

PLANO CITY COUNCIL
August 27, 2007

COUNCIL MEMBERS

Pat Evans, Mayor
Sally Magnuson, Mayor Pro Tem
Jean Callison, Deputy Mayor Pro Tem
Shep Stahel
Scott Johnson
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
Diane Zucco, City Secretary

Mayor Evans convened the Council into the Regular Session on Monday, August 27, 2007, at 7:09 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present.

The invocation was led by Council Member Dunlap.

The Pledge of Allegiance was led by Boy Scout Troop 285.

SPECIAL RECOGNITIONS

City Manager Muehlenbeck spoke to establishment of the Council/Manager form of government in the City of Plano and guidance by the Council over the years. He spoke to recognition of the Mayor and Council by the Texas City Management Association. Texas City Management Association President Perez spoke to the organization representing over 600 cities and to consideration of the Council's ethics, taking care of citizens, adoption of policy statements, prudent fiscal policies, support of Staff, relationships with one another, having house rules/annual retreats, providing community awareness and promoting citizen involvement. He spoke to Plano being recognized by *Money Magazine*, and being one of the safest cities in Texas and presented the Council recognition. The Council thanked Mr. Perez and spoke to working together, dedication of the Council and Staff, teamwork, communication, planning of the community, and the awards received by the City.

Mayor Evans presented special recognition to the family of Dexter Prince for his influence and dedicating hours of his time on behalf of the City of Plano for the sake of philanthropic donation to the greater cause of making the City a better place to live. She advised that in honor of his contribution, a commemorative plaque will be placed in Oak Point Park and Nature Preserve adjacent to the pecan orchard his family helped establish.

Gary Thorne was not in attendance to receive special recognition.

CERTIFICATES OF APPRECIATION

Mayor Evans presented Certificates of Appreciation to outgoing members of the Technology Commission, Javed Azam, Michael Becker, Charles Bell, Paul Jasina, and James Krusos.

COMMENTS OF PUBLIC INTEREST

Mars Cheung, citizen of the City, requested Council consider a school zone at the intersection of Coit Road and McDermott Road. City Manager Muehlenbeck advised that the area is under review.

Jack Lagos, citizen of the City, spoke regarding open government and accountability. He requested clarification regarding members of the Plano Economic Development Board's Trustees and the contract between the City and Board. He spoke to the five City employees working for the Board and the difficulty in obtaining open records.

BOARD AND COMMISSION REPORT

Parks and Recreation Planning Board Vice Chair Susan Plonka spoke regarding members of the board and projects including the Oak Point Park and Nature Preserve, Tom Muehlenbeck Center, Archgate Park and Memorial Park. She spoke to other items of interest including the placement of cellular phone equipment adjacent to electrical transmission lines along the hike and bike trails, use of park land for a street right-of-way and utility easement and approval of the 2007-08 Parks and Recreation Community Investment Program.

CONSENT AGENDA

Upon the request of Staff, Consent Agenda Item "H" was pulled and held.

Upon the request of Council Member Stahel Consent Agenda Item "L" was removed for individual consideration due to a possible conflict of interest.

Upon the request of citizens Sonja Hammar and Jack Lagos Consent Agenda Items "R" and "S" were removed for individual consideration.

Upon a motion made by Council Member Johnson and seconded by Council Member LaRosiliere, the Council voted 8-0 to approve and adopt all remaining items on the Consent Agenda as recommended and as follows:

CONSENT AGENDA

Approval of Minutes [Consent Agenda Item (A)]

August 13, 2007
August 18, 2007

Approval of Expenditures

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

Bid No. 2007-185-C for Graffiti Removal to J.E.H. Enterprises, Inc., with an estimated annual amount of \$35,000. This will establish an annual fixed price contract, with three optional one-year renewals. [Consent Agenda Item (B)] (See Exhibit "A")

Bid No. 2007-143-C for an annual fixed price contract for Small Power Equipment to Richardson Saw and Lawnmower in the estimated annual amount of \$27,580. This will establish an annual contract with three optional one-year renewals. [Consent Agenda Item (C)] (See Exhibit "B")

