

PLANO CITY COUNCIL

WILL CONVENE INTO SPECIAL CALLED SESSION AT 6:00 P.M., NOVEMBER 16, 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 Resolution of the City Council of the City of Plano, Texas, canvassing the election returns of the Special Election held on November 8, 2011, at which were submitted three amendments to the City Charter of the City of Plano affecting Section 1.02 of Article 1; Section 2.02 of Article 2; Sections 3.01, 3.02, and 3.06, of Article 3; Sections 4.04 and 4.07 of Article 4; Section 5.01 of Article 5; Sections 6.03, 6.07 and 6.11 of Article 6; Section 7.02 of Article 7; Sections 8.01 and 8.03 of Article 8; Section 9.06 and 9.14 of Article 9; Sections 10-A.02, 10.02, 10.04 and 10.11 of Article 10; and Sections 11.01, 11.04 and 11.11 of Article 11 of the Charter; declaring the results of such election; declaring that each proposition which was approved by a majority of the qualified voters voting in such election shall become a part of the Home Rule Charter of the City of Plano; authorizing the taking of all acts required as a result of the adoption of such charter amendments; and declaring the effective date of this resolution.
- II. A Resolution of the City Council of the City of Plano, Texas, appointing the Chief Municipal Judge and associate judges of the Plano Municipal Court, setting the terms of office for the judges; and providing an effective date.

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:		11-16-11		
Department:		City Secretary		
Department Head		Di Zucco		
Agenda Coordinator (include phone #): Di Zucco - x7551				
CAPTION				
<p>A Resolution of the City Council of the City of Plano, Texas, canvassing the election returns of the Special Election held on November 8, 2011, at which were submitted three amendments to the City Charter of the City of Plano affecting Section 1.02 of Article 1; Section 2.02 of Article 2; Sections 3.01, 3.02, and 3.06, of Article 3; Sections 4.04 and 4.07 of Article 4; Section 5.01 of Article 5; Sections 6.03, 6.07 and 6.11 of Article 6; Section 7.02 of Article 7; Sections 8.01 and 8.03 of Article 8; Section 9.06 and 9.14 of Article 9; Sections 10-A.02, 10.02, 10.04 and 10.11 of Article 10; and Sections 11.01, 11.04 and 11.11 of Article 11 of the Charter; declaring the results of such election; declaring that each proposition which was approved by a majority of the qualified voters voting in such election shall become a part of the Home Rule Charter of the City of Plano; authorizing the taking of all acts required as a result of the adoption of such charter amendments; and declaring the effective date of this resolution.</p>				
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): N/A				
<p>COMMENTS: This item has no fiscal impact. STRATEGIC PLAN GOAL: Canvassing the election returns of the Special Election relates to the City's Goal of a Financially Strong City with Service Excellence.</p>				
SUMMARY OF ITEM				
Canvassing returns of November 8, 2011 Special Election				
List of Supporting Documents: Resolution			Other Departments, Boards, Commissions or Agencies	

A Resolution of the City Council of the City of Plano, Texas, canvassing the election returns of the Special Election held on November 8, 2011, at which were submitted three amendments to the City Charter of the City of Plano affecting Section 1.02 of Article 1; Section 2.02 of Article 2; Sections 3.01, 3.02, and 3.06, of Article 3; Sections 4.04 and 4.07 of Article 4; Section 5.01 of Article 5; Sections 6.03, 6.07 and 6.11 of Article 6; Section 7.02 of Article 7; Sections 8.01 and 8.03 of Article 8; Section 9.06 and 9.14 of Article 9; Sections 10-A.02, 10.02, 10.04 and 10.11 of Article 10; and Sections 11.01, 11.04 and 11.11 of Article 11 of the Charter; declaring the results of such election; declaring that each proposition which was approved by a majority of the qualified voters voting in such election shall become a part of the Home Rule Charter of the City of Plano; authorizing the taking of all acts required as a result of the adoption of such charter amendments; and declaring the effective date of this resolution.

