

**PLANO CITY COUNCIL**  
**September 14, 2009**

**COUNCIL MEMBERS**

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

**STAFF**

Thomas H. Muehlenbeck, City Manager  
Frank Turner, Deputy City Manager  
Bruce Glasscock, Deputy City Manager  
Rod Hogan, 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, September 14, 2009, at 7:03 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present.

The invocation was led by Dr. Leon Aduddell of First Baptist Church Plano and the Pledge of Allegiance was led by Jr. Girl Scout Troop 2206 of Andrews Elementary.

Mayor Dyer presented Special Recognition to Nicolas Griebenow, 911 Hero and Plano ISD Heroes.

**COMMENTS OF PUBLIC INTEREST**

Citizen Trevor Dahlen stated concern regarding individuals who use cell phone or text while driving and requested consideration of educational programs and/or enforcement.

**CONSENT AGENDA**

Upon the request of Deputy Mayor Pro Tem Dunlap Consent Agenda Items "E" and "F" were removed for individual consideration due to possible conflicts of interest.

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

**Approval of Minutes** (Consent Agenda “A”)  
August 24, 2009

**Approval of Expenditures**

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

**Bid No. 2009-164-C** for Hauling of Construction Debris to Braxton Transportation, LLC, in the amount of \$200,000 and authorizing the City Manager to execute all necessary documents. This will establish an annual contract with three optional one-year renewals. (Consent Agenda “B”)

**Bid No. 2009-173-B** for Railroad Crossings – Quiet Zone Improvements – Plano Parkway Wayside Horn to Railroad Controls, L.P., in the amount of \$75,486. Project No. 5590.1. The project consists of construction of a horn system along the railroad track that crosses Plano Parkway just east of US 75. (Consent Agenda “C”)

**Bid No. 2009-162-B** for 2008-09 Manhole Lining Project to Suncoast Infrastructure, Inc. in the amount of \$284,715. This project includes the lining of 31 manholes and 2 large junction boxes using an epoxy saturated fiberglass liner with PVC coating, commonly called Cured in Place Manhole Lining. (Consent Agenda “D”)

**Bid No. 2009-174-B** for 2008-2009 Arterial Concrete Pavement Rehab Project – Ohio Drive and Kings Manor Lane to Jim Bowman Construction Co. LP in the amount of \$383,068. This project involves the replacement of arterial street pavement, curb and gutter, sidewalk repair and barrier free ramp construction on Ohio Drive between Maple Shade Drive and SH 121 and on Kings Manor Drive between Spring Creek Parkway and Crystal Falls Drive. (Consent Agenda “E”)

**Bid No. 2009-171-B** for 2008-2009 Residential Concrete Pavement Rehabilitation Project – Zone G7 and G8 to Jim Bowman Construction Co. LP in the amount of \$454,080. This project involves the replacement of residential street and alley pavement, curb and gutter, sidewalk repair and barrier free ramp construction, in Zone G7 and G8 which is bounded by Spring Creek Parkway on the south, Preston Road on the west, Hedgcoxe Road on the north and Coit Road on the east. (Consent Agenda “F”)

**Bid No. 2009-166-B** for Custer Ground Storage Tank 1A to Natgun Corporation in the amount of \$2,041,983. Project No. 5973. This project consists of the removal of a 2.5 million gallon steel ground storage tank and the construction of a 3.75 million gallon concrete storage tank. (Consent Agenda “G”)

**Purchase from an Existing Contract**

To approve the purchase of three (3) Chevrolet 3/4 Ton Extended Cab Pickup Trucks with Utility Body and Lift-gates in the amount of \$103,599 from Caldwell Country Chevrolet through an existing contract/agreement with H-GAC Cooperative Purchase Program and authorizing the City Manager to execute any and all necessary documents (Bid No. VE03-06). (Consent Agenda “H”)

### **Approval of Change Order**

To Motorola, Inc., increasing the contract by \$151,113 for providing labor and materials for transferring DragonWave links from two water towers to communication towers through an existing contract/agreement with Houston Galveston Area Council (HGAC), and authorizing the City Manager to execute all necessary documents. (HGAC Contract No. RA01-06) (Consent Agenda “I”)