Bid No. 2007-142-B for one Truck Mount Fork Lift to Steward & Stevenson, LLC in the amount of \$42,950 for Dept. 714/Compost Marketing & Operations. [Consent Agenda Item (D)] (See Exhibit "C")

Bid No. 2007-186-B for the 2006-2007 Residential Concrete Pavement Rehabilitation Project, Zones F3, F4, I6, and N2 to McMahan Contracting, L.P. in the amount of \$827,490. This project involves the replacement of street and alley pavement in the residential areas on the west and east side of the City- Zones F3 and F4 are bounded by Plano Parkway on the south, White Rock Creek on the west, Parker Road on the north, and Preston Road on the east. Zone I6 is the area bounded by Parker Road, Coit Road, Spring Creek Parkway and Independence Parkway, and Zone N2 is the Industrial area bounded by Plano Parkway, K Avenue, 14th Street, and Jupiter Roads. [Consent Agenda Item (E)] (See Exhibit "D")

Rejection of Bids for No. 2007-179-B for the 2006-2007 Screening Wall Panel Replacement Project. [Consent Agenda Item (F)] (See Exhibit "E")

Approval of Change Order

To Jerusalem Corporation, increasing the contract by \$34,900 for the 2006-2007 Residential Concrete Pavement Rehabilitation Project, Zone K8, L8, J6N, Project No. 5795, Change Order No. 1, Bid No. 2007-92-B. This change order is for additional alley pavement repairs in the Project area. [Consent Agenda Item (G)]

Adoption of Resolutions

To terminate the contract entered into by and between Garrison Enterprises, Inc., dba Digital Health, Inc., for Bid CSP No. 2006-133-B for the purchase of Inspection Software System in the amount of \$57,900; and providing an effective date. [Consent Agenda Item (H)] (Item pulled and held.)

Resolution No. 2007-8-11(R): To deny the request of Atmos Energy Corp., Mid-Tex Division, for an annual Gas Reliability Infrastructure Program (GRIP) rate increase in this municipality, as a part of the company's statewide gas utility distribution system; supporting statutory reform of the Texas GRIP Statute, finding that the meeting at which this resolution is passed is open to the public; and providing for notice of this resolution to Atmos Energy Corp., Mid-Tex Division and the City's legislative delegation; and providing an effective date. [Consent Agenda Item (I)]

Resolution No. 2007-8-12(R): To revoke Resolution No. 2007-3-12(R) and amend a Communications Facilities License Agreement by and between the City of Plano, Texas, and Dallas MTA, L.P., a Texas Limited Partnership, d/b/a Verizon Wireless, to install, and operate telecommunications ground equipment in certain specific portions of City of Plano public park land, known as the Wellington site; authorizing its execution by the City Manager, and providing an effective date. [Consent Agenda Item (J)]

Resolution No. 2007-8-13(R): To review and approve the City's written Public Funds Investment Policy; and providing an effective date. [Consent Agenda Item (K)]

Resolution No. 2007-8-14(R): To approve the terms and conditions of a Real Estate Contract by and between Willard Stimpson and Sophia D. Stimpson and the City of Plano for the purchase of approximately 0.38 acres, commonly referred to as Lots 8, 10 and 12, Block 1, J.T. Kendricks Second Addition, in the City of Plano, Collin County, Texas; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (M)]

Resolution No. 2007-8-15(R): To approve the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano, Texas, and Collin County, Texas, providing terms and conditions for reconstruction of 14th Street from K Avenue to Ridgewood Drive; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (N)]

Resolution No. 2007-8-16(R): To approve the terms and conditions of an Agreement by and between the City of Plano, Texas, and Legacy Association, for the installation and maintenance of specially designed signs within Legacy; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (O)]

Resolution No. 2007-8-17(R): To name the Chaparral Road Athletic Site, "Moore Park," and providing an effective date. [Consent Agenda Item (P)]

Resolution No. 2007-8-18(R): To name the property occupied by Ridgeview Golf Course, "David A. Griffin Park," and providing an effective date. [Consent Agenda Item (Q)]

