

**PLANO CITY COUNCIL
SPECIAL CALLED MEETING
DECEMBER 7, 2004**

COUNCIL MEMBERS

Pat Evans, Mayor
Shep Stahel, Mayor Pro Tem
Ken Lambert, Deputy Mayor Pro Tem
Scott Johnson
Phil Dyer
Sally Magnuson
Steve Stovall
Jean Callison

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 called the meeting to order at 7:04 p.m., Tuesday, December 7, 2004, in Training Room A of the Plano Municipal Center, 1520 K Avenue. All Council Members were present with the exception of Council Member Dyer. Council Member Callison arrived at 7:11 p.m. The following was discussed:

Public Hearing – City Charter Discussion and Direction

Mayor Evans advised regarding the process for public comment and invited those in attendance to come forward to address the Council.

Richard Howe, citizen of the City, spoke to learning from each side and determining where things stand now and what direction to go in from this point. He spoke to finding the “best practices” in other cities, forming a task force to do this and then hiring a consultant to perform this task.

David Perry, citizen of the City, spoke in support of single member districts (SMDs’), to the City having grown and to the differences between “then” and “now.” He

spoke to being proactive and understanding the demographics of the City and to it all being about representation. Mr. Perry spoke to the Council serving at the will of the citizens, stated that SMDs' allow everyone to be involved and further spoke to eliminating voter apathy.

David Smith, citizen of the City, spoke to putting matters to a vote by the citizens, not negating the excellent job that has been done by the Council, and to the future of the City. He spoke to an established group of people and to needing diverse representation. Mr. Smith spoke to five SMD places with three at large places to include the Mayor as an option.

Paul Hart, citizen of the City, spoke to giving people the opportunity to vote on an issue, SMDs' being directive of representation, and to placing this option on the ballot and letting the voters decide.

John Radcliff, citizen of the City, spoke in support of SMDs' and helping different walks of life and age groups obtain fair and free representation. He spoke to new things coming in, and needing a voice for change.

Robert Sparkman, citizen of the City, spoke in support of SMDs', removing minority barriers, Council accountability, opposition to changing petition signature requirements, and further spoke to a maximum of two three-year Council terms. He spoke to Plano being a pro-active City and to acting now to move toward SMDs' before it is decided for Plano by the Justice Department.

Fred Moses, citizen of the City, spoke to inviting citizens to become involved. He spoke to SMDs' and not being comfortable with a change at this time, minorities being spread throughout the City, and to needing a vehicle to encourage involvement. He responded to Mayor Evans that encouragement could come from serving on a board, leadership involvement in some capacity in the City, and to extending a welcome to minorities and addressing issues of who we are as a City.

Gabriel Ponce, citizen of the City, spoke to small voter turnout, being in support of SMDs, and to not changing the signature requirements.

Clinton Hendricks, citizen of the City, spoke to SMDs' as being democratic, seven SMD places with an at-large Mayor, and to the people in the district electing their candidate. He stated that the Council has done a great job.

Robert Miller, citizen of the City, stated that SMDs' elect someone they choose, spoke to continuing to elect the same people, providing more Council diversity, and to getting different people involved.

Alan Johnson, spoke to this meeting being an example of open discussion, getting out there and voting, and to the City having “direct” government present here tonight. He spoke to agreement in benchmarking other organizations, having the opportunity to talk with government, and to getting involved with the boards and commissions.

Cara Mendelson, citizen of the City, spoke in support of electing Council Members at-large, and to the responsiveness of the entire City Council.

Jack Lagos, citizen of the City, spoke to change and fairness, demographics in the City, and to heavy concentrations of minorities in areas of the City. He spoke to the importance of changing with the times, and in support seven SMD places. Mr. Lagos spoke to being unable to speak for an individual without having actually lived in their circumstances.

Richard Simmons, citizen of the City, stated he is not in support of a strong mayor system and does not propose to abandon a Mayor/Council/City Manager form of government. He spoke to improving citizen representation and Council accountability and to advantages of geographic representation with SMDs’. Mr. Simmons spoke to close ties between voters and their representatives and to fostering a stable government. He recommended placing an item on the 2005 ballot identifying seven SMD places and an at-large Mayor.

Walter Unglaub, citizen of the City, spoke to 23 out of 24 participating Texas Municipal League cities with a population of 100,000 or better containing some form of SMD representation. He spoke in support of SMDs’ and to placing this before the citizens.

John Myers, citizen of the City, spoke to recent newspaper editorial support of SMDs’, stated that they can work, and spoke further to the diversity of the City. He spoke to occurring changes and looking at some form of SMDs.

David Smith advised Deputy Mayor Pro Tem Lambert that he is in favor of leaving the petition requirements as they currently are but stated he has no problem with the issue being on the ballot with the bottom line being the citizens deciding.

Paul Hart advised Deputy Mayor Pro Tem Lambert that he served on the committee (SMD) that drew Council boundaries which involved analyzing population statistics and growth projections. He spoke to getting representation as close to the people as possible, stated that the current at-large designations do not provide this whereas SMDs’ do, and spoke further to there being no rationale for not accepting the full SMD designations for all but the Mayor.

Glen Tolle spoke to SMDs’ being on the table and asked the Council how and

who would redistrict the City of Plano. City Attorney Wetherbee spoke to the redistricting process and stated that it is not uncommon for a Council to form a committee but that there is criteria to follow. She stated that the legal standard for forcing a political entity to go into an SMD representation requires three standards showing that the minority is a large enough and geographically compact group to constitute a majority within a district in the community and that their objectives are politically cohesive and further show that the white majority will usually vote as a block to defeat a minority candidate. The City Attorney stated she does not believe this has been the history in Plano, and that this would not necessarily be an easy case or a case that the justice department would pursue without supporting facts. She spoke to drafting a district plan per the comments this evening about having representation and to this being a desirable objective from SMDs' but stated the legal standard for doing that is to create a majority minority within a district.

The City Attorney stated the districts have to be geographically compact to prevent gerrymandering, the district has to be contiguous, and the district should be composed of "communities of interest" which is a very amorphous standard that the law uses and which is not necessarily based on race because you cannot come up with the assumption that people of a particular race always vote in the same manner. She spoke to using a demographer to help understand the community and put that together and come up with the districts, and stated that if it is the Council's objective to put this item on the ballot it must be determined how many districts are out there and how many districts should be created so that you create that majority minority district. The City Attorney spoke to cases where individuals may vote similarly even though they are of different races adding to the complexity of the question. She spoke to SMDs' being different than the City's current population based districts.

City Attorney Wetherbee advised Deputy Mayor Pro Tem Lambert that procedurally while you could place an item on the ballot asking the citizens if they support implementing SMDs' (seven) it would be preferable to have a preliminary map knowing that you are able to draw the districts in a way that you create the majority minority districts. She further advised that if the charter amendment were to pass there is still an obligation to have districts that do not create vote dilution which occurs when you don't create the opportunity for minority representation because the district is too large for that minority group. The City Attorney stated that the justice department will be looking at least at a 51% population driven number and use voting age population and not the general population numbers. She spoke to not creating districts where the ability is not created for that majority minority.

City Attorney Wetherbee spoke to a sixty-day pre-clearance timeline required from the Justice Department, scenarios of this being approved or not, and stated that before deciding to place this item on the ballot, determine the number of districts needed based on preliminary work having been done towards seeking justice department approval and meeting Voting Rights Act objectives. She stated that it would be in the

best interest of the City to have more time to study the issue and not have a charter election in May (2005) and wait instead until the following year so that when this is brought before the citizens, assuming it passes, that it is a number that is reasonable in terms of existing population and demographics.

