

PLANO CITY COUNCIL

WILL CONVENE INTO SPECIAL CALLED SESSION AT 5:00 P.M., AUGUST 31, 2011, IN THE PLANO MUNICIPAL BUILDING, 1520 K AVENUE, IN COMPLIANCE WITH VERNON'S TEXAS CODES ANNOTATED, GOVERNMENT CODE CHAPTER 551 (OPEN MEETINGS ACT), AS FOLLOWS:

Mission Statement: The mission of the City of Plano is to provide outstanding services and facilities, through cooperative efforts with our citizens, that contribute to the quality of life in our community.

Special Called Session

- I. A second public hearing on a proposal to increase total tax revenues from properties on the tax roll in the preceding tax year by 1.66 percent (percentage by which proposed tax rate exceeds lower of rollback tax rate or effective tax calculated under Chapter 26, Tax Code). (First public hearing conducted August 22, 2011.)
- II. Consideration of an Ordinance to order a Special Election to be held on November 8, 2011 in and throughout the City of Plano, Texas for the purpose of submitting propositions to the qualified voters of the City for amendments to the City Charter as follows: Provide for the election of City Council Members from three to four year terms and reduce the number of terms served from three to two and apply the term limits to any full term served; provide changes to the Municipal Court to allow the City Council to select all judges and decide terms of office and grounds for removal, and expand powers of the court; provide a single proposition to correct non-substantive errors, clarify meanings, correct paragraph numbering; conform to requirements of federal and state law, remove redundant provisions otherwise provided for in state or federal law; and revise references to repealed or obsolete provisions of federal or state law or city charter; designating polling locations for such Special Election; ordering Notice of Election to be given as prescribed by law in connection with such election; and providing an effective date. (Public hearings conducted on August 8, 2011, August 13, 2011, and August 22, 2011).

In accordance with the provisions of the Open Meetings Act, during Special Called Sessions, agenda items will be discussed and votes may be taken where appropriate. The City Council may convene into Executive Session to discuss posted items in the session as allowed by law.

Municipal Center is wheelchair accessible. A sloped curb entry is available at the main entrance facing Avenue L, with specially marked parking spaces nearby. Access and special parking are also available on the north side of building. The Council Chamber is accessible by elevator to the lower level. Requests for sign interpreters or special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary at 972-941-7120.



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY					
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory					
Council Meeting Date:		8/31/11			
Department:		Budget & Research			
Department Head		Karen Rhodes-Whitley			
Agenda Coordinator (include phone #): Anita Bell, 7194					
CAPTION					
A second public hearing on a proposal to increase total tax revenues from properties on the tax roll in the preceding tax year by 1.66 percent (percentage by which proposed tax rate exceeds lower of rollback tax rate or effective tax calculated under Chapter 26, Tax Code).					
FINANCIAL SUMMARY					
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	2011-12	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	0	0	0
Encumbered/Expended Amount		0	0	0	0
This Item		0	0	0	0
BALANCE		0	0	0	0
FUND(S):					
COMMENTS: This is the second of two required public hearings on the proposed tax revenue increase. The first public hearing was held on August 22, 2011 at 7:00 p.m. The second public hearing will be held on August 31, 2011 at 5:00 p.m. The City of Plano tax rate is proposed to remain at \$.4886 per \$100 of taxable value.					
SUMMARY OF ITEM					
Second public hearing on the proposed tax revenue increase.					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		
Ag 213 Second Public Hearing Tax Revenue Increase					



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY	
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory	
Council Meeting Date:	8/31/11
Department:	Legal Department
Department Head	Diane Wetherbee
Agenda Coordinator (include phone #): Betsy Allen, Ext. 7545	

