

PLANO CITY COUNCIL
December 22, 2008

COUNCIL MEMBERS

Pat Evans, Mayor
Jean Callison, Mayor Pro Tem
Harry LaRosiliere, Deputy Mayor Pro Tem
Pat Miner
Scott Johnson
Mabrie Jackson
Sally Magnuson
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
John Gilliam, First Assistant City Attorney
Diane Zucco, City Secretary

Mayor Evans convened the Council directly into the Regular Session from the Preliminary Open Meeting on Monday, December 22, 2008, 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 Council Member Dunlap. The Pledge of Allegiance was led by Council Member Jackson.

Mayor Evans administered oaths of office to incoming board and commission members and recognized service of others.

Comprehensive Monthly Financial Report

Director of Finance Tacke advised that for the month of November, General Fund revenue was down slightly as compared to last year as were expenditures with the Water and Sewer fund unchanged in revenue and up slightly in expenditures. She spoke regarding the slight increase in unemployment to just below five percent and a small increase in sales tax revenue. Ms. Tacke advised that housing starts and the price per square foot declined, that there are not significant changes in hotel/motel taxes, and that the City's portfolio remains in a liquid position with yields higher than the benchmark.

Tax Exemption for Charitable Organizations

Director of Budget and Research Rhodes-Whitley spoke regarding House Bill 1689 passed in 2001 allowing a council to determine if a charitable organization may receive an exemption for real or personal property and a request from Masonic Lodge 768 for property located at 1414 Avenue J.

Ms. Rhodes-Whitely spoke to a previous request denied in 1999 (prior to passage of the bill) and to consideration by other Metroplex cities as well as the school district. She responded to Council Member Jackson, stating that other interested organizations would need a determination letter from the comptroller and that this is the only group eligible as identified by Collin County. The Council requested information regarding specific requirements for eligibility and Bob Parnell, representing the Masonic Lodge spoke to services provided by the organization. Council Member Jackson requested information regarding the effect on the exemption should the organization no longer conduct charitable business on the property.

Discussion and Direction regarding forwarding review of the City of Plano Sign Ordinance to the Planning and Zoning Commission with consideration of, but not limited to the following: banners; canopy, promotional, awning and monument signage; and building signage/project names.

Mayor Evans spoke to current trends in marketing and signage at shopping centers (banners; canopy, promotional, awning and monument signage; and building signage/project names) and to consideration of Plano's regulations to offer retailers venues similar to those in other areas. Mayor Pro Tem Callison spoke regarding prior service on the Banner Sign Committee and being retailer-friendly. The Council concurred to forward review of the sign ordinance to the Commission.

Council items for discussion/action on future agendas

Council Member Jackson requested an agenda item to discuss concerns/issues related to unsolicited newspaper delivery.

Consent and Regular Agenda

City Secretary Zucco advised that Council Member Dunlap requested Consent Agenda Items "D," Bid No. 2009-21-B for the Independence Parkway Paving Improvements – McDermott Road to State Highway 121 to Tiseo Paving Company in the amount of \$1,199,513; and "K," Approval of a Change Order to Jim Bowman Construction Co., L.P., increasing the contract by \$72,993 for Intersection Improvements 2004 be removed for individual consideration due to possible conflicts of interest.

City Secretary Zucco advised that Council Member Jackson requested Consent Agenda Item "H," purchase from an existing contract in the amount of \$883,302 with Software House International (SHI) for a Microsoft Enterprise Agreement renewal and true-up be removed for individual consideration due to a possible conflict of interest.

City Secretary Zucco advised that Staff has requested that Consent Agenda Items "L," Modification to an Existing Contract by and between the City and HD Supply Waterworks, LTD to allow the purchase of additional parts and services and to increase the original; "M," an ordinance to transfer the sum of \$1,715,906 from the Water & Sewer Fund Unappropriated Fund Balance to the Water & Sewer Fund Appropriation for Fiscal Year 2008-09 for the purpose of providing additional funding for increased costs associated with the Fixed Network Meter Project; and "T," a resolution to approve the terms and conditions of an Amendment to Development Agreement between the City of Plano, Texas and Pinnacle AMS Development Company, LLC for development of Eastside Station be removed for individual consideration.