### **Reimbursement of Oversize Participation**

To approve and authorize reimbursement to EDS Information Services LLC for oversize participation for public improvements associated with construction of Tennyson Parkway north of Spring Creek Parkway, in the amount of \$301,304. (Consent Agenda “J”)

### **Adoption of Resolutions**

**Resolution No. 2009-9-1(R):** To approve the proposed uses for the expenditure of the U.S. Department of Housing and Urban Development Homelessness Prevention and Rapid Re-Housing funds as authorized in the American Recovery and Reinvestment Act of 2009 in the amount of \$468,597 for the provision of various community services; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda “K”)

**Resolution No. 2009-9-2(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 yard trimmings grinding services; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda “L”)

**Resolution No. 2009-9-3(R):** To authorize the City of Plano to participate in and receive funding through the Texas Highway Traffic Safety Program for an Intersection Traffic Control Project, PIN 17560006409000, targeting intersections regulated by means of a signal light; authorizing the City Manager to execute the Grant Agreement and any other documents necessary to effectuate the action taken; and providing an effective date. (Consent Agenda “M”)

**Resolution No. 2009-9-4(R):** To approve the terms and conditions of an Interlocal Agreement by and between the City of Plano, Texas and the Plano Independent School District for the operation of the Police/School Liaison Program; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda “N”)

**Resolution No. 2009-9-5(R):** To approve the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano and the Dallas County Community College District on behalf of Richland College, providing terms and conditions for educational services, authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda “O”)

**Resolution No. 2009-9-6(R):** To approve the terms and conditions of an Interlocal Cooperation Agreement by and between City of Plano and Harris County Department of Education, which sponsors “Choice Facility Partners” providing for a cooperative purchasing program for goods and services; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the agreement herein and to designate an official representative or representatives for the City of Plano to the program; and providing an effective date. (Consent Agenda “P”)

**Resolution No. 2009-9-7(R):** To approve the terms and conditions of a Real Estate Contract by and between the City of Plano, Texas, and Diversicon for the purchase of a 1.053 acre tract of land for right of way for Chaparral Road and a 0.034 acre tract of land for a Temporary Construction Easement, located at the southeast corner of Chaparral Road and Jupiter Road, in the Jeremiah Muncy Survey, Abstract No. 621, in the City of Plano, Collin County, Texas; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda “Q”)

### **Adoption of Ordinances**

**Ordinance No. 2009-9-8:** To find that the current rates of CoServ Gas Ltd. are unreasonable; approving CoServ Gas Ltd.’s revised and uncontested tariffs; setting the effective date of new tariffs as October 1, 2009; finding rate case expenses reasonable; finding that any relief requested by CoServ Gas Ltd. not specifically granted herein is denied; finding that the meeting at which this ordinance is passed is open to the public as required by law; providing for notice of this ordinance to CoServ Gas Ltd.; providing a repealer clause; a severability clause; a savings clause; a publication clause; and an effective date. (Consent Agenda “R”)

**Ordinance No. 2009-9-9:** To amend specific sections of Ordinance No. 2009-2-15 codified as Section 21-147, of Article IV, Service Charges Generally, of Chapter 21, Utilities, of the Code of Ordinances of the City of Plano to increase the water rate schedules for residential and non-residential customers by six percent (6%) and to eliminate the summer and non-summer rate distinction effective October 1, 2009, and providing a repealer clause, a severability clause, a savings clause, and an effective date. (Consent Agenda “S”)

**Ordinance No. 2009-9-10:** To amend Section 12-101 of Chapter 12 (Traffic Code) of the City of Plano Code of Ordinances to prohibit stopping, standing, or parking of motor vehicles on certain sections of Exchange Drive and Ozark Drive, within the City limits of the City of Plano; declaring it unlawful and a misdemeanor to park motor vehicles upon such sections of such roadways within the limits herein defined; providing a fine for criminal penalties not to exceed \$200.00 for each offense; and providing a repealer clause, a severability clause, a savings clause, a publication clause, and an effective date. (Consent Agenda “T”)

### **ITEMS FOR INDIVIDUAL CONSIDERATION:**

Due to possible conflicts of interest Deputy Mayor Pro Tem Dunlap stepped down on the following two items which were considered concurrently.