CAPTION

An Ordinance of the City of Plano, Texas, ordering a Special Election to be held on November 8, 2011 in and throughout the City of Plano, Texas for the purpose of submitting propositions to the qualified voters of the City for amendments to the City Charter as follows: Provide for the election of City Council Members from three to four year terms and reduce the number of terms served from three to two and apply the term limits to any full term served; provide changes to the Municipal Court to allow the City Council to select all judges and decide terms of office and grounds for removal, and expand powers of the court; provide a single proposition to correct non-substantive errors, clarify meanings, correct paragraph numbering; conform to requirements of federal and state law, remove redundant provisions otherwise provided for in state or federal law; and revise references to repealed or obsolete provisions of federal or state law or city charter; designating polling locations for such Special Election; ordering Notice of Election to be given as prescribed by law in connection with such election; and providing an effective date. (Public Hearings conducted on August 8, 2011, August 13, 2011, and August 22, 2011).

FINANCIAL SUMMARY

NOT APPLICABLE
 OPERATING EXPENSE
 REVENUE
 CIP

FISCAL YEAR: 2010-11	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0

FUND(s):

COMMENTS: This item has no financial impact.

STRATEGIC PLAN GOAL: Amendments to the City Charter relates to the City's goal of Partnering for Community Benefit.

SUMMARY OF ITEM

In the 2011 session, the Texas Legislature passed Senate Bill 100 implementing provisions of the Military and Overseas Voter Empowerment Act passed by Congress in 2009 which makes the voting process more accessible for military/overseas citizens. S.B. 100 overlays the period between the state's primary and primary runoff election (in even years) upon the uniform election day utilized by the City of Plano which is the second Saturday in May. Following discussions with the Collin County Elections Administrator and public hearings held on August 8, 13 and 22, the Council has determined that in order to be fiscally responsible to the citizens of Plano and to maintain the continuity of the City's election process, a special charter election shall be ordered to



CITY OF PLANO COUNCIL AGENDA ITEM

move Council Members to four-year staggered terms elected in odd-numbered years with a limit of two terms.

Additionally, a proposition will provide changes to the Municipal Court so that it has the necessary elements in order to be eligible to be a court of record and another proposition will amend charter provisions that are obsolete or have been preempted by state or case law.

List of Supporting Documents:

Ordinance

Other Departments, Boards, Commissions or Agencies

An Ordinance of the City of Plano, Texas, ordering a Special Election to be held on November 8, 2011 in and throughout the City of Plano, Texas for the purpose of submitting propositions to the qualified voters of the City for amendments to the City Charter as follows: Provide for the election of City Council Members from three to four year terms and reduce the number of terms served from three to two and apply the term limits to any full term served; provide changes to the Municipal Court to allow the City Council to select all judges and decide terms of office and grounds for removal, and expand powers of the court; provide a single proposition to correct non-substantive errors, clarify meanings, correct paragraph numbering; conform to requirements of federal and state law, remove redundant provisions otherwise provided for in state or federal law; and revise references to repealed or obsolete provisions of federal or state law or city charter; designating polling locations for such Special Election; ordering Notice of Election to be given as prescribed by law in connection with such election; and providing an effective date.

NOW THEREFORE, BE IT ORDAINED BY THE CITY CODE OF ORDINANCES OF THE CITY OF PLANO, TEXAS THAT:

Section I. A Special Election is hereby ordered to be held in and throughout the City of Plano, Texas on Tuesday, November 8, 2011, at which time there shall be submitted to the qualified voters of the City the following propositions for amendment to the Charter of the City of Plano:

Proposition 1 ballot language shall read:

Shall Section 3.01. Number, selection and term of Article 3 of the Plano City Charter be amended to change city council terms from three years to four years; hold elections in odd-numbered years beginning in 2013 for Places 2, 4, 6, & 8 and in 2015 for Places 1, 3 5, & 7; change the term limits from three terms to two terms; and term limits shall be applied retroactively for city council members currently serving?

_____ For

_____ Against

In the event Proposition 1 is approved by the voters, Section 3.01. shall thereafter read as follows:

“Sec. 3.01. Number, selection and term.