CONSENT AGENDA

Upon a motion made by Council Member Miner and seconded by Council Member Dunlap, the Council voted 8-0 to approve and adopt all remaining items as recommended and as follows:

Approval of Minutes [Consent Agenda Item (A)]

December 8, 2008

Approval of Expenditures

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

Bid No. 2008-229-C for Top Soil and Sand for Compost Blends. Line Item 1 (Top Soil) to Earth Haulers, Inc. in the estimated amount of \$44,000 and Line Item 2 (Sand) to David Copeland Sand & Gravel, Inc. in the estimated amount of \$75,000 for a total estimated contract amount of \$119,000. The term of this contract is for one year with three City optional one year renewals. [Consent Agenda Item (B)] (See Exhibit "A")

CSP No. 2008-183-B for Class IV Armored Response Vehicle in an amount not to exceed \$152,350 to Lenco Armored Vehicles. This vehicle is purchased under the terms of the 2007 LETPP (Homeland Security) Grant. [Consent Agenda Item (C)] (See Exhibit "B")

Bid No. 2009-26-B for the Mapleshade Lift Station to Crescent Constructors, Inc., in the amount of \$2,375,029. This project consists of the construction of a 7.5 million gallon a day lift station south of Mapleshade Lane between Coit Road and Ohio Drive. [Consent Agenda Item (E)] (See Exhibit "C")

Purchase from an Existing Contract

To approve the purchase of GIS Maintenance Expenses as designated in the amount of \$57,222 from ESRI through a State of Texas Department of Information Resources (DIR) contract, and authorizing the City Manager to execute all necessary documents. (DIR-SDD-492) [Consent Agenda Item (F)]

To approve an expenditure for a Service Agreement between Motorola and the City of Plano in the amount of \$171,710 through an existing contract with the Department of Information Resources, and authorizing the City Manager to execute all necessary documents. (DIR-SDD-477) [Consent Agenda Item (G)]

Approval of Change Order

To McMahon Contracting, L.P., increasing the contract by \$159,982 for the 2007-2008 Arterial Concrete Pavement Rehabilitation Project, Parker Road, Pleasant Valley and Country Place Drive, Project No. 5867, Change Order No. 1, Bid No. 2008-156-B.

This is for additional concrete street pavement repairs on Parker Road between Coit Road and Preston Road. [Consent Agenda Item (I)]

To Birkhoff, Hendricks & Conway, L.L.P., increasing the Professional Services contract by \$44,500 for the Jupiter Road Elevated Tank Repaint. Contract Modification No. 1 is for additional engineering and inspection services. [Consent Agenda Item (J)]

Adoption of Ordinances

Ordinance No. 2008-12-14: To amend Article V, Chapter 12, Motor Vehicles and Traffic of the Code of Ordinances of the City of Plano by adding Section 12-114.1, to Article V, Chapter 12, Motor Vehicles and Traffic of the Code of Ordinances of the City of Plano to prohibit stopping, standing, or parking of a vehicle with a gross vehicle weight rating of 10,000 pounds or more on Split Trail Road, along both sides from its intersection with East Spring Creek Parkway south to its intersection with K Avenue, and Wedgewood Drive, along both sides from its intersection with Dallas Parkway west to its intersection with Communications Parkway, within the city limits of the City of Plano; providing a repealing clause; a severability clause; a savings clause; a penalty clause; a publication clause; and an effective date. [Consent Agenda Item (N)]

Ordinance No. 2008-12-15: To adopt and enact Supplement Number 84 to the Code of Ordinances for the City of Plano; providing for amendment to certain sections of the Code; and providing an effective date. [Consent Agenda Item (O)]

Adoption of Resolutions

Resolution No. 2008-12-16(R): To approve and authorize the refunds of property tax overpayments; and providing an effective date. [Consent Agenda Item (P)]

Resolution No. 2008-12-17(R): To repeal Resolution No. 2008-5-26(R) and approve the terms and conditions of an Agreement by and between the City of Plano, Texas, and The Shops at Legacy (North) LLC, a Texas limited liability company, providing for a Real Property Improvement Tax Abatement, and authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (Q)]

Resolution No. 2008-12-18(R): To authorize the investment of public funds in the TexasTERM or TexasDAILY public funds reinvestment pool; designating City representatives to transmit funds for investment in the pool; and providing an effective date. [Consent Agenda Item (R)]

Resolution No. 2008-12-19(R): To approve and adopt the amended and restated City of Plano Supplemental Savings Plan; authorizing its execution by the City Manager; delegating to the City Manager the authority to adopt future plan amendments where such amendments do not materially increase the cost of the plan to the City; and providing an effective date. [Consent Agenda Item (S)]

Resolution No. 2008-12-20(R): To approve the terms and conditions of an Assignment of Development Agreement by and between Pinnacle AMS Development Company, LLC, Southern/Pinnacle AMS Development Company, LLC and the City of Plano, Texas for development of Eastside Station – Plano; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (U)]

Resolution No. 2008-12-21(R): To approve a Licensing Agreement by and between the City of Plano and the North Central Texas Council of Governments; providing terms and conditions for the purchase of digital aerial photography in the amount of \$8,651; authorizing execution of the License Agreement by the City Manager; and providing an effective date. [Consent Agenda Item (V)]

Resolution No. 2008-12-22(R): To repeal Resolution 2005-10-24(R); adopting new criteria and procedures for the Safe Streets Program (SSP), to provide for the Planning & Zoning Commission to assume the responsibilities of the Transportation Advisory Committee. [Consent Agenda Item (W)]

END OF CONSENT

COMMENTS OF PUBLIC INTEREST

No one appeared to speak.

