

**PLANO CITY COUNCIL  
PRELIMINARY OPEN MEETING  
NOVEMBER 26, 2012**

**COUNCIL MEMBERS PRESENT**

Phil Dyer, Mayor  
Lissa Smith, Mayor Pro Tem  
Pat Miner  
André Davidson  
Jim Duggan  
Patrick Gallagher  
Lee Dunlap

**COUNCIL MEMBERS ABSENT**

Ben Harris, Deputy Mayor Pro Tem

**STAFF PRESENT**

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 5:01 p.m., Monday, November 26, 2012, in Training Room A of the Municipal Center, 1520 K Avenue. A quorum was 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 for which a certified agenda is not required.

Mayor Dyer reconvened the meeting back into the Preliminary Open Meeting at 5:41 p.m.

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

No items were brought forward.

**Comprehensive Monthly Financial Report**

Controller Cockrell advised that the October 2012 report finds actual General Fund revenues are up \$1 million as compared to last year. She noted that General Fund expenditures are slightly higher than last year due to increases in personnel expenses, but that professional service contract expenses are down. Ms. Cockrell spoke to sales tax collections of \$6.5 million, a general improvement in the real estate market over the last 12 months and the City's unemployment rate of 5.6%.

### **Discussion and Direction Regarding Proposed Changes to the Capital Reserve Fund**

Director of Budget and Research Rhodes-Whitley spoke to the City's Sales Tax Policy which states that any funds collected over the cap (currently \$59 million) can be used for one-time expenditures, transfer to the Capital Reserve Fund, or to offset a purchase in the following year. She advised that sales tax collections are projected to end FY 2011-12 at \$69.8 million. Ms. Rhodes-Whitley spoke to creation of the Capital Reserve Fund in 1985-86 to fund maintenance related projects and advised that the City has not attained the policy goal of 75% of the annual depreciation of the total general assets. She spoke to methodology using a 20-year life cycle for buildings and a 45-year life cycle for other improvements. Ms. Rhodes-Whitley stated that contributions to the fund will total 51% of depreciation value for 2013 and spoke to recommended increases moving toward 75% in 2018. She advised regarding Facility Planning Committee policy revisions including an annual review and priority ranking of projects; expansion of the infrastructure definition to include signals and underground utilities; defining water/sewer and miscellaneous projects; inclusion of Collin county funding; and removal of the annual expenditure and fund balance limitations. She requested Council approval of the policy revisions and commitment to phased-in funding to reach 75% of the annual depreciation of the total general assets by FY 2018. City Manager Glasscock spoke to the gradual growth in the account balance while considering possible future economic conditions and the potential for increased contributions. The Council stated a consensus in agreement with the policy revisions and recommended goal.

### **FEMA Proposed Flood Insurance Rate Maps Revision**

Director of Public Works Cosgrove spoke to conversion of flood plain maps by FEMA in 2009 to a digital format without restudy of basins and their 2010 study of Plano basins including Spring Creek, Russell Creek, Pittman Creek, Prairie Creek and White Rock Creek. Mr. Cosgrove stated concern regarding areas not formerly within the 100-year flood plain now designated as such particularly Prairie Creek, and in the Willow Bend and Rasor/S. H. 121 areas. He advised that Staff has hired a consultant to review the model, submitted comments to FEMA, and notified affected property owners. Mr. Cosgrove advised that based on a possible error, FEMA will review the Willow Bend Lake No. 1 area and that the City will run a study for the Prairie Creek basin. He spoke to the appeal process, impact on property insurance rates and responded to the Council, advising that should differences be found following review of the Prairie Creek basin Staff will request FEMA rerun their study city-wide.

Real Estate Broker Shula Netzer stated concern regarding the impact on the value of property at Rasor Road and S.H. 121. Thomas Juhn of JBI Partners stated concern regarding the elevations indicated for the Rasor Road and S.H. 121 property and those near St Andrew United Methodist Church. Mr. Cosgrove spoke to the selection of the Prairie Creek area for review followed by further discussion with FEMA to address discrepancies. Mayor Pro Tem Smith spoke to providing citizens with updates and the Council stated a consensus directing Staff to move forward with the study of the Prairie Creek basin.

### **Discussion and Direction Regarding Cotton Belt Funding Strategy**

North Central Texas Council of Governments (NCTCOG) Director Michael Morris spoke to creation of a partnership between the NCTCOG and cities along the Cotton Belt Corridor to expedite development of the line. He spoke to receipt of a private sector letter of intent including a focus on economic development, proposing a special district, covering the full length of the project, and following the procurement process outlined in SB 1048. Mr. Morris spoke to establishment of a joint procurement structure which includes the creation of a temporary Responsible Government Entity to represent cities and work with transit agencies in receiving, requesting, evaluating and awarding proposals. He spoke to Council's consideration of working with other entities through an interlocal agreement to protect local government interest and advised that the SB 1048 procurement process is regional in scope, provides cities the opportunity to review and provide input, and that an interim award allows for funding finalization.

