

**PLANO CITY COUNCIL  
PRELIMINARY OPEN MEETING  
September 12, 2011**

**COUNCIL MEMBERS**

Phil Dyer, Mayor  
Pat Miner, Mayor Pro Tem  
Lissa Smith, Deputy Mayor Pro Tem  
Ben Harris  
André Davidson  
James Duggan  
Patrick Gallagher  
Lee Dunlap

**STAFF**

Bruce Glasscock, City Manager  
Frank Turner, Deputy City Manager  
LaShon Ross, Deputy City Manager  
Diane C. Wetherbee, City Attorney  
Diane Zucco, City Secretary

Mayor Dyer called the meeting to order at 5:15 p.m., Monday, September 12, 2011, in Training Room A of the Municipal Center, 1520 K Avenue. All Council Members were present. Mayor Dyer then stated that the Council would retire into Executive Session in compliance with Chapter 551, Government Code, Vernon's Texas Codes, Annotated, in order to consult with an attorney and receive Legal Advice, Section 551.071; to discuss Real Estate, Section 551.072; Personnel, Section 551.074; and to receive information regarding Economic Development, Section 551.087; for which a certified agenda will be kept in the office of the City Secretary for a period of two years as required.

Mayor Dyer reconvened the meeting back into the Preliminary Open Meeting at 6:05 p.m.

**Consideration and action resulting from Executive Session discussion**

Upon a motion made by Council Member Dunlap and seconded by Deputy Mayor Pro Tem Smith, the Council voted 8-0 to reappoint Bobby Baggett to the Arts of Collin County Commission Board of Directors.

Upon a motion made by Council Member Dunlap and seconded by Council Member Duggan, the Council voted 8-0 to reappoint Roy L. Wilshire to the Collin County Central Appraisal District Board.

## **Collin County Marathon**

President of the Collin County Marathon Jack Bick spoke to the route, items funded by the organization and comparisons to the White Rock Marathon. He spoke to use of alternative routes during road closures and stated he was not advised by the City of staffing concerns in a timely manner. Parks and Recreation Director Fortenberry provided an overview of the Special Event Permit Process and spoke to her denial based on the route's impact on scheduled park programs. Special Events Officer Fortune spoke to issues regarding staffing and neighborhood ingress/egress during the event. City Manager Glasscock spoke to interoperability when utilizing officer manpower from other municipalities, dependence on officers to volunteer and ensuring the safety of participants.

## **Partnership Walk – Be the Solution to End Global Poverty**

Representatives of the Aga Khan Foundation USA spoke to the poverty in Africa/Asia and the organization's mission to create long-term solutions by providing opportunities for individuals to become self-reliant. She spoke to the integrated approach including health, education, world development, environment and civil society; work with the Plano Independent School District; and further invited the Council to the upcoming Partnership Walk.

## **Update Regarding Plano Partners Program**

Director of Public Information Conklin spoke regarding the program to develop mutually beneficial public/private partnerships and augment the City's budget and the work of CSL Marketing. She spoke to the development of a "*Sign Package*" offering placement of emblems and banners at various City facilities and segments on Plano Television Network/web page outlining the project. Ms. Conklin spoke to revenue of \$200,000-\$250,000 per year for five-year agreements and work with the Planning and Building Inspections Departments to amend the Sign Ordinance to accommodate the program. She spoke to consideration of locations and the Council requested further information be provided regarding the program and locations.

## **North Texas Municipal Water District Water Restrictions Update**

Deputy City Manager/Director of Customer Utility Billing Israelson reviewed implementation of the current Stage 2 restrictions including watering permitted two days per week based on the last digit of home address. He spoke to outreach efforts and advised that the City's consumption is down 14% as compared to August 2010. Mr. Israelson spoke to The North Texas Municipal Water District's consideration of Stage 3 with possible implementation November 1. City Manager Glasscock stated concern that the District's data has not been available for review and spoke to a request for a onetime adjustment of the City's take-or-pay cap. The Council spoke to the City's conservation efforts being above those requested and disadvantages under the current contract and Mr. Israelson advised that at this point, there are no penalties for non-compliance.