**Bid No. 2009-174-B** for 2008-2009 Arterial Concrete Pavement Rehab Project – Ohio Drive and Kings Manor Lane to Jim Bowman Construction Co. LP in the amount of \$383,068. This project involves the replacement of arterial street pavement, curb and gutter, sidewalk repair and barrier free ramp construction on Ohio Drive between Maple Shade Drive and SH 121 and on Kings Manor Drive between Spring Creek Parkway and Crystal Falls Drive. (Consent Agenda “E”)

**Bid No. 2009-171-B** for 2008-2009 Residential Concrete Pavement Rehabilitation Project – Zone G7 and G8 to Jim Bowman Construction Co. LP in the amount of \$454,080. This project involves the replacement of residential street and alley pavement, curb and gutter, sidewalk repair and barrier free ramp construction, in Zone G7 and G8 which is bounded by Spring Creek Parkway on the south, Preston Road on the west, Hedgcoxe Road on the north and Coit Road on the east. (Consent Agenda “F”)

Upon a motion made by Council Member Callison and seconded by Council Member Miner, the Council voted 7-0 to approve Bid No. 2009-174-B for Arterial Concrete Pavement Rehab Project in the amount of \$383,068 and Bid No. 2009-171-B for Residential Concrete Pavement Rehabilitation Project in the amount of \$454,080.

Deputy Mayor Pro Tem Dunlap resumed his place on the bench.

**Resolution No. 2009-9-11(R):** To approve the terms and conditions of an Economic Development Incentive Agreement by and between the City of Plano, Texas and MedAssets Net Revenue Systems, LLC., a Delaware limited liability company; authorizing its execution by the City Manager; and providing an effective date. (Regular Agenda “1”)

Director of Finance Tacke advised that MedAssets would occupy no less than 100,000 square feet of office space and retain, transfer or create 450 full-time jobs by March 31, 2011. She advised that the terms of the agreement run from September 30, 2009 – September 29, 2020 for a grant in the amount of \$360,000.

Upon a motion made by Mayor Pro Tem LaRosiliere and seconded by Council Member Callison, the Council voted 8-0 to approve the terms of the Economic Development Incentive Agreement and further to adopt Resolution No. 2009-9-11(R).

**Public Hearing** to provide notice of Oncor Electric Delivery Company’s intent to amend its Certificate of Convenience & Necessity for a new 138 kV transmission line to be located in Collin County. This project includes the establishment and construction of Parker Maxwell Creek 138 kV Substation. The cost of the project is estimated at \$12,468,000. (Regular Agenda “2”)

Park Services Manager Fox advised the Council that this item is intended to solicit public input regarding the placement of a new transmission line. Mayor Dyer opened the Public Hearing. Greg Ward, Oncor Regulatory Project Manager, spoke regarding the need to establish the line, environmental and routing studies, and public meetings held. He advised regarding application made by Oncor and filed with the Public Utility Commission (PUC), a decision expected in approximately twelve months with completion by May 2011.

### **Public Hearing – Oncor (cont'd)**

Mr. Ward spoke to consideration of routes and advised that those included in the application are viable and meet requirements. He stated that the structure for the preferred route would be 120 feet tall while those on alternate routes would be 80 feet tall and advised that the extra height is needed for lines to cohabitate with those already in place. No one else spoke either for or against the request. The Public Hearing was closed. Mr. Fox advised that Staff's recommendation is the preferred alignment and Council concurred.

**Public Hearing and adoption of Ordinance No. 2009-9-12** to repeal in its entirety Ordinance No. 2009-6-10, codified as Section 19-21, Rules and Regulations Adopted, of Article II (Design and Construction) of Chapter 19 (Streets and Sidewalks) of the Code of Ordinances of the City of Plano, adopting minimum standards to be followed in the development of streets, thoroughfares, sidewalks, and appurtenances within the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, a publication clause, and an effective date. (Regular Agenda "3")

Transportation Engineering Manager Neal spoke to the request addressing the rebuilding of screening walls and adjusting the calculation for visibility obstruction triangles at intersections of major thoroughfares on residential streets and advised that the item has been recommended by Planning and Zoning for approval as submitted.