(a) The city council shall be divided into eight (8) places known as places 1, 2, 3, 4, 5, 6, 7, and 8 with places on the official ballot designated as “Member of council, place no. _____,” or “Member of council, mayor, place no. six (6),” with the election for each place from the city at large, determined by a majority vote of the qualified voters voting at the election. Member of council, place no. six (6) is hereby designated as mayor. Each candidate shall designate the specific place for which he is a candidate for election.

The city shall by ordinance be divided into four (4) geographic districts based on equality of population. No person shall be eligible to be a candidate for council representative of a geographic district unless the candidate is at that time a bona fide resident in said district. Council geographic district representatives must continuously reside in said district during their term or terms of office. Candidates for at large places may reside in any portion of the city. The city council may appoint a commission to recommend establishment of district boundaries.

(b) The mayor shall preside at meetings of the council, and shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law but shall have no regular administrative duties. He may participate in the discussion of all matters coming before the council and shall be entitled to vote as a member thereof, on legislative or other matters.

(c) Council shall be elected in odd-numbered years with Places 2, 4, 6, and 8 beginning in 2013, and Places 1, 3, 5 and 7 beginning in 2015. Each person elected shall hold office for a period of four (4) years and until his successor is elected and qualified. All elections shall be held in the manner provided in Article 5 of this charter. No person shall serve more than two consecutive full terms. A person who has served as a member of the city council for two (2) consecutive full terms shall not again be eligible for election to any place on the city council until at least one (1) year has elapsed, except such council member shall be eligible for election as mayor.

The two consecutive full term limit shall be applied retroactively to persons serving at the time of passage of this charter amendment.

(d) The mayor, members of the city council and appointed members of every council-appointed commission, committee or study group who announces for any elective office other than that which he or she is holding at the time of announcing for office, which office is to be held in and for the City of Plano, shall resign his elective or appointive office upon announcing for such elective office. If the candidate fails to resign, the city council shall consider the office vacant as of the date of announcement for office, in the minutes of the next regular council meeting.”

Proposition 2 ballot language shall read:

Shall Section 4.04. Municipal court of Article 4 of the Plano City Charter be amended to allow the court to operate as authorized by the City; allow the city council to appoint all judges for specific terms including appointment of the chief municipal judge when a vacancy occurs; and, provide a process and reasons for the removal of any judge?

_____ For

_____ Against

In the event Proposition 2 is approved by the voters, Section 4.04. shall thereafter read as follows:

“Sec. 4.04. Municipal court: Powers; appointment and removal of judges; clerk duties.

(a) There shall be established and maintained a court designated as the “municipal court” for the trial of misdemeanor offenses, with all such other powers and duties as now or hereafter may be prescribed by the laws of the State of Texas and this City.

(b) The judge of said court shall be appointed by the city council of the City of Plano, shall be designated as the chief municipal judge, and shall receive such salary as may be fixed by the city council.

(c) The city council may establish and maintain from time to time one (1) or more ancillary municipal courts which shall be presided over by associate judges who shall exercise such ancillary jurisdiction and hear such cases that shall be assigned to them by the chief municipal judge. The chief and associate judges shall be selected and appointed by the city council to serve specific terms. Initial appointment and reappointment to any term is at the discretion of the city council.

(d) The chief municipal judge and associate judges may be removed during their term of office by a majority vote of all members of the city council eligible to serve. Removal may include any one or more of the following grounds: dereliction of duty, incompetency, incapacity to serve, conduct discrediting the position, or misconduct.

(e) If a vacancy occurs in the office of chief municipal judge during an appointed term, the city council shall appoint a qualified person to fill the office for the remainder of the unexpired term and such appointee shall have all the powers and duties of the office and shall receive the same compensation as is payable to the chief municipal judge, while the appointee is so acting and until the expiration of such term.

(f) The clerks of said courts shall have the power to administer oaths and affidavits, make certificates, affix the seal of said courts thereto, and generally to do and perform any and all acts usual and necessary by the clerks of courts in issuing process of said courts and conducting the business thereof.”

Proposition 3 ballot language shall read:

Shall changes be made to the Plano City Charter throughout to correct non-substantive errors to revise obsolete dates and clarify language by amending City Charter Sections 1.02, 2.02, 5.01, 6.03, and 11.11; and shall language be revised or removed to conform to federal, state and local law including removing redundant provisions thereby changing City Charter Sections 3.02, 3.06, 4.07, 6.07, 7.02, 9.06, 9.14, 10.02, 10.04, 10.11, 11.01, 11.04 and deleting in their entirety City Charter Sections 6.11, 8.01, 8.03, and 10-A.02?

_____ For

_____ Against

In the event Proposition 3 is approved by the voters, the affected City Charter sections shall be amended to read as follows:

“Sec. 1.02. The boundaries.

The boundaries of the City of Plano shall be the same as have heretofore been established as of the date of the adoption of this charter and as may change from time to time by official legislative action. The City Secretary shall maintain an official map of its boundaries in accordance with Chapter 41 of the Texas Local Government Code as now or hereafter amended.

Sec. 2.02. General powers adopted.

The enumeration of the particular powers in this charter shall not be held or deemed to be exclusive but in addition to the powers enumerated herein or implied hereby or appropriate to the exercise of such powers, the city shall have and may exercise all power of local self-government and all other powers which, under the constitution and laws of the State of Texas, it would be competent for this charter specifically to enumerate. The City of Plano shall have and may exercise all the powers enumerated in Article 1175, Chapter 13, Title 28, of the Revised Civil Statutes of the State of Texas as now or hereafter amended.

Sec. 3.02. Qualifications.

Each member of the city council shall be a resident citizen of the City of Plano, shall be a qualified voter of the State of Texas, shall have been such resident citizen of the City of Plano for a period of not less than twelve (12) months immediately preceding his election, and shall not be indebted to the City of Plano; provided, however, that any person who shall have been a resident for a period of not less than one (1) year immediately preceding his election, of any of the territory not formerly within the corporate limits of said city, but which is annexed under the provisions of section 1.03 of this charter, shall be eligible for said office.

If the mayor or any councilman fails to maintain the forgoing qualification, or shall be absent from three (3) consecutive regularly scheduled meetings without a valid excuse, the city council must at its next regular meeting declare a vacancy to exist and shall fill said vacancy as set forth in section 3.06 of this charter.

Sec. 3.06. Vacancies.

When a vacancy occurs in the city council, the city council shall call a special election within one hundred and twenty (120) days from the date that the last vacancy occurred, to be held in accordance with the provisions of the Texas Election Code, for the purpose of electing the successor or successors to the office or offices vacated.

Sec. 4.07. Appointees.

All appointees to City of Plano boards and commissions must be residents of the City of Plano for at least twelve (12) consecutive months prior to appointment to a board or commission of the City of Plano. The twelve (12) month residency requirement shall not apply to any person whose property was not formerly within the city limits but that has been annexed under section 1.03 of the charter. No person shall be appointed to more than two (2) permanent boards or commissions of the City of Plano at any one time.

Sec. 5.01. Elections.

The city's general election shall be held as prescribed by the Texas Election Code. The city council shall fix the place for holding such election. The city council may order a special election, fix the place for holding same and provide all means for holding such special election. Notice of the general election shall be given in accordance with the requirements set forth in the Texas Election Code.

Sec. 6.03. Form of recall petition.