ITEMS FOR INDIVIDUAL CONSIDERATION

Due to possible conflicts of interest, Council Member Dunlap stepped down from the bench on the following two items which were considered concurrently.

Bid No. 2009-21-B for the Independence Parkway Paving Improvements – McDermott Road to State Highway 121 to Tiseo Paving Company in the amount of \$1,199,513 for the Alternate 2 Bid for low nitrous oxide dry kiln cement. The project consists of widening Independence Parkway from 4 lanes to 6 lanes from McDermott Road to State Highway 121. [Consent Agenda Item (D)]

Approval of a Change Order: To Jim Bowman Construction Co., L.P., increasing the contract by \$72,993 for Intersection Improvements 2004, Change Order No. 1. This includes work on all three project locations: Spring Creek Parkway at Lookout Trail, Commerce Drive at Plano Parkway and West Park Boulevard at Ohio Drive. This is for additional work related to replacement of deteriorated paving adjacent to the project areas, also included are additional barrier free ramps and sidewalk replacement determined to be necessary to satisfy handicapped requirements. [Consent Agenda Item (K)]

Upon a motion made by Deputy Mayor Pro Tem LaRosiliere and seconded by Council Member Magnuson, the Council voted 7-0 to approve Bid No. 2009-21-B for the Independence Parkway Paving Improvements – McDermott Road to State Highway 121 to Tiseo Paving Company in the amount of \$1,199,513 for the Alternate 2 Bid for low nitrous oxide dry kiln cement; and approve a change order to Jim Bowman Construction Co., L.P., increasing the contract by \$72,993 for Intersection Improvements 2004, Change Order No. 1.

Council Member Dunlap resumed his seat at the bench.

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

Purchase from an Existing Contract: To authorize an expenditure in the amount of \$883,302 with Software House International (SHI) for a Microsoft Enterprise Agreement renewal and true-up for our server and desktop licenses through a Department of Information Resources (DIR) Contract, and authorizing the City Manager to execute all necessary documents. (SHI DIR Contract No. DIR-SDD-198) [Consent Agenda Item (H)]

Upon a motion made by Deputy Mayor Pro Tem LaRosiliere and seconded by Council Member Dunlap, the Council voted 7-0 to authorize an expenditure in the amount of \$883,302 with Software House International (SHI) for a Microsoft Enterprise Agreement renewal and true-up for our server and desktop licenses through a Department of Information Resources (DIR) Contract.

Council Member Jackson resumed her place at the bench.

Modification to an Existing Contract: To approve the terms and conditions of a third modification to an existing contract by and between HD Supply Waterworks, LTD and the City of Plano executed on March 25, 2008 to allow the purchase of additional parts and services and to increase the original contract amount by up to \$700,000 or 3.74% for these purchases; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (L)]

Director of Customer and Utility Services Israelson spoke regarding the initial contract for \$18.7 million to provide an updated water meter system utilizing the Moto Mesh network and modifications including addition of confidentiality language, implementation of a five-year timeframe rather than eight years, utilizing a contractor and the current request to include additional costs for meter access and contractors fees.

Upon a motion made by Council Member Magnuson and seconded by Mayor Pro Tem Callison, the Council voted 8-0 to approve the terms and conditions of a third modification to an existing contract by and between HD Supply Waterworks, LTD and the City of Plano executed on March 25, 2008 to allow the purchase of additional parts and services and to increase the original contract amount by up to \$700,000 or 3.74% for these purchases.

Ordinance No. 2008-12-23: To transfer the sum of \$1,715,906 from the Water & Sewer Fund Unappropriated Fund Balance to the Water & Sewer Fund Appropriation for Fiscal Year 2008-09 for the purpose of providing additional funding for increased costs associated with the Fixed Network Meter Project; amending the budget of the City and Ordinance 2008-9-15, Section 1, Item "L" to reflect the actions taken herein; declaring this action to be a case of public necessity; and providing an effective date. [Consent Agenda Item (M)]

Director of Customer and Utility Services Israelson spoke to the funding needed to cover the costs of contract modifications.