## **Legislative Update**

Deputy City Manager/Director of Customer Utility Billing Israelson provided an overview of the legislative session which began on January 11, 2011 and concluded 140 days later. He spoke to key City issues including revenue, home rule authority, unfunded mandates, economic development, transportation, civil service, and water. Mr. Israelson spoke to City actions including taking positions on bills, providing testimony and working with the legislative delegation. He spoke to the decrease in bills filed and the negative impact of state budget decisions on the City of Plano with a loss of \$353,563. City Manager Glasscock responded to the Council, advising that no action has been taken on the appropriation of funds from red light cameras to trauma centers

## **Council Items on Future Agendas**

No items were discussed.

## **Consent and Regular**

Council Member Dunlap requested Consent Agenda Item "E," to approve a change order to Jim Bowman Construction Company, LP, increasing the contract by \$56,707 for the 14th Street and George Bush Turnpike Waterlines, be removed for individual consideration due to a possible conflict of interest.

Mayor Dyer advised that he would be stepping down on Regular Agenda Items "7," an appeal of the Planning & Zoning Commission's Denial of Zoning Case 2011-18 - Request to rezone 13.9± acres located at the northwest corner of Kathryn Lane and Rowlett Cemetery Road from Regional Commercial to Single-Family Residence-6; and "8," an appeal of the Planning & Zoning Commission's Denial of the Concept Plan for Kathryn Park - 69 Single-Family Residence-6 lots and two common area lots on 13.9± acres located at the northwest corner of Kathryn Lane and Rowlett Cemetery Road, due to possible conflicts of interest.

Nothing further was discussed. Mayor Dyer adjourned the Preliminary Meeting at 7:08 p.m.

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**Phil Dyer, Mayor**

ATTEST

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Diane Zucco, City Secretary

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Mayor Dyer convened the Council into the Regular Session on Monday, September 12, 2011, at 7:21 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present.

Mayor Dyer led the invocation and the Plano Chapter of the Sons of the American Revolution led the Pledge of Allegiance.

**PROCLAMATIONS & SPECIAL RECOGNITION**

Mayor Dyer received a certificate of commendation recognizing the City's display of the Flag of the United States of America and certification recognizing the City as a StormReady Community. He presented proclamations recognizing National Recovery Month and the 32nd Plano Hot Air Balloon Festival.

**COMMENTS OF PUBLIC INTEREST**

No one appeared to speak.

**CONSENT AGENDA**

Council Member Dunlap requested that Consent Agenda Item "E" be removed for individual consideration due to a possible conflict of interest.

Mayor Dyer advised that he would be stepping down on Regular Agenda Items "7" and "8" due to possible conflicts of interest.

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

**Approval of Minutes (Consent Agenda Item “A”)**

August 13, 2011  
August 18, 2011  
August 22, 2011  
August 31, 2011

**Approval of Expenditures**

**Purchase from an Existing Contract**

To approve the purchase of sixteen (16) Stalker II handheld radar units and thirty-eight (38) car-mounted radar units from Applied Concepts, Inc. in the amount of \$161,437 to be utilized by the Police Department through an existing contract/agreement with HGAC and authorizing the City Manager to execute all necessary documents. (HGAC Contract EF04-11) (Consent Agenda Item “B”)

To approve a contract for the purchase of a software upgrade to the City’s Avaya Software in the amount of \$106,916 from Affiliated Communications, Inc., through a Department of Information Resources (DIR) Contract, and authorizing the City Manager to execute all necessary documents. (DIRSDD-1499) (Consent Agenda Item “C”)

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

To approve of an Engineering Services Agreement by and between the City of Plano and BW2 Engineers, Inc. in the amount of \$109,500 for the design of improvements for Oak Point Park and Nature Preserve, North Trail Extension and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “D”)

**Approval of Expenditure**

To ratify an expenditure in the amount of \$135,327 for the purchase of cameras, installation hardware and service fees for automated monitoring and download capability (managed services) with DriveCam, Inc. (Consent Agenda Item “F”)