Mr. Morris advised that there are future decision points and spoke to consideration of the proposal by other municipalities. He reviewed future efforts including the DART interlocal agreement adoption process, future consideration by the NCTCOG Executive board, receipt of unsolicited proposals, review and comments. Mr. Morris responded to Mayor Pro Tem Smith, advising that the board would be likely to proceed even if only 3-4 major cities choose to participate. He further advised that NTCOG is focused on the procurement process, leaving the private sector to work the governance process through the legislature. Mr. Morris spoke to use of a common interlocal agreement including the major points of SB 1048 and referenced the growing population in the North Texas area and the need to advance the passenger rail system. He spoke to the incremental nature of the proposal. The Council stated a consensus to consider the agreement on their December 10 agenda.

### **Council items for discussion/action on future agendas**

No items were discussed.

### **Consent and Regular Agendas**

No items were discussed.

Nothing further was discussed. Mayor Dyer adjourned the Preliminary Meeting at 6:58 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, November 26, 2012, at 7:05 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. A quorum was present.

Assistant Pastor Kelvin Foley of Prestonwood Baptist Church led the invocation and Cub Scout Pack 261 of Christie Elementary led the Pledge of Allegiance. The Men of Note Chorus performed several seasonal songs.

Mayor Dyer accepted, on behalf of the City, a certificate of appreciation from The Search One Rescue Team.

**COMMENTS OF PUBLIC INTEREST**

No one appeared to speak.

**CONSENT AGENDA**

Upon a motion made by Council Member Miner and seconded by Council Member Davidson, the Council voted 7-0 to approve and adopt all items on the Consent Agenda as recommended and as follows:

**Approval of Minutes** (Consent Agenda Item "A")  
November 12, 2012

### **Approval of Expenditures**

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

**RFP No. 2012-222-C** for three (3) years with two (2) City optional one-year renewal periods for the Retirement Security Plan Investment Manager Services for Human Resources to Capital One, N.A., in the amount of \$162,363 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “B”)

#### **Purchase from an Existing Contract**

To approve the purchase of one (1) Ford F-750 Truck Chassis from Chastang Ford, in the amount of \$67,760 & one (1) Petersen Crane/Brush Truck Body from Heil of Texas, in the amount of \$61,732 totaling \$129,492 for the Fleet Department, to be utilized by Environmental Services, through an existing contract/agreement with TASB/Buyboard, and authorizing the City Manager to execute all necessary documents. (TASB/Buyboard Contract #358-10 & 357-10) (Consent Agenda Item “C”)

To approve the purchase of seven (7) Crane Carrier Refuse Truck Chassis's from Bond Equipment Company, Inc., in the amount of \$1,152,953, four (4) Heil Automated Single Arm Bodies, & three (3) Rear Loader Bodies from Heil of Texas, in the amount of \$661,906, totaling \$1,814,859 for the Fleet Department, to be utilized by Environmental Services, through an existing contract/agreement with TASB/Buyboard, and authorizing the City Manager to execute all necessary documents. (TASB/Buyboard Contract #358-10 & 357-10) (Consent Agenda Item “D”)

To approve the purchase of CommVault-Galaxy Software Premium Support Coverage in the amount of \$121,654 from CDW Government, LLC through an existing contract with The Cooperative Purchasing Network (TCPN) and authorizing the City Manager to execute all necessary documents. (TCPN Contract No. R5106) (Consent Agenda Item “E”)

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

To approve an Architectural Services Agreement by and between the City of Plano and Alliance Architects, Inc., in the amount of \$79,300 for Space Assessment - Administrative Buildings Phase II; and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “F”)

#### **Adoption of Resolutions**

**Resolution No. 2012-11-12(R):** To confirm the appointment of Brian Crawford to serve as Plano Fire Chief beginning December 3, 2012, and providing an effective date. (Consent Agenda Item “G”)

**Resolution No. 2012-11-13(R):** To adopt the Downtown Heritage District Design Guidelines; providing for design guidelines for preservation of heritage resource properties located within the Downtown Heritage Resource District; including amendments to the design guidelines related to roof top patio covers; and providing an effective date. (Consent Agenda Item “H”)

**Resolution No. 2012-11-14(R):** To adopt the Haggard Park Heritage Resource District Preservation Guidelines; providing for design guidelines for preservation of heritage resource properties located within the Haggard Park Heritage Resource District; and providing an effective date. (Consent Agenda Item “I”)

**Resolution No. 2012-11-15(R):** To approve a contract with David McCall of Gay, McCall, Isaacks, Gordon & Roberts, P.C. to provide collection of delinquent taxes for the City of Plano; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “J”)

**Resolution No. 2012-11-16(R):** To approve the terms and conditions of a Real Estate Contract by and between Argent Plano Realty, L.P. and the City of Plano, Texas for purchase of a 6.731 acre tract of land being more commonly known as Plano Tech Center – Site #8, located at Shiloh Road and 14th Street in the City of Plano, Collin County, Texas for future development as a passenger station for the Cotton Belt Rail station; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “K”)

**Resolution No. 2012-11-17(R):** To approve the terms and conditions of a Memorandum of Understanding between the City of Plano, the Regional Transportation Council, and the North Central Texas Council of Governments for which the City will be reimbursed for the purchase of a 6.731 acre tract of land being more commonly known as Plano Tech Center – Site #8, located at Shiloh Road and 14th Street in the City of Plano, Collin County, Texas for the purpose of developing a passenger station in the City of Plano for the Cotton Belt Rail System; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “L”)

**Resolution No. 2012-11-18(R):** To approve the terms and conditions of an Interlocal Agreement by and between City of Plano and City of Frisco to allow the reciprocal lending of library materials to the cities’ respective patrons; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the agreement herein; and providing an effective date. (Consent Agenda Item “M”)

### **Adoption of Ordinances**

**Ordinance No. 2012-11-19:** To create Article XII of Chapter 4, Code of Ordinances, to allow non-profit search and rescue organizations to conduct search and rescue training at designated areas of City parks after obtaining a permit from the Animal Services Division; amending Section 4-1 (Definitions) of Article I, Section 4-51(d) (Public Nuisances) of Article III, and Section 15-4 (a)(6) of Article I, Chapter 15 to allow dogs participating in authorized search and rescue training to be off-leash without violating the at-large and nuisance ordinances; amending Section 4-153(d)(1) (Dangerous Animals) of Article IX to exempt dogs used for law enforcement purposes at the time of the attack, bite or mauling from the euthanasia provision per state law; and providing a penalty clause, a severability clause, a repealer clause, a publication clause and an effective date. (Consent Agenda Item “N”)

**Ordinance No. 2012-11-20:** To abandon all right, title and interest of the City, in and to that certain 15' Water Easement recorded in Volume 640, Page 7072, of the Land Records of Collin County, Texas and being situated in the McKinney and Williams Survey, Abstract No. 650, which is located within the city limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such easement to the abutting property owner, Hallmark Land Holdings, to the extent of its interest; authorizing the City Manager to execute any documents deemed necessary; and providing an effective date. (Consent Agenda Item "O")

#### **END OF CONSENT**

**Public Hearing and adoption of Ordinance No. 2012-11-21** to designate a certain area within the City of Plano, Texas, as Reinvestment Zone No. 132 for tax abatement consisting of a 13.939 acre tract of land located in the Samuel Brown Survey, Abstract No. 108, Collin County and described in Exhibit "A", attached hereto, in the City of Plano, Texas, establishing the boundaries of such zone; ordaining other matters related thereto; and providing an effective date. (Regular Agenda Item "1")

Director of Economic Development Bane advised that prior to entering into a tax abatement agreement, State Law requires the City to set up a reinvestment zone and conduct a Public Hearing. She further advised that the abatement will be based upon an estimated \$54 million of real property as of December 31, 2013; run for a period of ten years beginning on January 1, 2014; and shall be based on an amount equal to 50% for real property.

Mayor Dyer opened the Public Hearing. No one spoke for or against the request. The Public Hearing was closed.

Upon a motion made by Mayor Pro Tem Smith and seconded by Council Member Duggan, the Council voted 7-0 to designate a certain area within the City of Plano, Texas, as Reinvestment Zone No. 132 for tax abatement consisting of a 13.939 acre tract of land located in the Samuel Brown Survey, Abstract No. 108, Collin County and further to adopt Ordinance No. 2012-11-21.

**Resolution No. 2012-11-22(R):** To approve the terms and conditions of an Agreement by and between the City of Plano, Texas, and Capital One, National Association, a national association, providing for real property tax abatement; and authorizing its execution by the City Manager; and providing an effective date. (Regular Agenda Item "2")

Director of Economic Development Bane advised that the tax abatement will be between the City and Capital One, National Association and includes real property improvements consisting of 360,000 square feet of office space and a parking garage.

Upon a motion made by Council Member Davidson and seconded by Council Member Miner, the Council voted 7-0 to approve the terms and conditions of an agreement by and between the City of Plano, Texas, and Capital One, National Association; and further to adopt Resolution No. 2012-11-22(R).