Upon a motion made by Council Member Jackson and seconded by Council Member Magnuson, the Council voted 8-0 to transfer the sum of \$1,715,906 from the Water & Sewer Fund Unappropriated Fund Balance to the Water & Sewer Fund Appropriation for Fiscal Year 2008-09 for the purpose of providing additional funding for increased costs associated with the Fixed Network Meter Project; amending the budget of the City and Ordinance 2008-9-15, Section 1, Item "L" to reflect the actions taken herein; declaring this action to be a case of public necessity; and providing an effective date; and further to adopt Ordinance No. 2008-12-23.

Resolution No. 2008-12-24(R): To approve the terms and conditions of an Amendment to Development Agreement between the City of Plano, Texas and Pinnacle AMS Development Company, LLC for development of Eastside Station – Plano; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (T)]

Executive Director Turner spoke to the request amending the terms of an agreement and extending the dates for performance and to the transfer of the project to a new corporate entity. Tim Downey of Southern Land Company spoke to moving forward with the project.

Upon a motion made by Council Member Magnuson and seconded by Council Member Dunlap, the Council voted 8-0 to approve the terms and conditions of an Amendment to Development Agreement between the City of Plano, Texas and Pinnacle AMS Development Company, LLC for development of Eastside Station – Plano; authorizing its execution by the City Manager; and providing an effective date and further to adopt Resolution No. 2008-12-24(R) with revisions.

Resolution No. 2008-12-25(R): To approve the terms and conditions of an Economic Development Incentive Agreement by and between the City of Plano, Texas and Raising Cane's USA LLC, a Louisiana limited liability company; authorizing its execution by the City Manager; and providing an effective date. [Regular Agenda Item (1)]

Director of Finance Tacke spoke to the company relocating from Baton Rouge, Louisiana, occupying not less than 24,813 square feet of office space by January 2009, employment of 48 by April 30, 2009 and a median annual salary of \$58,500. She advised that the term runs from January 31, 2009 to July 31, 2013 and the 380 Grant is in the amount of \$42,400.

Upon a motion made by Council Member Jackson and seconded by Council Member Miner, the Council voted 8-0 to approve the terms and conditions of an Economic Development Incentive Agreement by and between the City of Plano, Texas and Raising Cane's USA LLC, a Louisiana limited liability company; authorizing its execution by the City Manager; and providing an effective date; and further to adopt Resolution No. 2008-12-25(R).

Resolution No. 2008-12-26(R): To approve the terms and conditions of an Economic Development Incentive Agreement by and between the City of Plano, Texas and RomaCorp, Inc., (dba Tony Roma's), a Delaware corporation; authorizing its execution by the City Manager; and providing an effective date. [Regular Agenda Item (2)]

Director of Finance Tacke spoke to the company relocating from Dallas, occupying no less than 6,700 square feet with an employment of 15 and a median annual salary of \$105,000. She advised that the term runs from October 31, 2008 to March 1, 2012 and that the company will maintain business and personal property of not less than \$80,000 for a 380 Grant of \$15,000 and spoke regarding additional incentives for management level additions.

Upon a motion made by Council Member Miner and seconded by Council Member Johnson, the Council voted 8-0 to approve the terms and conditions of an Economic Development Incentive Agreement by and between the City of Plano, Texas and RomaCorp, Inc., (dba Tony Roma's), a Delaware corporation; authorizing its execution by the City Manager; and providing an effective date; and further to adopt Resolution No. 2008-12-26(R).

Resolution No. 2008-12-27(R): To approve the terms and conditions of an Economic Development Incentive Agreement by and between the City of Plano, Texas and MarketNet, Inc., a Texas corporation; authorizing its execution by the City Manager; and providing an effective date. [Regular Agenda Item (3)]

Director of Finance Tacke spoke to the company relocating from Dallas, occupying no less than 10,000 square feet with an employment of 31 jobs and a median annual salary of \$75,000. She advised that the term runs from December 31, 2008 to December 30, 2013 and the company maintaining business personal property of not less than \$150,000 for a 380 Grant of \$15,500.

Upon a motion made by Deputy Mayor Pro Tem LaRosiliere and seconded by Council Member Jackson, the Council voted 8-0 to approve the terms and conditions of an Economic Development Incentive Agreement by and between the City of Plano, Texas and MarketNet, Inc., a Texas corporation; authorizing its execution by the City Manager; and providing an effective date; and further to adopt Resolution No. 2008-12-27(R).

There being no further discussion, Mayor Evans adjourned the meeting at 7:50 p.m.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, City Secretary