**Adoption of Resolutions**

**Resolution No. 2011-9-1(R):** To ratify an exchange of land to be accomplished through the replat of Lots 2R, 4R and 5, Block “A” Trinity Presbyterian Church Addition for the purpose of creating an improved and mutually beneficial boundary alignment between two properties including 0.156 acres of City land in exchange for 0.156 acres of land owned by RBN Hedge Investments, LTD, both exchange properties being located in or immediately adjacent to an existing floodway and drainage easement. (Consent Agenda Item “G”)

**Resolution No. 2011-9-2(R):** To approve the terms and conditions of Agreements between the City of Plano and various community organizations, providing for the expenditure of Buffington Community Services Grant funds in the amount of \$265,000 for the provisions of various community services; authorizing its execution by the City Manager; and providing the effective date. (Consent Agenda Item “H”)

**Resolution No. 2011-9-3(R):** To approve the terms and conditions of Agreements between the City of Plano and various community organizations, providing for the expenditure of Community Development Block Grant funds in the amount of \$191,016 and HOME funds in the amount of \$293,707 for the provisions of various community services and developments; authorizing its execution by the City Manager; and providing the effective date. (Consent Agenda Item “I”)

**Resolution No. 2011-9-4(R):** To authorize the purchase of software maintenance and system support from GIS Information Systems, Inc. d/b/a Polaris Library Systems, a sole source provider for providing maintenance service for the Polaris software system at the Plano Public Library System in the amount of \$40,224 for a twelve month service term, authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “J”)

### **Adoption of Ordinances**

**Ordinance No. 2011-9-5:** To amend Section 2-12, Procurement Code of Article I, In General, of Chapter 2, Administration, of the Code of Ordinances of the City of Plano, Texas to increase the authority of the City Manager or his designee to approve a change order in an amount not to exceed fifty thousand dollars to conform to a change in state law regarding municipal procurement; and providing a repealer clause, a severability clause, a publication clause, and an effective date. (Consent Agenda Item “K”)

**Ordinance No. 2011-9-6:** To amend Section 4-124 of Article X, Illegal Smoking Products and Ingestion Devices, of Chapter 14, Offenses-Miscellaneous, of the Code of Ordinances of the City of Plano, Texas to conform to State law and providing a penalty clause, a severability clause, repealer clause, a publication clause and an effective date. (Consent Agenda Item “L”)

**Ordinance No. 2011-9-7:** To adopt and enact Supplement Number 94 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 “M”)

### **END OF CONSENT**

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

**Approval of Change Order** - To Jim Bowman Construction Company, LP, increasing the contract by \$56,707 for the 14th Street and George Bush Turnpike Waterlines. Change Order No. 1. Original Bid No. 2010-81-B. (Consent Agenda Item "E")

Upon a motion made by Council Member Davidson and seconded by Council Member Duggan, the Council voted 7-0 to approve increasing the contract with Jim Bowman Construction Company, LP by \$56,707 for the 14th Street and George Bush Turnpike Waterlines.

Council Member Dunlap resumed his seat at the dais.

**Ordinance No. 2011-9-8:** To approve and adopt the Operating Budget and setting the appropriations for the fiscal year beginning October 1, 2011, and terminating September 30, 2012; and providing an effective date. (Public Hearing held on August 8, 2011.) (Regular Agenda Item "1")

Upon a motion made by Deputy Mayor Pro Tem Smith and seconded by Mayor Pro Tem Miner, the Council voted 8-0 to approve and adopt the Operating Budget and setting the appropriations for the fiscal year beginning October 1, 2011, and terminating September 30, 2012; and further to adopt Ordinance No. 2011-9-8.

**Ordinance No. 2011-9-9:** To approve and adopt the Community Investment Program and setting the appropriations for 2011-12; and providing an effective date. (Public Hearing held on August 8, 2011.) (Regular Agenda Item "2")

Upon a motion made by Council Member Harris and seconded by Council Member Davidson, the Council voted 8-0 to approve and adopt the Community Investment Program and setting the appropriations for 2011-12; and further to adopt Ordinance No. 2011-9-9.

**Ordinance No. 2011-9-10:** To approve and adopt the Tax Rate for the fiscal year beginning October 1, 2011, and terminating September 30, 2012; and providing an effective date. (Public Hearings held on August 22, 2011 and August 31, 2011.) (Regular Agenda Item "3")

Mayor Pro Tem Miner made a motion stating that the property tax revenue will be increased by the adoption of a tax rate of 48.86 cents which is effectively a 1.66% increase in the tax rate for the fiscal year beginning October 1, 2011, and terminating September 30, 2012. Council Member Dunlap seconded the motion and the Council voted 8-0 to approve and further to adopt Ordinance No. 2011-9-10.

**Ordinance No. 2011-9-11:** To ratify the property tax revenue increase in the 2011-12 Budget as a result of the City receiving more revenues from property taxes in the 2011-12 Budget than in the previous fiscal year; and providing an effective date. (Public Hearings held on August 22, 2011 and August 31, 2011.) (Regular Agenda Item “4”)

Budget and Research Director Rhodes-Whitley spoke to the majority of the property tax revenue increase resulting from new commercial development coming online.

Upon a motion made by Council Member Duggan and seconded by Council Member Gallagher, the Council voted 8-0 to ratify the property tax revenue increase in the 2011-12 Budget as a result of the City receiving more revenues from property taxes in the 2011-12 Budget than in the previous fiscal year; and further to adopt Ordinance No. 2011-9-11.

**Public Hearing with discussion and direction regarding Options for Revised City Council District Boundaries** for Districts 1-4. (First Public Hearing held August 22, 2011.) (Regular Agenda Item “5”)

Senior Planner Sims advised that Option 1 changes the boundaries between Council Districts 2 and 4, resulting in an exchange of 9,500 residents and reduces the difference between the largest and the smallest districts to fewer than 10%. He further advised that Option 2 uses the same recommendation as above and adds a slight boundary change between Districts 1 and 3, thus exchanging an additional 2,700 residents and reducing the difference between the largest and smallest districts to 4%.

Mayor Dyer opened the Public Hearing. No one spoke regarding the item. The Public Hearing was closed.

Upon a motion made by Council Member Duggan and seconded by Mayor Pro Tem Miner, the Council voted 8-0 to approve Option 2 and directed Staff to move forward with implementation.

**Public Hearing and adoption of Ordinance No. 2011-9-12** as requested in Zoning Case 2011-20 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 612 so as to allow for the additional use of a Winery on 2.8± acres of land located at the southwest corner of Coit Road and Lorimar Drive, in the City of Plano, Collin County, Texas, presently zoned Agricultural with Heritage Resource Designation #16; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, a publication clause, and an effective date. Applicant: Wells Family Trust (Regular Agenda Item “6”)

Planning Manager Firgens advised the Council that the request is for a specific use permit for a winery from which the applicant will: blend, bottle and label wines from juice purchased from offsite growers; sell wine for on- and off-premise consumption; and host wine tasting sessions. She spoke regarding the current zoning of Agricultural (A) with Heritage Resource Designation #16 (H-16) providing for the preservation of items which reflect the heritage of the City of Plano, referred to surrounding uses and advised that the Planning and Zoning Commission recommended approval as submitted. Ms. Firgens advised that no screening wall is required on the western side of the property.

**Ordinance No. 2011-9-12 (cont'd)**

Mayor Dyer opened the Public Hearing. Michael Coker of Michael Coker Company, Inc. responded to the Council regarding ingress and egress from the site and advised that there are no plans to change the structure, driveway or parking. He stated that winery functions would be conducted within the existing building. Ms. Firgens responded to the Council regarding the types of site modifications that might trigger future review. Council Member Dunlap spoke to review by the Heritage Commission in addition to the Planning and Zoning Commission. No one spoke else spoke for or against the request. The Public Hearing was closed.

Upon a motion made by Council Member Harris and seconded by Mayor Pro Tem Miner, the Council voted 8-0 to grant Specific Use Permit No. 612 for a Winery on 2.8± acres of land located at the southwest corner of Coit Road and Lorimar Drive; as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2011-20; and further to adopt Ordinance No. 2011-9-12.

Due to possible conflicts of interest, Mayor Dyer stepped down from the bench on the following two items which were read concurrently and did not return.