Adoption of Ordinances

Ordinance No. 2007-8-21: To transfer the sum of \$42,950 from the Sustainability & Environmental Unappropriated Fund Balance to the Sustainability & Environmental Services Operating Appropriation for Fiscal Year 2006-07 to provide for the purchase of a truck-mounted fork lift for the Sustainability Program in order to improve the efficiency of compost marketing and sales operations; 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 (T)]

Ordinance No. 2007-8-22: To abandon all right, title and interest of the City, in and to a portion of that certain eighty foot (80') Right-of-Way called 18th Street east of Rigsbee Drive, being situated in the Alex Berry Survey, Abstract Number 79, which is located within the City limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such Right-of-Way to the abutting property owner, Plano Independent School District, to the extent of its interest; authorizing the City Manager to execute any documents deemed necessary; and providing an effective date. [Consent Agenda Item (U)]

Ordinance No. 2007-8-23: To grant a permit to West Plano Land Company, LP to drill a water well to supply irrigation needs at Legacy Town Center North, Plano, Texas, located south of Headquarters Drive and west of Parkwood Boulevard; authorizing the City Manager to execute any and all documents in connection therewith; and providing an effective date. [Consent Agenda Item (V)]

Ordinance No. 2007-8-24: To abandon all right, title and interest of the City, in and to a portion of that certain thirty foot (30') sanitary sewer easement recorded in Volume 1994, Page 449, of the Deed Records of Collin County, Texas, being situated in the Samuel Klepper Survey, Abstract 216, located south of Plano Parkway and west of Accent Drive, which is located within the City limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such easement to the abutting property owner, ROG Church, Inc., to the extent of its interest; authorizing the City Manager to execute any documents deemed necessary; a providing an effective date. [Consent Agenda Item (W)]

Ordinance No. 2007-8-25: To amend the Code of Ordinances of the City of Plano, Chapter 12, Article X., Automated Traffic Signal Enforcement by deleting fees applied to administrative adjudication hearings; by providing additional requirements for violations notices; by extending the deadline to request an administrative adjudication hearing; by establishing procedures for an administrative hearing; providing a repealing clause; providing a severability clause; providing for the imposition of civil penalties; and providing an effective date. [Consent Agenda Item (X)]

Ordinance No. 2007-8-26: To abandon all right, title and interest of the City, in and to a portion of that certain drainage easement recorded in Volume 4565, Page 25, and to a portion of that certain temporary drainage easement recorded in Volume 4111, Page 2605, and to a portion of that certain sanitary sewer easement recorded in Volume 4111, Page 2589 of the Deed Records of Collin County, Texas being situated in the Collin County School Land Survey No. 7, Abstract No. 153, located north of McDermott Road and east of Ohio Drive, which are located within the City limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such easements to the abutting property owner, Pasquinelli Portrait Homes – The Enclave at Willow Crest LP, to the extent of its interest; authorizing the City Manager to execute any documents deemed necessary; and providing an effective date. [Consent Agenda Item (Y)]

ITEMS FOR INDIVIDUAL CONSIDERATION:

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

Resolution No. 2007-8-19(R): To approve the Plano Public Library System to purchase the EnvisionWare Patron PC and Print Management System from a contract addendum with Polaris Library Systems through the Catalog Information Systems Vendor (CISV) program from Texas Building and Procurement Commission, in an amount not to exceed \$42,000; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the purchase approved herein; and providing an effective date. VID# 1161667474000 [Consent Agenda Item (L)]

Upon a motion made by Council Member LaRosiliere and seconded by Council Member Ellerbe, the Council voted 7-0 to approve the Plano Public Library System to purchase the EnvisionWare Patron PC and Print Management System from a contract addendum with Polaris Library Systems through the Catalog Information Systems Vendor (CISV) program from Texas Building and Procurement Commission, in an amount not to exceed \$42,000; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the purchase approved herein; and providing an effective date; and further to adopt Resolution No. 2007-8-19(R).

Council Member Stahel resumed his place at the bench.

A Resolution to approve revisions to the Tax Abatement Application of the City of Plano; and providing an effective date. [Consent Agenda Item (R)]

Jack Lagos, citizen of the City, requested clarification regarding the Tax Abatement Committee and its members and City Attorney Wetherbee advised that no definition is included within the guidelines. He further requested revision of the item to state that a Public Hearing “shall” be held. Ms. Wetherbee spoke to the purpose of this agenda item to address a legislative change requiring the receipt of future public benefits through an economic development incentive include certification that there are no undocumented workers. She advised there is no longer a Tax Abatement Committee so this reference may be struck from the document to be brought back on September 10 for consideration by Council. She further advised that this revision would only apply to this agenda item and that the application may be revised in the future should a committee be desired.

Sonja Hammar, citizen of the City, spoke to similarities between Consent Agenda Items “R” and “S” and regarding open records and information which may be deleted. She requested items “R” and “S” be held for clarification and spoke to greater efforts needed on the part of the Council with regard to open government.

Ms. Wetherbee spoke to a resolution calling for a Public Hearing being statutorily required and to the law providing that after an abatement or incentive is provided, information related is public and to the City’s consistently abiding by this requirement. She stated concern regarding the premature release of information.

Upon a motion made by Mayor Pro Tem Magnuson and seconded by Council Member Johnson, the Council voted 8-0 to table a resolution to approve revisions to the Tax Abatement Application of the City of Plano until September 10, 2007.

Resolution No. 2007-8-20(R): To approve revisions to the Chapter 380 Program for Economic Development Incentives Application; and providing an effective date. [Consent Agenda Item (S)]

Upon a motion made by Deputy Mayor Pro Tem Callison and seconded by Council Member Ellerbe, the Council voted 8-0 to approve revisions to the Chapter 380 Program for Economic Development Incentives Application; and providing an effective date; and further to adopt Resolution No. 2007-8-20(R).

Jack Lagos, citizen of the City, requested revision to language providing that information “may” be released to state “shall” be released and spoke to the responsibility of the applicant to clearly mark information which is to remain private. He spoke to information being provided with certain exceptions and to release of all information the public is entitled to and to Staff not interfering with the open records process. City Attorney Wetherbee spoke to the right of the applicant to designate information they consider proprietary and to the City being permitted to withhold information as requests go through the negotiation process. She stated that when a decision is made to grant an incentive, then information is available, but that there may still be proprietary information.

Presentation of a resolution to name the Chaparral Road Athletic Site, “Moore Park.” [Regular Agenda Item (1)]

Mayor Evans spoke to the significant donation of land to the City of Plano and commemoration of efforts to negotiate donations from surrounding landowners in presenting a resolution to the Moore family naming the City’s Chaparral Road Athletic Site, “Moore Park.”

Presentation of a resolution to name the property occupied by Ridgeview Golf Course, “David A. Griffin Park.” [Regular Agenda Item (2)]

Mayor Evans spoke to David A. Griffin, who served as City Manager from 1972 until 1985, envisioning the future of a small town with 25,000 people and guiding the Plano elected and appointed team through the most growth explosive years in Plano's history in presenting a resolution naming the property occupied by Ridgeview Golf Course, "David A. Griffin Park."

Second Public Hearing on the Tax Increase for Fiscal Year 2007-08. (First Public Hearing held August 23, 2007) [Regular Agenda Item (3)]

Mayor Evans opened the Public Hearing. Sonja Hammar, citizen of the City, stated opposition to the increase of the tax rate to provide designated funds for economic development incentives. She stated that if the increase is retained there should be greater oversight for use of funds and access to information. Ms. Hammar stated concern regarding instances where economic development funds were provided and spoke to a rollback on dollars to property tax owners and to oversight of the funds. City Manager Muehlenbeck clarified that the recommended budget does not have a tax increase and is the same as the current year. He spoke to there being two budgets for economic development including one for operations in the approximate amount of \$800,000 to pay for salaries and services provided and a second which is the economic development fund which is directed by the City Council who have complete control over those monies.