City Attorney Wetherbee advised Council Member Stovall that any decision by the Council that affects a voting practice or procedure must be pre-cleared but that justice department approval of SMDs' is much different than approval of the current system in this City which is an easier threshold to meet. Mr. Stovall spoke to the full dispersion of all ethnicities in the City, and stated that Plano has done very well in this area.

City Attorney Wetherbee advised Council Member Johnson that she does not know whether or not the justice department looks at age, religion, or other factors but that they refer to being "politically cohesive" and having similar interests, and being very well disbursed throughout the City. She recommended that more time and a professional demographer be used, stated that without guessing this would not be achievable for the May (2005) election, and further spoke to having to wait two years to have another Charter change and that haste serves no one's interest.

Deputy Mayor Pro Tem Lambert stated that he likes the current system, spoke to being accountable to every citizen in town, feels he was not elected by a so-called small group, and spoke to campaign expenses. He spoke to placing this item on the ballot now and letting the voters decide or just waiting, and to personally supporting placing this on the ballot. The City Attorney stated that if there are no minority candidates running or if they are running and not being defeated by white candidates, and spoke to this being a standard used by the justice department to force implementation of districts because it is considered a voting dilution. She stated that Plano does not have enough factual history that other cities have had towards forcing SMD implementation.

City Attorney Wetherbee advised Deputy Mayor Pro Tem Lambert that placing an item on the ballot to approve or not approve SMDs' would also require identifying the number of districts chosen and why, as well as some preliminary mapping done based on information obtained. The Council discussed voter turnout history and spoke to this issue prompting better turnout. Council Member Callison spoke to the unfairness of asking citizens to vote on something that can not be seen and identified as only a number (seven).

Council Member Magnuson spoke to how widely disbursed all the ethnic groups are in this City, stated that asking for seven SMDs' will not guarantee any type of minority representation, and that Plano would be better served by the recruiting of candidates. She spoke to all the ethnic groups in the City, and to individuals being content with the way the City is run and to it being incumbent on all of us to go out there and encourage other people to run.

Glen Tolle spoke to “just doing it” whether the number (SMDs’) is four or seven.

Deputy Mayor Pro Tem Lambert spoke to not hearing from citizens regarding a problem with minorities being elected, keeping things simple and taking the first step, having no problem with developing a map if that is what the citizens want, and further stated that when you get down to it there is no conflict with current Council Members discussing issues. Mayor Pro Tem Stahel spoke to keeping it simple and placing this on the ballot, and having a map based on population with the understanding that it might not hold up with the justice department.

Council Member Stovall spoke to taking a vote to decide an issue and stated that one Council Member can not decide anything single-handedly. He spoke to not placing this issue on the ballot, receiving more citizen input, stated that most people are not in favor of SMDs’ and further requested citizens send emails to say yes or no, and identify what portion of charter issues they wish to address. Mr. Stovall spoke to the month of January and stated that he is not convinced the citizens want this issue on the ballot.

David Smith advised Mayor Pro Tem Stahel that he is in favor of going to three three-year terms, stated he is aware of the cycle for serving on state and national committees, and the distraction of re-election every two years.

Robert Sparkman responded to Mayor Pro Tem Stahel stating he is in favor of going to two three-year terms giving others the opportunity to get involved and spoke to still giving Council three-year terms for various purposes.

The Council discussed difficulties realized by current term limitations in serving on regional and state committees.

Deputy Mayor Pro Tem Lambert spoke to current petition signature requirements, previous Municipal elections and vote counts, and stated that overall the average for the last 8 years would be almost identical. He further recommended that this item be removed from consideration. Mayor Evans spoke to the virtue of the 1% being a stable number. Mayor Pro Tem Stahel and Council Member Callison recommended this item not be on the ballot to which Mr. Lambert concurred.