The recall petition mentioned above must be addressed to the city council of the City of Plano, must distinctly and specifically point out the ground or grounds upon which such petition for removal is predicated, and, if there be more than one ground, such as for incompetency, misconduct or malfeasance in office, shall specifically state each ground with such certainty as to give the officer sought to be removed, notice of the matters and things with which he is charged. The signature shall be verified by oath in the following form:

STATE OF TEXAS, COUNTY OF COLLIN

I, _____, being first duly sworn, on oath depose and say that I am one of the signers of the above petition; and that the statements made therein are true, and that each signature appearing thereto was made in my presence on the day and date it purports to have been made, and I solemnly swear that the same is the genuine signature of the person whose name it purports to be.

Sworn to and subscribed to before me this ____ day of _____, 20_____.

Notary Public in and for State of Texas.

Sec. 6.07. Election to be called.

If the officer whose removal is sought does not resign, then the city council shall order an election and set the date for holding such recall election. The date selected for the recall election shall be in accordance with the Texas Election Code. If, after the recall election date is established, the officer vacates his or her position, the recall election shall be cancelled and the vacancy shall be filled in accordance with state law.

Sec. 6.11. Failure of city council to call an election.

Delete in its entirety

Sec. 7.02. Initiative.

Qualified voters of the City of Plano may initiate legislation by submitting a petition addressed to the city council which requests the submission of a proposed ordinance or resolution to a vote of the qualified voters of the city. Said petition must be signed by qualified voters of the city equal in number to twenty (20) percent of the number of votes cast at the last regular municipal election of the city, or one hundred fifty (150), whichever is greater, and each copy of the petition shall have attached to it a copy of the proposed legislation. The petition shall be signed in the same manner as recall petitions are signed, as provided in section 6.02 of this charter, and shall be verified by oath in the manner and form provided for recall petitions in section 6.03 of this charter. The petition may consist of one (1) or more copies as permitted for recall petitions in section 6.04 of this charter. Such petition shall be filed with the person performing the duties of city secretary. Within five (5) days after the filing of such petition, the person performing the duties of city secretary shall present said petition and proposed ordinance or resolution to the city council. Upon presentation to it of the petition and draft of the proposed ordinance or resolution, it shall become the duty of the city council, within ten (10) days after receipt thereof, to pass and adopt such ordinance or resolution without alteration as to meaning or effect in the opinion of the persons filing the petition, or to call a special election in accordance with the Election Code.

Sec. 8.01. Platting of property.

Delete in its entirety

Sec. 8.03. Planning and zoning commission.

Delete in its entirety

Sec. 9.06. Notice of public hearing on budget.

The city council shall fix the time and place of a public hearing on the budget and shall cause to be published in the official newspaper of the City of Plano, a notice of the hearing setting forth the time and place thereof in accordance with state law.

Sec. 9.14. Estimated expenditures shall not exceed estimated resources.

The total estimated expenditures of the general fund and debt service fund shall not exceed the total estimated resources of each fund (prospective income plus cash on hand). The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to a nationally accepted uniform classification.

Sec. 10.02. Franchise, power of city council.

Except for franchises issued under state or federal law, the city council shall have power by ordinance to grant, amend, renew and extend, all franchises, both public and private, operating within the City of Plano. All ordinances granting, amending, renewing, or extending franchises shall be read at two (2) separate regular meetings of the city council, and shall not be finally passed until thirty (30) days after the first reading; and no such ordinance shall take effect until thirty (30) days after its final passage; and pending such time, the caption of such ordinance shall be published once each week for four (4) consecutive weeks in the official newspaper of the City of Plano, and the expense of such publication shall be borne by the proponent of the franchise. No public or private franchise shall be granted for a term of more than twenty-five (25) years nor be transferable except with the approval of the city council expressed by ordinance.

Sec. 10.04. Right of regulation.

All grants, removals, extensions, or amendment of public or private franchises, whether it be so provided in the ordinance or not, shall be subject to the right of the city council of the City of Plano, after due notice and hearing, to repeal the same ordinance at any time upon the failure of the grantee to comply with any provision of the ordinance, the franchise, the charter of the City of Plano, any applicable statute of the State of Texas or the rule of any applicable governmental body.

Sec. 10.11. Regulations of rates and services.

The city council shall have the power, after due notice and hearing, to regulate by ordinance the rates and services of public and private franchises operating in the City of Plano; and shall have power to employ at the expense of the grantee, expert assistance and advice in determining a reasonable rate and equitable profit to the grantee.

Sec. 10-A.02. Franchise ordinance-Procedure.

Delete in its entirety

Sec. 11.01. Publicity of records.

All records of the city shall be open for inspection by any citizen or by any representative of the press at all reasonable times, subject only to the provisions and limitations of the Texas Public Information Act as now exists or hereafter amended.

Sec. 11.04. Provisions relating to assignment, execution and garnishment.

The property, real and personal, belonging to the city shall not be liable to be sold or appropriated under any writ or execution or cost bill. The funds belonging to the city, in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the city be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. The city shall not be obligated to recognize any assignment of wages or funds by its employees, agents, or contractors.

Sec. 11.11. Amending the charter.

Amendments to this charter may be formulated and submitted to the voters of the city in the manner provided by Chapter 13, Title 28 of the Revised Civil Statutes of Texas as now or hereafter amended.”

Section II. Early voting by personal appearance for the above-referenced election shall be conducted on the following dates and times for Collin County voters at the Main Early Voting Location, Collin County Elections Department, 2010 Redbud Boulevard, Suite 102, McKinney, TX 75069. Early voting by personal appearance shall be conducted on the following dates and times for Denton County voters at the Main Early Voting Location, Denton County Elections Department, Joseph A. Carroll Administration Building, 401 West Hickory, Denton, Texas 76201. Additional branch early voting locations may be established for Collin and Denton County voters through Election Contracts.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Oct 23	Oct 24 Early Voting 8am – 5pm	Oct 25 Early Voting 8am – 5pm	Oct 26 Early Voting 8am – 5pm	Oct 27 Early Voting 8am – 5pm	Oct 28 Early Voting 8am – 5pm	Oct 29 Early Voting 8am – 5pm
Oct 30	Oct 31 Early Voting 8am – 5pm	Nov 1 Early Voting 8am – 5pm	Nov 2 Early Voting 8am – 5pm	Nov 3 Early Voting 7am – 7pm	Nov 4 Early Voting 7am – 7pm	Nov 5

Section III. The election day polling places and the county election precincts whose qualified voters shall cast ballots shall be established for Collin and Denton County voters through Election Contracts. Polling places on November 8, 2011 shall be open from 7:00 a.m. until 7:00 p.m.

Section IV. Votes cast in Collin County for said election shall be done utilizing touch-screen devices with Premier Election Systems ACCUVOTE TS R6v.4.6.4 and ACCUVOTE TSX R7v.4.6.4 direct recording devices (DRE's) for early voting and election day and optical-scan ballots with Premier Election Systems ACCUVOTE OS ROM v.2.0.12 for early voting by mail. Votes cast in Denton County for said election shall be done utilizing Hart InterCivic eSlate/eScan Voting System (Version 6.2.1).

Section V. Applications for ballots by mail must be received no later than the close of business on November 1, 2011. Applicants for ballots by mail for Collin County voters shall be mailed to: Sharon Rowe, Elections Administrator, Collin County Elections Department, 2010 Redbud Boulevard, Suite 102, McKinney, TX 75069. Applications for ballots by mail for Denton County voters shall be mailed to: Frank Phillips, Elections Administrator, Denton County Elections Department, P.O. Box 1720, (Joseph A. Carroll Administration Building, 401 W. Hickory), Denton, TX 76202.

Section VI. The Mayor, through the City Secretary, is hereby authorized and directed to publish and/or post, in the time and manner prescribed by law, all notices required to be so published and/or posted in connection with the conduct of this election.

Section VII. This Ordinance shall become effective immediately upon its passage.

DULY PASSED AND APPROVED this 31st day of August, 2011.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY