves expenses by CoServ that were incurred on behalf of the company in preparation and negotiation of the systemwide gas rate case.

Upon a motion made by Council Member LaRosiliere and seconded by Council Member Ellerbe, the Council voted 7-0 to find, after reasonable notice, that certain rate case expenses of CoServ Gas Ltd. are reasonable; providing for recovery of rate case expenses; providing for repeal of conflicting ordinances; and providing an effective date; and further to adopt Ordinance No. 2005-8-14.

There being no further discussion, Mayor Evans adjourned the meeting at 9:40 p.m.

Pat Evans, MAYOR

ATTEST:

Elaine Bealke, City Secretary