Mayor Dyer opened the Public Hearing. No one spoke either for or against the request. The Public Hearing was closed. City Manager Muehlenbeck advised that screening wall replacements will move forward once this item has been approved.

Upon a motion made by Deputy Mayor Pro Tem Dunlap and seconded by Council Member Miner, the Council voted 8-0 to repeal in its entirety Ordinance No. 2009-6-10, codified as Section 19-21, Rules and Regulations Adopted, of Article II (Design and Construction) of Chapter 19 (Streets and Sidewalks) of the Code of Ordinances of the City of Plano and adopt minimum standards to be followed in the development of streets, thoroughfares, sidewalks and appurtenances within the City; as recommended by the Planning and Zoning Commission and further to adopt Ordinance No. 2009-9-12.

**Ordinance No. 2009-9-13:** To approve and adopt the Budget and setting the appropriations for the Fiscal Year beginning October 1, 2009, and terminating September 30, 2010; and providing an effective date. (Regular Agenda "4")

Mayor Dyer advised that the tax freeze for seniors is permanent and will not be changed and called forward those wishing to speak on the item. Citizens of the City Robert Miller, Pat Evans, Alice Hobbs, and Barbara Oldenburg spoke in support of a tax increase of 1.51 cents citing excellent City services and maintaining these in order to retain and attract residents/corporations, work by Staff to develop the budget, putting aside politics and making decisions based on what is best for the City, preserving the City's future and using vision and a long term perspective, previous tax decreases, making adjustments on both sides of the ledger, the City's AAA bond rating, citizens paying more to keep the City "on top," and in opposition to salary cuts that would adversely impact some employees.

**Ordinance No. 2009-9-13 (cont'd)**

Citizens of the City Mike Openshaw, Mark Reid and Jim Bright spoke in opposition to the tax rate increase citing some job descriptions budgeted and urging Council to make cuts, find other revenues and possibly reduce staff or salaries. They spoke to the difficult economic times and urged the Council to lead by not increasing the tax rate. Resident T.J. Johnson spoke in support of the increase, to keeping Plano a City of excellence, Council being visionary, and the quality of services and corporations that move to the City for its quality of life. Resident Suzanne Chapman spoke in opposition, citing an increase in her property value and requested the City make further cuts and delay projects. Citizens of the City Fred Frawley and Loretta Ellerbe spoke in support of the tax increase citing cut-backs already in place, the City's low tax rate, the possible impact on the bond rating, Staff's efforts in developing the budget, and citizen support of bond referendums. Citizen of the City Joe Minchillo spoke regarding decreasing employee salaries, conducting a compensation review, government living within its means, and the people of the City representing the quality of life.

Resident Scott Johnson spoke in support of the increase, citing past challenges, concerns related to transferring monies from the equipment fund, maintaining the AAA bond rating, and bonds passed by the voters. Ron Turner spoke in support of maintaining services at the Douglass Community Center. Resident David Downs spoke in support of the increase and regarding the time spent developing the budget, citizen contribution to maintain the City as a place that draws companies and individuals, and maintaining the reserve fund. Moshe Kramer spoke in opposition to the increase, noting its impact on young residents. Resident Susan Plonka spoke regarding the years of growth in the City and benefits received, the need to maintain services and citizen support for bond programs, requesting Council approve the increase. Q. Coleman spoke in opposition to the tax increase. Council Member Jackson requested information regarding approved cuts.

City Manager Muehlenbeck spoke to the long-standing Council policy to pay employees five-percent above median, the competitive job market and retaining the best employees. He spoke to salary increases that occur throughout the year as a direct result of promotions and to step increases for fire and police personnel. Mr. Muehlenbeck advised that of the 1.51 cent proposed increase, 1.35 cents is for debt service, spoke regarding the fluid nature of the budget and the impact of additional declines in sales tax. He spoke to consideration of contracting for some services such as the Douglass Community Center, the homestead exemption resulting in a tax rate of 39 cents and consideration of reductions from \$110 million of the budget (excluding public safety costs). He spoke to elimination of remote library book drops when it was discovered that one was serving a neighboring City and to additional revenues including a capital reserve reimbursement from Collin County and monies from a developers' escrow account.