Ms. Hammar stated concern regarding membership of the economic development board's trustees and requested clarification of oversight. Mr. Muehlenbeck responded that the Council has complete oversight over monies levied for incentives and 380 agreements and advised that Council minutes/agendas would reflect these expenditures. Ms. Hammar spoke to information regarding neighboring cities economic development boards being available online. Council Member Johnson spoke to other cities who utilize 4a/4b funds. Mr. Muehlenbeck clarified the process for consideration of funding requests, stating that there is a committee of Staff and one member of the PEDB who meet with applicants, information being brought to the Council in executive session who provide direction, and the vote by the Council at a public meeting if an offer is accepted

Jack Lagos, citizen of the City, spoke regarding open records and employees of the economic development board falling under the Public Information Act. He spoke to returning some or all of the two-cent incentive included in the tax rate which would show good will on the part of the Council. No one else spoke either for or against the request. The Public Hearing was closed.

A Public Hearing and adoption of Resolution No. 2007-8-27(R): To adopt the Clearview Neighborhood Action Plan as proposed by the Clearview Neighborhood Planning Team, and approving its use by the appropriate personnel and departments of the City of Plano for the purpose of guiding future development and provision of City services within the Clearview Neighborhood; and providing an effective date. [Regular Agenda Item (4)]

Neighborhood Planner Coleman spoke to the planning efforts of the neighborhood, meetings held for development and consideration of the residents' vision which includes a neighborhood that is clean and inviting with well-cared for homes, a park as a community focal point and embraces diversity and community cohesiveness. She provided a information on the neighborhood and spoke to the population and demographics.

Resident Eric Stewart spoke to a survey of the neighborhood related to maintenance and resultant goals/objectives to maintain the quality of existing homes in the neighborhood by establishing standards within the community that are compliant with City codes, installing signage to prohibit vehicles from driving through the open field south of Cambridge Drive and distributing information to increase awareness and educate residents about property standards. He spoke to neighborhood transportation goals/objectives to increase awareness and compliance with traffic laws and to improve driving, parking and pedestrian safety on residential streets in the neighborhood. He stated objectives to increase police presence on various streets to reduce high speed traffic and stop sign runners, and to initiate the Safe Streets Program. Mr. Stewart spoke to creating a more pedestrian-friendly environment connecting neighborhoods by adding sidewalks. Ms. Coleman spoke to traffic generated by a nearby high school.

Resident Nancy Sennetti spoke to neighborhood safety and the goal to increase awareness and educate residents on safety measures to enhance the sense of security throughout the neighborhood with objectives to establish a neighborhood watch group and improve communications. She spoke to there being several block captains and about 75-100 homes on a crimewatch e-mail listing. Ms. Sennetti spoke to community involvement and creating an environment that fosters neighborhood participation while encouraging individual and shared ownership in activities. She spoke to creation of a neighborhood association and installation of sign toppers to promote broader recognition of neighborhood boundaries.

Ms. Coleman spoke to the Clearview Park Plan, advised regarding costs and stated that most resident-driven initiatives have either been implemented or are under way. Ms. Coleman advised regarding an upcoming presentation related to neighborhood planning, its history, methodology and accomplishments as well as current initiatives.

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 Ellerbe and seconded by Mayor Pro Tem Magnuson, the Council voted 8-0 to adopt the Clearview Neighborhood Action Plan as proposed by the Clearview Neighborhood Planning Team, and approving its use by the appropriate personnel and departments of the City of Plano for the purpose of guiding future development and provision of City services within the Clearview Neighborhood; and providing an effective date; and further to adopt Resolution No. 2007-8-27(R).

An Ordinance to repeal City of Plano Ordinance Nos. 98-2-26, and 98-8-35, codified as Article VI, Historic Landmark Preservation, of Chapter 16 of the Code of Ordinances of the City of Plano; and adopting new and amended provisions for Heritage Resource Preservation for the City. (Pulled and Held August 13, 2007) [Regular Agenda Item (5)]

Historic Preservation Officer Bear advised she was in attendance to respond to any questions.

Upon a motion made by Mayor Pro Tem Magnuson and seconded by Council Member LaRosiliere, the Council voted 8-0 to table an ordinance to repeal City of Plano Ordinance Nos. 98-2-26, and 98-8-35, codified as Article VI, Historic Landmark Preservation, of Chapter 16 of the Code of Ordinances of the City of Plano; and adopting new and amended provisions for Heritage Resource Preservation for the City until the September 10, 2007 Council Meeting.

There being no further discussion, Mayor Evans adjourned the meeting at 8:44 p.m.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, City Secretary