David Perry advised regarding his candidate history in the City as a minority and to being elected on his third try. He spoke to the need for minority representation in Plano being vast, and to receiving calls to run again, having common interests, stated that the opportunity for SMDs’ is great and is needed and that ethnic minorities need to be represented in this City. He spoke to updates needed in the community, large ethnic minority populations, and preferring to run in a district as opposed to running City wide. Mr. Perry spoke to representation, closeness of voters to their representatives, being able to identify themselves with their representatives and to assume that when they come to

City Hall they will get a fair shake.

Council Member Stovall spoke to Mayor Evans doing more to encourage diversity and bringing people into the City and to encouraging citizens in ethnic groups to run for office.

David Perry stated that things are going well in the City, spoke to the importance of being able to talk to people who might have had similar experiences, and to SMDs' providing a more representative form of government. He responded to Mr. Lambert that communities of interest with seven single member districts based on logical neighborhoods would be desirable rather than implementing three, four, or five districts.

Mayor Evans spoke to the legal definitions and requirements that would need to be met in order to change to SMDs' and to the fact that once Charter amendments are on the ballot another election can not be held for two years. She spoke to needing careful planning, the disbursement of ethnic groups throughout the City, and stated that other communities may have had pockets where representative districts had to be drawn. Council Member Stovall spoke to looking at the negative side of SMDs'. City Attorney Wetherbee responded to Mayor Evans stating court standards change as cases evolve and that "communities of interest" is probably described as groups that are politically cohesive and tend to vote similarly on issues. She spoke to not making assumptions about individual voting practices and advised that the courts have said that while race is a factor it cannot be the primary one.

The City Attorney advised that seven districts may not meet the legal standard and that there is not enough information to make that determination, the City must use population figures of voting aged citizens, and that if SMDs' were done "halfway" there could be charges of vote dilution. She advised that the Voting Rights Act's objective is not to guarantee that minorities will have representation but that if there is a minority candidate who is blocked by white candidates there could be a risk of voter dilution. Ms. Wetherbee stated that a City can voluntarily move to SMDs' but that the objective needs to be more than just representation and find that there are minority populations that are compact enough and geographically large enough that if they were put into a district they could become the majority population of that district. She stated that it would be difficult to obtain pre-clearance absent this objective and if it were to clear, it could evoke a response from an aggrieved voter.

Ms. Wetherbee responded to Deputy Mayor Pro Tem Lambert that if nothing is done, the Department of Justice may bring forward a lawsuit or a citizen may say the community needs to move to SMDs' due to vote dilution. She advised that the case would have to show that there are minorities that are geographically compact, that are in a contiguous area and that the white majority voting blocks votes to prevent them from being elected. Ms. Wetherbee further advised that if the case were to go against the City,

the judge could draw the districts or send it back for the parties to resolve.

Council Member Johnson spoke to encouraging citizen participation and to the voters wanting someone who has demonstrated leadership skills, Council Member Stovall spoke to the need for people to vote.

Mr. Unglaub spoke to utilizing current information to begin developing districts and possibly receiving credit for trying to mitigate the situation. Ms. Wetherbee spoke to the need for more specific information and stated that if the number selected is not a sufficient number to allow for minority representation, that in the end the Department of Justice or an aggrieved voter will want to see the districts revised either through a suit or through another charter amendment. She proposed that if the City were to go to SMDs' that they must fit the demographic needs of the community as opposed to just choosing a number. Council Member Johnson spoke to the challenges being brought against the districts that were redrawn following the national election. City Attorney Wetherbee advised Deputy Mayor Pro Tem Lambert that there should not be a greater than 10% deviation between the largest and smallest districts and that should a district be off balance in number, it may be acceptable if there were a physical boundary separating the area.

City Attorney Wetherbee advised Deputy Mayor Pro Tem Lambert that increasing or decreasing the number of districts is a Charter change but that boundary adjustments are not and further that such boundary adjustments would need to go before the Department of Justice. She spoke to the importance of notifying voters that adjustments may take place.

Sonja Hammar, citizen of the City, spoke to citizen dissatisfaction with the Council's manner of handling interests and to not being invited to serve on a board/commission. She spoke to the Council's affiliations with board members and to citizens being "locked out." Mayor Evans responded to Ms. Hammar that appointments are not made only by the Council liaison and reviewed the appointment process and the availability of applications. Ms. Hammar spoke to some individuals receiving preferential treatment during the appointment process and Mayor Evans responded that new people have been appointed including minorities who may be new to the volunteering experience. Mayor Evans spoke to citizens coming forward to take part in the process and Council Member Johnson spoke to completing an application indicating personal interests. Ms. Hammar spoke to the correlation between contributions and those who receive appointments and regarding the process affording board/commission members the option of deleting personal information before public review. She spoke to the difficulty of determining where members reside in the City and the Council spoke to concerns regarding identity theft. City Attorney Wetherbee spoke to a response received

by the Attorney General and to careful review before disclosing the general areas in which board/commission members reside. She spoke to contacting board members through the Staff liaison. Ms. Hammar spoke to the difficulty of contacting board chairs or speaking before boards and spoke to citizens' rights to address committees.

Alan Johnson, spoke to securing a board appointment following a two-year application period.

Jack Lagos spoke to the process involved in passage of the Over-65 Tax Freeze, regarding at-large representation not being fair, there being a one-sided "community of interest" in the City, and to concerns regarding Arts of Collin County issues. He spoke to SMDs' offering a change to the current system and to the City overlooking the needs of Hispanics.

Fred Moses spoke to the possibility of having seven geographic residential districts with election at-large. Mayor Evans responded that the current system with only four geographic residential districts offers more opportunity for individuals to run for office. Mr. Moses spoke to geographic areas offering more of an identity. Mayor Evans stated concern that under a SMD board/commission appointments are made by one Council Member and can be difficult if you do not get along with those making the appointment. Council Member Stovall spoke to the amount of time Council Members in SMDs' spend "making deals." Council Member Johnson spoke to there being disenfranchisement since people can now vote for all Council Members but under an SMD approach they would only be able to vote for their Council Member and the Mayor.

Richard Simmons, spoke to discussing the issue in open debate and putting it before the voters. He spoke to placing the issue on the ballot identified with a number of districts and to spending the money to develop the plan once the issue is passed. City Attorney Wetherbee spoke to doing preliminary research regarding the number of "communities of interest" and to telling voters what the outcome would be. She stated concern with choosing a number that may not be the right one and the problems that might ensue.

Council Member Callison spoke to a change having a purpose and being for the betterment of the community. The Council spoke regarding the cost of running for public office and stated that figures may not be so different if SMDs' were in place. Council Member Stovall spoke to input from the community in opposition to SMDs'

Cara Mendleson spoke to those who feel disenfranchised and to the responsiveness of the current Council Members. She spoke to having relationships with every member and to the current system offering more voices for the citizens even those that do not reside in the same geographic area. Ms. Mendleson spoke regarding the demographics in the western area of the City. Mayor Evans and Council Member Johnson spoke to Districts 2 and 3 having the largest Asian populations and to

disbursement of minorities throughout the City.

Mayor Evans spoke to placing discussion of the Charter Amendments on the January 10 Council Agenda. City Attorney Wetherbee advised that an ordinance would require sufficient time for Department of Justice review. The Council stated concurrence to remove consideration of amending petition signature requirements from the proposed Charter Amendments. Mayor Evans stated that citizens could contact Council Members via e-mail or telephone regarding issues and that no Public Hearing would be conducted unless there was an urgent need. Deputy Mayor Pro Tem Lambert spoke to making the best decision for the community. Mayor Evans thanked the Council and Staff for their efforts and the public for their input.

Nothing further was discussed. Mayor Evans adjourned the meeting at 9:59 p.m.

Pat Evans, **MAYOR**

ATTEST:

Elaine Bealke, City Secretary