**Public Hearing and consideration of an Appeal** of the Planning & Zoning Commission's Denial of Zoning Case 2011-18 - Request to rezone 13.9± acres located at the northwest corner of Kathryn Lane and Rowlett Cemetery Road from Regional Commercial to Single-Family Residence-6. Zoned Regional Commercial/State Highway 121 Overlay District. Applicant: Birkel Custer 121 Partners Ltd. (Regular Agenda Item "7")

Planning Manager Firgens advised regarding the surrounding land uses including adjacent Regional Commercial sites and multi-family units across Kathryn Lane. She advised that the request is not in conformance with the Future Land Use Plan, Housing Density Policy Statement, or Infill Housing Policy Statement. Ms. Firgens advised regarding the Commission's statements that: the site is within an expressway corridor and should be reserved for economic development and employment; the site is adjacent to nonresidential uses and lacks proximity to other single-family developments, schools, or parks; a higher density use is more appropriate for the site; and with easy access to S.H. 121, the site still offers opportunity for commercial development. She advised that the zoning case would require a three-quarters vote for approval and the concept plan may be approved by a simple majority. Ms. Firgens spoke to ongoing review of the 1,200 foot setback from the centerline of S.H. 121, reviewed setbacks in other municipalities and Council Member Dunlap spoke to the measurement impacting less than one-half of the property. Ms. Firgens advised that the Frisco Independent School District did not express concerns regarding the request and advised that no park land is designated within the plan.

Mayor Pro Tem Miner opened the Public Hearing. Jim Douglas of Douglas Properties, Inc., representing the applicant, spoke to current surrounding uses that may limit development options, the precedent set by nearby multi-family property, the lack of visibility from S.H. 121, and appropriateness of the property for residential development. He responded to Council Member Dunlap regarding relocation of a sewer line. Don Dykstra, representing Bloomfield Homes, spoke to the suitability of the property, the profile of potential residents and advised that there would not be sufficient homeowners to support an amenity center. No one else spoke for or against the request. The Public Hearing was closed.

**Public Hearing and consideration of an Appeal (cont'd)**

Council Member Dunlap spoke to the vision for the area, surrounding uses and higher density along major thoroughfares generating revenues. He spoke to the 1,200 foot setback encompassing less than one-half of the property, multifamily development across the street, the property wedged between streets that do not cross S.H. 121 and this portion of S.H. 121 not generating much interest in high-density development. Council Member Harris spoke to the asset open space represents and stated concern that residential development is spreading further into other areas. He spoke to considerations of this property including the lack of visibility from S.H. 121 and adjacency to multifamily property. Deputy Mayor Pro Tem Smith and Council Members Davidson and Duggan spoke to the limited potential for commercial use on the property. Council Member Dunlap recognized the efforts of the Commission in considering the request.

Upon a motion made by Deputy Mayor Pro Tem Smith and seconded by Council Member Duggan, the Council voted 7-0 to approve the Appeal of the Planning & Zoning Commission's Denial of Zoning Case 2011-18 and to rezone 13.9± acres located at the northwest corner of Kathryn Lane and Rowlett Cemetery Road from Regional Commercial to Single-Family Residence-6.

**Consideration of an Appeal of the Planning & Zoning Commission's Denial** of the Concept Plan for Kathryn Park - 69 Single-Family Residence-6 lots and two common area lots on 13.9± acres located at the northwest corner of Kathryn Lane and Rowlett Cemetery Road. Zoned Regional Commercial/State Highway 21 Overlay District. Applicant: Birkel Custer 121 Partners Ltd. (Regular Agenda Item "8")

Upon a motion made by Council Member Duggan and seconded by Council Member Dunlap, the Council voted 7-0 to approve an appeal of the Planning and Zoning Commission's Denial of the Concept Plan for Kathryn Park, located at the northwest corner of Kathryn Lane and Rowlett Cemetery Road.

Nothing further was discussed and Mayor Pro Tem Miner adjourned the meeting at 8:39 p.m.

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Phil Dyer, MAYOR

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Pat Miner, MAYOR PRO TEM

ATTEST:

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Diane Zucco, City Secretary