**Public Hearing** to provide the citizens and residents with the opportunity to review and provide comment on the projects for the proposed 2013 Bond Referendum. (Regular Agenda Item “3”)

Director of Budget and Research Rhodes-Whitley advised that the current recommended projects total \$153.7 million and spoke to upcoming presentations by the Parks and Recreation and Public Works Departments. She advised that Public Hearings provide citizens an opportunity to present additional projects and spoke regarding information available on the City’s web page. Ms. Rhodes-Whitley provided the Council with the timeline for consideration of projects for the referendum and the Council requested the inclusion of Public Hearings with future Staff presentations.

**Receipt of Public Comment and adoption of Ordinance No. 2012-11-23** to repeal Ordinance Nos. 2008-11-16 and 2010-3-14 codified as Chapter 9, Food Code of the Code of Ordinances of the City of Plano and replacing them with a new Chapter 9, Food Code; providing a penalty clause, a repealer clause, a severability clause, a publication clause and an effective date. (Regular Agenda Item “4”)

Director of Environmental Health Collins spoke to the impact of food-borne illness, factors that contribute to its spread and the City of Plano taking the lead in food safety.

Citizen Kari Gates stated concern regarding the restrictive nature of proposed definitions limiting a successful farmers’ market and requested they align with federal and state guidelines. She spoke to the impact of placing farmers’ markets, which are temporary in nature, into the “food establishment” category and requested vendors be permitted individually. Ms. Gates spoke to the safety of food at farmers’ markets as compared to large producers and stated concern regarding requirements for infrastructure. Market Manager Scott Merner spoke to providing fresh, local foods to Plano citizens and the surrounding area and advised regarding meetings held with City Staff. He spoke to revising sections related to farmers’ markets as follows: change “produce” to “products” under *Definitions*; remove farmers’ markets from the definition of food establishments; remove designation of a “person in charge”; revise permit terms to one year; issue permits to individual vendors; and he requested the Council allow a market to operate in 2013 under a temporary permit. Brian Cummings, co-founder of Eat Green, spoke to major producers as the source of contamination. Citizen Alison Holland spoke in support of the request and to community bonding, diversity and one-stop shopping opportunities. Citizen John Reas spoke to the trend in consumers looking for locally grown products.

Mr. Collins spoke to efforts to come to agreement on options for refrigerator/freezing and the property owner’s offer to assist with equipment. He spoke regarding food safety concerns should animal products be kept in coolers and spoke to those who experience moderate symptoms of illness without filing official reports. He advised regarding Staff participation in a regional effort to develop a template ordinance. City Attorney Wetherbee advised regarding the limited liability of the City as is the case for restaurants. Mr. Collins spoke to efficient use of resources through the establishment of market managers and the potential for a separate permit for meats/cheeses/dairy products.

**Ordinance No. 2012-11-23 (cont'd)**

Health Manager Heinicke spoke to the permitting timeframe being tied to the farmers' growing season rather than one-year in length, differences among other area municipalities and providing a level playing field for those interested in establishing a farmers' market anywhere in the City.

Mayor Dyer spoke to the potential of a committee to address differences and City Manager Glasscock spoke to Staff's efforts to come to agreement on terms. Ms. Gates spoke to refrigeration provided by trucks or coolers rather than construction of a facility and in opposition of the recommended ordinance. Council Member Dunlap spoke to examples of trucks used for vending or transport of refrigerated items and Mr. Collins stated concern that temperatures would be difficult to maintain when compartments are frequently opened/closed. Council Member Miner spoke to passage of the ordinance and offered to liaison a committee addressing issues.

Upon a motion made by Mayor Dyer and seconded by Council Member Miner, the Council voted 7-0 to repeal Ordinance Nos. 2008-11-16 and 2010-3-14 codified as Chapter 9, Food Code of the Code of Ordinances of the City of Plano and replacing them with a new Chapter 9, Food Code; and further to adopt Ordinance No. 2012-11-23. Mayor Dyer requested the committee meet during December.

**Ordinance No. 2012-11-24** to repeal Ordinance No. 2010-7-8, entitled "Health Categories and Fees", and replacing it with this ordinance, to be entitled "Health Categories and Fees" to amend Animal Services and Health fees; providing a repealer clause, a severability clause, and an effective date. (Regular Agenda Item "5")

Director of Environmental Health Collins spoke to the revision of several fees included in this request and City Attorney Wetherbee recommended passage.

Upon a motion made by Council Member Dunlap and seconded by Mayor Pro Tem Smith, the Council voted 7-0 to repeal Ordinance No. 2010-7-8, entitled "Health Categories and Fees," and replace it to amend Animal Services and Health fees; and further to adopt Ordinance No. 2012-11-24.

Nothing further was discussed. Mayor Dyer adjourned the meeting at 8:32 p.m.

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**Phil Dyer, MAYOR**

ATTEST

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Diane Zucco, City Secretary