WHEREAS, in accordance with Ordinance No. 2011-8-20 passed and approved by the City Council on August 31, 2011, a Special Election was held in and throughout the City of Plano, Texas on Tuesday, November 8, 2011, at which election were submitted three Propositions for consideration by the qualified voters of the City to amend the City Charter as more fully described in Ordinance No. 2011-8-20; and

WHEREAS, the City Council met in Special Session for which notice had been posted in all things required by law, on Wednesday, November 16, 2011, and canvassed the election returns of the above-mentioned election; and

WHEREAS, it was found that each of the Propositions listed on the ballot under Charter Amendments, which are described below, submitted to the voters at such election received the following votes, to-wit:

Proposition No. 1. - 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 _____

Proposition No. 2. – 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 _____

Proposition No. 3 - 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 _____

WHEREAS, it is now necessary to declare the results of such election and to declare that each Proposition for which a majority of the qualified voters voting in such election voted “For” has been approved by such voters, and that such amendments shall become a part of the Home Rule City Charter of the City of Plano, Texas.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. At the Special Election held in and throughout the City of Plano on Tuesday, November 8, 2011, in all things as required by law, at which were submitted to the qualified voters of the City, three Propositions for amendment to the Home Rule City Charter of the City of Plano, the City Council hereby finds and determines that each of the said Propositions received the number of votes indicated, to-wit:

Proposition No. 1	For	Against
Proposition No. 2	For	Against
Proposition No. 3	For	Against

Section II. The City Council hereby finds and determines, as a result of this Canvass, that a total of ___persons voted in the Special Election for the City Charter held on November 8, 2011. The City Council further finds, determines, and declares that Propositions No _____ were not approved by a majority of the qualified voters. The City Council further finds, determines and declares that Propositions No _____ each received a majority vote in favor of adoption of such Proposition, and were approved by a majority of qualified voters. Accordingly, the amendments to the Home Rule City Charter of the City of Plano as set forth in Propositions No. ____ shall become a part of the Home Rule Charter of the City of Plano, in accordance with the provisions of LGC Section 9.005

Section III. The amendments to the Home Rule City Charter of the City of Plano, Texas, as set forth in Propositions ___as described in Ordinance No. 2011-8-20 are hereby declared by the City Council to be adopted and to be a part of the Home Rule City Charter of the City of Plano, Texas from and after such adoption.

Section IV. The Mayor and the City Secretary, and any other officers and employees of the City of Plano, required to take any action as a result of the adoption of the amendments to the Home Rule City Charter as herein provided for, are hereby authorized and directed to take any and all such actions.

Section V. This Resolution shall become effective immediately upon its passage.

DULY PASSED AND APPROVED this the 16th day of November, 2011

Phil Dyer, MAYOR

Attest:

Diane Zucco, City Secretary

APPROVED AS TO FORM:

Diane C. Wetherbee, City Attorney



**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:		November 16, 2011		
Department:		Municipal Court Judge		
Department Head		Don Stevenson		
Agenda Coordinator (include phone #): Don Stevenson x2495				
CAPTION				
A Resolution of the City Council of the City of Plano, Texas, appointing the Chief Municipal Judge and the associate judges of the Plano Municipal Court, setting the terms of office for the judges; and providing an effective date.				
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 item has no fiscal impact.				
SUMMARY OF ITEM				
A resolution to appoint the Chief Municipal Judge and the associate judges of the Plano Municipal Court pursuant to Article 4, Section 4.04 of the City of Plano Charter and setting the terms of office for the judges.				
STRATEGIC PLAN GOAL: Appointing the Chief Municipal Judge and the associate judges of the Plano Municipal Court relates to the City's Goal of Safe Large City.				
List of Supporting Documents: Council Memo Resolution			Other Departments, Boards, Commissions or Agencies	

Date: October 26, 2011

To: Mayor Phil Dyer and Members of the Plano City Council

From: Don Stevenson, Chief Municipal Judge

Subject: **Charter Amendment Affecting Appointment of Municipal Judges**

When adopted, the charter amendment to Article 4, Section 4.04 of the Plano City Charter will change the method of appointment of the municipal judges. The Council Resolution accompanying this memo is proposed to meet the new charter requirements.

Presently, the city charter provides that the City Council appoint the Chief Municipal Judge and the Chief Municipal Judge employs the associate judges. Appointment and employment of the chief and associate judges is on an at-will basis. The City Council may terminate the employment of the Chief Judge and any or all of the associate judges at any time.

The amendment to Article 4, Section 4.04 of the Plano City Charter provides that the City Council appoint each of the municipal judges for a specific term of office. This charter amendment is proposed in order to bring the charter provisions in line with the requirements of the Municipal Courts of Record Act, anticipating that the Plano Municipal Court will become a court of record in the future. If the Plano Municipal Court becomes a court of record, the City Council still will be able to terminate any of the judges at any time for cause.

The Texas Constitution provides that municipal judges not in a court of record serve in their corresponding positions for a term of two (2) years, beginning with the effective date of their appointment. Thereafter, the City Council may appoint and re-appoint judges for similar terms. The currently serving Judges listed below are nominated for appointment and the years of service of each judge is shown beside his or her title.