City Attorney Wetherbee advised that the ordinance for consideration includes a tax rate increase and may be amended on the dais. Mr. Muehlenbeck advised that a transfer from capital reserves would result in a 40% decrease in its balance and to consideration of reserves by bond rating companies.

**Ordinance No. 2009-9-13 (cont'd)**

Director of Budget and Research Rhodes-Whitley spoke to the increased cost of interest rates on bond sales should there be a decline in the AAA ratings and the level of budget deficit projected for 2010-11 and 2011-12. Mayor Pro Tem LaRosiliere spoke to Plano's standing as one of eight large cities with AAA ratings from the three agencies and consideration of finances, the economy and long-term decisions of local leaders. He spoke to the use of capital reserves to make repairs rather than borrowing monies. Mr. Muehlenbeck responded to Council Member Harris, stating that there is no guarantee of ratings by the bond rating agencies.

Deputy Mayor Pro Tem Dunlap spoke to increased demands for City services including those utilizing libraries for job searches, reductions put in place, the difficulty in making cuts from the \$110 million referenced and the need to pool the resources and energy of citizens through Volunteers in Plano. He spoke to facing upcoming retirements by rebuilding the City from within to keep continuity, the costs of state/federally mandated programs, employees requested to pay more of their insurance costs coupled with concerns over job security and continued requests for a high level of services. Mr. Dunlap made a motion to approve the recommended ordinance. (No second was made at this time.)

Ms. Rhodes-Whitley responded to Council Member Callison regarding the rollback rates for the coming years, possible citizen petition for a vote should the rollback be exceeded, funding necessary for debt, and the anticipated reduction in appraisal values.

The motion was restated by Deputy Mayor Pro Tem Dunlap and seconded by Mayor Pro Tem LaRosiliere to approve and adopt the Budget and setting the appropriations for the Fiscal Year beginning October 1, 2009, and terminating September 30, 2010 as recommended by Staff. The Council voted 5-3 with Council Members Harris, Jackson and Smith voting in opposition. The motion carried and Ordinance No. 2009-9-13 was adopted.

**Ordinance No. 2009-9-14:** To approve and adopt the Community Investment Program and setting the appropriations for 2009-10; and providing an effective date. (Regular Agenda "5")

City Manager Muehlenbeck advised the Council that the budget outlines the operating costs in addition to construction and further that while some of the smaller items may come forward in lump sums, major projects will be brought forward for Council consideration.

Upon a motion made by Council Member Jackson and seconded by Council Member Harris, the Council voted 8-0 to approve and adopt the Community Investment Program and setting the appropriations for 2009-10; and further adopting Ordinance No. 2009-9-14.

**Ordinance No. 2009-9-15:** To approve and adopt the tax rate for this Fiscal Year beginning October 1, 2009, and terminating September 30, 2010; and providing an effective date. (Consent Agenda “6”)

A motion was made by Deputy Mayor Pro Tem Dunlap and seconded by Mayor Pro Tem LaRosiliere to approve and adopt the tax rate for the Fiscal Year beginning October 1, 2009, and terminating September 30, 2010 and further to adopt Ordinance No. 2009-9-15. The Council voted 6-2 with Council Members Jackson and Smith voting in opposition. The motion carried.

**Ordinance No. 2009-9-16:** to ratify the property tax revenue increase in the 2009-10 Budget as a result of the City receiving more revenues from property taxes in the 2009-10 Budget than in the previous fiscal year; and providing an effective date. (Regular Agenda “7”)

Director of Budget and Research Rhodes-Whitley advised that this item provides notification that more monies will be collected in property tax revenues than last year.

Upon a motion made by Council Member Jackson and seconded by Deputy Mayor Pro Tem Dunlap, the Council voted 8-0 to ratify the property tax revenue increase in the 2009-10 Budget as a result of the City receiving more revenues from property taxes in the 2009-10 Budget than in the previous year and further to adopt Ordinance No. 2009-9-16.

There being no further discussion, Mayor Dyer adjourned the meeting at 9:03 p.m.

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**Phil Dyer, MAYOR**

ATTEST:

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Diane Zucco, City Secretary