

**PLANO CITY COUNCIL**  
**October 9, 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 into the Regular Session on Monday, October 9, 2006, at 7:04 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 in Plano.

The Pledge of Allegiance was led by Jr. Girl Scout Troop 1708.

Mayor Evans recognized the City of Plano Purchasing Department for their receipt of the Achievement of Excellence in Procurement Award.

Mayor Evans administered oaths of office to incoming and reappointed members of boards and commissions.

**COMMENTS OF PUBLIC INTEREST**

Sonja Hammar, citizen of the City, spoke regarding the efforts of the Public Information Department in providing information to citizens and requested the minutes of all boards/commissions be included on the web.

Jack Lagos, citizen of the City, spoke regarding the dates included in the certificate of incorporation for the Arts of Collin County Commission, Inc. (ACC) and an ACC resolution approving amendments to the Articles of Incorporation. He spoke to the original articles not being used and stated that the Board of Directors did not amend the correct ones. Mr. Lagos requested the Council look into the matter.

Mayor Evans advised the audience that *Comments of Public Interest* is a section of the agenda where citizens may bring items to the Council's attention that are not on the agenda. She further stated that the Council cannot respond or discuss the items because they are not posted, but that they may be referred to Staff or placed on a future agenda.

Madan Goyal, citizen of the City, requested the City recognize Plano citizen Anousheh Ansari for her travel into space. Mayor Evans spoke regarding upcoming events and advised that Staff will look into a Plano celebration.

### **BOARD/COMMISSION REPORTS**

Director of Finance McGrane spoke regarding Tax Increment Financing Reinvestment Zones (TIF) No. 1 and No. 2 Boards, advising that tax increment financing zones are boundaries set up by the various governing bodies within a jurisdiction that set a tax base year. He stated that the values are frozen at that tax base year with any incremental values which would result in increased taxes being put into the reinvestment zone for development and public improvement. Mr. McGrane stated that TIF #1 was created for improvements at the Willow Bend Mall including the parking garage and assistance with the Sockwell Learning Center and that TIF #2 is for the east side of the City and includes the Cox Theater and assistance to the Plano Independent School District's Multipurpose Building. He spoke to the economic development growth in both areas. Mr. McGrane spoke to the contributions through September 30, 2006 by the City, Plano Independent School District, Collin County and Collin County Community College which total \$16.5 million for TIF #1 and \$12 million for TIF #2 and advised regarding the outstanding balances on projects in each of the zones.

Mr. McGrane spoke regarding the composition of the boards for each zone, stated that they are advisory in nature and that they make recommendations to the Council for future enactment. He responded to the Council that both TIF's were set up for a fifteen year repayment and stated that TIF #1 should be paid off in three to four years. Mr. McGrane spoke to public improvements where assistance might be provided for TIF #2.

### **CONSENT AGENDA**

Upon the request of citizen Jack Lagos, Consent Agenda Item "A" was removed for individual consideration.

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

#### **Approval of Expenditures**

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

**Bid No. 2006-226-C** for Biodegradable Paper Bags to Altiivity Packaging in the estimated annual amount of \$75,000. This will establish an annual fixed-price contract, with three optional one-year renewals. [Consent Agenda Item (B)] (See Exhibit “A”)

**Bid No. 2006-224-G** for Draeger brand SCBA units to Dantack Corporation in the amount of \$32,990 for the Homeland Security Department. [Consent Agenda Item (C)] (See Exhibit “B”)

**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 approve the purchase of five (5) Toyota Prius Hybrid Sedans in the amount of \$102,690 from Philpott Motors through an existing contract/agreement with the Texas Building and Procurement Commission, and authorizing the City Manager to execute all necessary documents. (070-A1) [Consent Agenda Item (D)]

To approve the purchase of seven (7) Ford Escape Hybrid vehicles in the amount of \$168,868 from Philpott Motors through an existing contract/agreement with the Texas Building and Procurement Commission, and authorizing the City Manager to execute all necessary documents. (070-A1) [Consent Agenda Item (E)]

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

To approve and authorize for the selection of Brockett/Davis/Drake, Inc. to provide Professional Engineering Services for an amount not to exceed \$232,400 for the design of Spring Creek Parkway at Coit Road Intersection Improvements (TxDOT) and authorizing the City Manager to execute all necessary documents to effectuate this contract. Bid No. B113-04 [Consent Agenda Item (F)]

To approve a Professional Services Contract by and between the City and James Duncan and Associates, Inc. (d/b/a Duncan Associates), in the amount of \$85,310 for Technical and Legal Review of the City’s Zoning and Development Regulations and authorizing the City Manager to execute all necessary documents. Request for Qualifications Number 2006-147-B. [Consent Agenda Item (G)]

To approve the terms and conditions of a Professional Services Contract between the City of Plano and Crossroads Family Services in the amount of \$115,000 wherein Crossroads Family Services will provide services to the Police Department to combat juvenile delinquency and authorizing execution of such agreement by the City Manager, and providing an effective date. [Consent Agenda Item (H)]

### **Reimbursement of Oversize Participation**

To approve and authorize reimbursement to Pasquinelli Portrait Homes-McDermott LP for oversize participation for paving improvements and park land cost in the amount of \$44,445 [Consent Agenda Item (I)]

### **Public Improvement Agreement**

To approve the terms and conditions of a Public Improvement Agreement by and between the City of Plano, Texas, and EDS Information Services, L.L.C., for participation in Dominion Parkway between Parkwood Boulevard and Headquarters Drive in the amount of \$250,000. [Consent Agenda Item (J)]

### **Adoption of Resolutions**

**Resolution No. 2006-10-1(R):** To find Thomas H. Muehlenbeck, Cynthia O'Banner, Roxanne Luna and Macklin Wright are entitled to defense representation pursuant to City Code of Ordinances in connection with the lawsuit entitled Jay Sandon Cooper v. City of Plano, Texas; Thomas H. Muehlenbeck, City Manager; City of Plano Planning and Zoning Commission; City of Plano City Council; Cynthia O'Banner, Roxanne Luna, and Macklin Wright, City of Plano Property Standards Department; and providing an effective date. [Consent Agenda Item (K)]

**Resolution No. 2006-10-2(R):** To approve the hiring of a Fire Chief by the City Manager; and providing an effective date. [Consent Agenda Item (L)]

**Resolution No. 2006-10-3(R):** To authorize an expenditure of funds not to exceed two hundred and eight thousand fifty and no/100 dollars (\$208,050) to Poly-Triplex of Texas, Inc., the sole source provider and licensee of the Poly-Triplex Lining System®, a cured-in-place, felt epoxy impregnated vinyl/fiberglass liner, a patented product and system of Poly-Triplex Technologies, Inc.; authorizing the City Manager to take such action and execute such documents as necessary to effectuate this expenditure; and providing an effective date. [Consent Agenda Item (M)]

**Resolution No. 2006-10-4(R):** To approve the appointment of the Health Authority for the City of Plano in accordance with Section 121.033 of the Texas Health and Safety Code; and providing an effective date. [Consent Agenda Item (N)]

**Resolution No. 2006-10-5(R):** To approve the terms and conditions of a Public Right-of-Way Use Agreement by and between the City of Plano, Texas and Terra-Max Engineering, Inc., a Florida S Corporation, to locate, place, attach, install, operate, and maintain monitoring wells in certain specific portions of the public rights-of-way in the City of Plano; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (O)]

**Resolution No. 2006-10-6(R):** To authorize the purchase of library materials for the Plano Public Library System (PPLS) in the amount of \$300,000 from the Brodart Company through the Northeast Texas Library System (NETLS) contract; 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. [Consent Agenda Item (P)]

**Resolution No. 2006-10-7(R):** To authorize the purchase of various library materials, including books, compact disks, books-on-CD, and DVDs for Plano Public Library System (PPLS), from Baker & Taylor under Texas State Contract 715-N1, Section IV (715-10-50), Section V (715-10-60), Section VIII (715-90-10), Section IX (715-05-10) and Section X (715-05-11); and for non-print materials only under the annual Northeast Texas Library System (NETLS) contract in the amount of \$400,000; 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. [Consent Agenda Item (Q)]

**Resolution No. 2006-10-8(R):** To authorize the purchase of specific library reference materials for the Plano Public Library System in the total amount of \$35,401.33 from Standard & Poor's, the sole source supplier of such specific library reference materials; 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. [Consent Agenda Item (R)]

**Resolution No. 2006-10-9(R):** To approve the terms and conditions of an Interlocal Cooperation Agreement for Library Services by and between the City of Plano and Collin County, Texas providing the terms and conditions for receipt of funding in the amount of \$77,729.29 from Collin County; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the agreement herein; and providing an effective date. [Consent Agenda Item (S)]

**Resolution No. 2006-10-10(R):** To authorize the purchase of specialized online database library services for Plano Public Library System from Amigos Library Services in the amount of \$35,500 through Plano Public Library System's membership with OCLC, the sole source supplier of comprehensive interlibrary loan and bibliographic record purchases; 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. [Consent Agenda Item (T)]

### **Adoption of Ordinances**

**Ordinance No. 2006-10-11:** To amend Section 12-102(e) of Article V, Stopping, Standing, and Parking of Chapter 12, Motor Vehicles and Traffic of the Plano Code of Ordinances to include no stopping, standing, or parking prohibition along the west side of Gillespie Drive from National Drive south to 100' south of the south drive for Taylor Elementary School between the hours of 7:30 a.m. to 8:15 a.m. and 2:45 p.m. to 3:30 p.m. on school days; declaring the parking of motor vehicles in said section of Gillespie Drive within the defined time limits as unlawful and a misdemeanor; and providing a severability clause, a penalty clause, and an effective date. [Consent Agenda Item (U)]

### **END OF CONSENT**

#### **Approval of Minutes** [Consent Agenda Item (A)] - September 25, 2006

Jack Lagos, citizen of the City, spoke to a statement made by City Attorney Wetherbee on September 25, 2006 in response to his concerns regarding the filings of the Articles of Incorporation by the Arts of Collin County Commission (ACC) with the Secretary of State (SOS) that the attorney for the ACC has found everything in order. He spoke to receipt of a copy of the letter referenced and to statements made by the ACC attorney regarding filing the wrong document, the reason being that the paperwork provided by City Attorney Wetherbee lacked a May 24, 2004 document along with a letter to the SOS filing the articles of incorporation. Mr. Lagos spoke to the ACC attorney being misled by the documents he was given and going on to correct documents through a document entitled *Articles of Correction*. He spoke to the ACC attorney's statement that this will correct the files of the SOS so that the official filing is what was intended to be filed. Mr. Lagos stated that the *Articles of Correction* is for amending, deleting or adding to the original articles and not for summarily taking away a document and throwing in another one.

City Attorney Wetherbee spoke to a repeated effort to bring the issue back and cast in a light chosen by Mr. Lagos. She spoke to his receipt of more than one complete set of her files and stated that he has not correctly characterized this evening what was in her letter to the Secretary of State. Ms. Wetherbee spoke to omission of the fact that complete text articles were filed with the Secretary of State and that this is stated in the cover letter along with Form 202 which is an important aspect. She stated that her representations to Mr. Brant as to what occurred and the follow up documentation speaks for itself and that what has been heard publicly are portions of and not a complete set of information. Ms. Wetherbee requested that complete information be given in the future.

Upon a motion made by Deputy Mayor Pro Tem Magnuson and seconded by Council Member Callison, the Council voted 8-0 to approve the minutes of the September 25, 2006 Council Meeting.

**Public Hearing and adoption of Ordinance No. 2006-10-12** to designate a certain area within the City of Plano as Reinvestment Zone No. 100 for a tax abatement consisting of a 4.351 acre tract of land located at 1500 Plano Parkway in the City of Plano, Texas; establishing the boundaries of such zone; ordaining other matters relating thereto; and providing an effective date.

Director of Finance McGrane advised the Council that this request would establish a tax abatement agreement with DCI Plano Venture, Dataside Plano, LLC and Capital One Services Inc for ten years at fifty percent of both real and business personal property. He stated that the site will be utilized as a data center and that improvements are anticipated to be \$23 million with 25 full-time employees. Mr. McGrane responded to the Council that the average wages for employees will be \$60,000.

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 Council Member Ellerbe, the Council voted 8-0 to designate a certain area within the City of Plano as Reinvestment Zone No. 100 for a tax abatement consisting of a 4.351 acre tract of land located at 1500 Plano Parkway in the City of Plano, Texas; establishing the boundaries of such zone; ordaining other matters relating thereto; and providing an effective date; and further to adopt Ordinance No. 2006-10-12.

**Resolution No. 2006-10-13(R):** To approve the terms and conditions of an agreement by and between the City of Plano, Texas, the County of Collin, Texas, the Collin County Community College District, DCI Plano Venture, LP, a Delaware Limited Partnership, Dataside Plano, LLC, a Texas Liability Company, and Capital One Services, Inc., a Texas Corporation, and providing for a business personal property and real property tax abatement, and authorizing its execution by the City Manager; and providing an effective date.

Upon a motion made by Mayor Pro Tem Johnson and seconded by Council Member LaRosiliere, the Council voted 8-0 to approve the terms and conditions of an agreement by and between the City of Plano, Texas, the County of Collin, Texas, the Collin County Community College District, DCI Plano Venture, LP, a Delaware Limited Partnership, Dataside Plano, LLC, a Texas Liability Company, and Capital One Services, Inc., a Texas Corporation, and providing for a business personal property and real property tax abatement, and authorizing its execution by the City Manager; and providing an effective date; and further to adopt Resolution No. 2006-10-13(R).

Mayor Evans congratulated the Plano Economic Development Board for their efforts.

**Ordinance No. 2006-10-14:** To amend Chapter 19 “Streets and Sidewalks,” Article IV “Right-of-Way Management Regulations” at Section 19-72(b)(3) “General Rights-of-Way Use and Construction” by adding a new subparagraph to prohibit the use of nonwashable substances in the public right-of-way to mark the location of existing underground utilities; providing a severability clause; a repealer clause, a savings clause, and an effective date. Item pulled on 9-25-06

Director of Customer and Utility Services Israelson advised that this request is an amendment to the right-of-way management ordinance and spoke to meetings held with utility companies. He advised that the revision would require all markings of existing underground utilities be made with a washable substance that would disappear in 45-60 days. Mr. Israelson responded to the Council that this would mirror regulations in other cities and there is currently no restriction in place.

Upon a motion made by Council Member LaRosiliere and seconded by Deputy Mayor Pro Tem Magnuson, the Council voted 8-0 to amend Chapter 19 “Streets and Sidewalks,” Article IV “Right-of-Way Management Regulations” at Section 19-72(b)(3) “General Rights-of-Way Use and Construction” by adding a new subparagraph to prohibit the use of nonwashable substances in the public right-of-way to mark the location of existing underground utilities; providing a severability clause; a repealer clause, a savings clause, and an effective date; and further to adopt Ordinance No. 2006-10-14.

There being no further discussion, Mayor Evans adjourned the meeting at 8:02 p.m.

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**Pat Evans, MAYOR**

ATTEST:

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**Elaine Bealke, City Secretary**