<u>NAME</u>	<u>POSITION</u>	<u>SERVICE</u>
Donald J. Stevenson	Chief Municipal Judge	14 years
James Michael McCarthy	Senior Associate Judge	18 years
Paul F. McNulty	Associate Judge	4 years
Cathy D. Haden	Senior Associate Judge	15 years
Linda R. Everitt	Associate Judge	14 years
Gwen A. Baumann	Associate Judge	14 years
Efren Ordoñez	Associate Judge	11 years
Aaron S. Kaufman	Associate Judge	10 years

Judges Stevenson, McCarthy and McNulty are full-time employees of the City. The five other judges are independent contractors and are paid on an hourly basis for legal services rendered as municipal judges and as magistrates. All of the judges meet the requirements for appointment. A brief biography of each of the judges is on the following page.

JUDGES' BIOGRAPHIES

Judge Donald J Stevenson: Chief Municipal Judge since April 1997; licensed to practice law since 1973; has been a member and a partner in private law firms; internal counsel for public and private corporations; previously served as the municipal judge in Dalworthington Gardens and Coppell. Undergraduate: Arlington State College; Law: Southern Methodist University

Judge James M. McCarthy: Senior Associate Judge since May 1993; licensed to practice law since 1980; has been a member and partner in private law firms; counsel for North Texas Legal Services. Undergraduate: Texas Christian University; Law: University of Texas

Judge Paul F McNulty: Associate Judge since September 2007; licensed to practice law since 1981; has been a member and partner in private law firms; previously served as an associate judge for the City of Dallas and as a hearing examiner for Texas Education Agency. Undergraduate: Dickinson College; Law: California Western School of Law

Judge Cathy D. Haden: employed and contracted as a Senior Associate Judge since July 1996; licensed to practice law since 1989; a sole practitioner who has been an associate in private law firms; served as the municipal judge in Murphy, Texas. Undergraduate: Auburn University; Law: Cumberland School of Law

Judge Linda R. Everitt: contracted as an Associate Judge since June 1997; licensed to practice law since 1980; has been in private practice and internal counsel for private corporations; served as assistant city attorney for Plano; presently is the chief municipal court prosecutor for the city of Arlington. Undergraduate: University of Oklahoma; Law: Georgetown University

Judge Gwen A. Baumann: contracted as an Associate Judge since August 1997; licensed to practice law since 1984; a sole practitioner who has been an associate in private law firms and internal counsel for private corporations; served as Assistant Public Defender for the State of Florida; a visiting judge for the town of Cockrell Hill. Undergraduate: University of South Florida; Law: University of Florida

Judge Efren Ordoñez: contracted as an Associate Judge since April 2000; licensed to practice law since 1984; has been a municipal court judge in Dallas and a master/referee in Dallas County district courts; presently employed as the Senior Enforcement Attorney for the Environmental Protection Agency in Dallas. Undergraduate: University of Texas; Law: University of California at Los Angeles

Judge Aaron S. Kaufman: contracted as an Associate Judge since May 2001; licensed to practice law since 1974; has been a partner in a private law firm; served as a municipal court judge in Dallas and Cockrell Hill; presently is the presiding judge of the City of Dallas' code enforcement court. Undergraduate: Princeton University; Law: University of Texas

A Resolution of the City Council of the City of Plano, Texas, appointing the Chief Municipal Judge and associate judges of the Plano Municipal Court, setting the terms of office for the judges; and providing an effective date.

WHEREAS, the City of Plano Charter, Article 4, Section 4.04, provides for the appointment and removal of the judges of the municipal court by the City Council; and

WHEREAS, the Chief Municipal Judge and the associate judges are to be selected and appointed by the City Council to serve specific terms;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS THAT:

Section I. The City Council hereby appoints the following individuals as judges of the Plano Municipal Court:

<u>NAME</u>	<u>POSITION</u>	<u>STATUS</u>
Donald J. Stevenson	Chief Municipal Judge	Employee
James Michael McCarthy	Senior Associate Judge	Employee
Paul F. McNulty	Associate Judge	Employee
Cathy D. Haden	Senior Associate Judge	Contract
Linda R. Everitt	Associate Judge	Contract
Gwen A. Baumann	Associate Judge	Contract
Efren Ordoñez	Associate Judge	Contract
Aaron S. Kaufman	Associate Judge	Contract

Section II. The City Council hereby sets the term of office of the appointed judges to be two years from the effective date of this resolution; and

Section III. This Resolution shall become effective immediately upon its passage.

DULY PASSED AND APPROVED this the 16th day of November, 2011.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY