

**PLANO CITY COUNCIL  
PRELIMINARY OPEN MEETING  
September 13, 2010**

**COUNCIL MEMBERS**

Phil Dyer, Mayor  
Lee Dunlap, Mayor Pro Tem  
Pat Miner, Deputy Mayor Pro Tem  
Ben Harris  
André Davidson  
Lissa Smith  
Harry LaRosiliere  
Jean Callison

**STAFF**

Thomas H. Muehlenbeck, City Manager  
Frank Turner, Deputy City Manager  
Bruce Glasscock, Deputy City Manager  
LaShon Ross, Deputy City Manager  
Mark Israelson, Assistant City Manager  
Diane C. Wetherbee, City Attorney  
Diane Zucco, City Secretary

Mayor Dyer called the meeting to order at 5:12 p.m., Monday, September 13, 2010, in Training Room A of the Municipal Center, 1520 K Avenue. All Council Members were present with the exception of Council Member LaRosiliere. 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; 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 6:01 p.m.

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

No items were brought forward.

**Discussion of Water Sampling Procedures**

Alan Upchurch, Director of Public Works and Engineering spoke to water samples taken around the City tested by the North Texas Municipal Water District and reported to the Texas Commission on Environmental Quality.

Mr. Upchurch advised that 19 samples in June contained coliform bacteria which are naturally present and further study concluding that there were no contaminants present. He spoke to work with Staff and the water district to identify possible sources, efforts of a private lab and environmental consultant to corroborate results and evaluate procedures. Mr. Upchurch advised regarding required public notification, costs incurred for consultants and retesting, uncertainty regarding the origin and revisions in the collection process.

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

No items were discussed.

**Consent and Regular Agendas**

Nothing further was discussed. Mayor Dyer adjourned the Preliminary Meeting at 6:18 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 13, 2010, at 7:00 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present with the exception of Council Member LaRosiliere.

The invocation was led by Mayor Pro Tem Dunlap and the Pledge of Allegiance was led by Deputy Mayor Pro Tem Miner.

**Comments of Public Interest**

T.J. Johnson, Chair of the Plano African American Museum (PAAM) expressed appreciation to the Council in bringing the museum to fruition and introduced new Executive Director Robert Haynes who thanked the City for their financial support and encouragement. He spoke to the time and process of creating museums and to PAAM's opening in five years. Resident Steve Kusters thanked the Council for consideration of the Plano Children's Theater during the Budget Worksession. Resident Kevin Butler inquired regarding the status of the Samaritan Inn and offered to participate in development of cycling programs.

**Consent Agenda**

Upon a motion made by Deputy Mayor Pro Tem Miner and seconded by Council Member Harris, 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")

August 14, 2010  
August 23, 2010  
August 26, 2010

### **Approval of Expenditures**

**Bid No. 2010-203-B** for Courtyard Theater Exterior Renovation to Hagler Construction Co., Inc., in the amount of \$120,266 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “B”)

**Bid No. 2010-177-B** for Best Value Bid for two (2) Communications Shelters to Sabre Communications in the annual amount of \$349,488. (Consent Agenda Item “C”)

**CSP No. 2010-198-B** for Southeast Industrial Water Tank Repaint project to J. R. Stelzer Co. in the amount of \$841,060 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “D”)

### **Adoption of Resolutions**

**Resolution No. 2010-9-1(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 funds in the amount of \$263,800 for the provisions of various community services and developments; authorizing its execution by the City Manager; and providing the effective date. (Consent Agenda Item “E”)

**Resolution No. 2010-9-2(R):** To approve the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano, Texas and the City of Murphy, Texas to allow the employees of the City of Murphy to take classes offered by City of Plano Professional Development Center, authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “F”)

**Resolution No. 2010-9-3(R):** To approve the terms and conditions of a Memorandum of Understanding between the State of Texas and the City of Plano for the adoption of the Texas Department of Transportation’s federally-approved Disadvantaged Business Enterprise Program; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “G”)

### **Adoption of Ordinances**

**Ordinance No. 2010-9-4:** To approve a negotiated resolution between the Atmos Cities Steering Committee (“ACSC” or “Steering Committee”) and Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex” or “Company”) regarding the Company’s third rate review mechanism (“RRM”) filing in all cities exercising original jurisdiction; declaring existing rates to be unreasonable; requiring the Company to reimburse cities’ reasonable ratemaking expenses; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement and finding the rates to be set by the attached tariffs to be just and reasonable; approving Atmos Mid-Tex’s proof of revenues; extending the RRM process for two cycles and adopting a new RRM tariff; ratifying the settlement agreement, including cost recovery for a steel service line replacement program; adopting a savings clause; determining that this ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; declaring an effective date; and requiring delivery of this ordinance to the Company and the Steering Committee’s legal counsel. (Consent Agenda Item “H”)

**Ordinance No. 2010-9-5:** To amend specific sections of Ordinance No.2009-9-9 codified as Section 21-147, of Article IV, Service Charges Generally, of Chapter 21, Utilities, of the Code of Ordinances of the City of Plano to increase the water rate schedules for residential and non-residential customers by six percent (6%) effective November 1, 2010, and providing a repealer clause, a severability clause, a savings clause, and an effective date. (Consent Agenda Item “I”)

**Ordinance No. 2010-9-6:** To amend Article IX, Railroads, of Chapter 12, Motor Vehicles and Traffic, of the Code of Ordinances of the City of Plano, Texas by amending Section 12-258, Subsections (a) and (c)(i), Quiet Zones, to add a definition of spur track and DART, and to designate additional rail crossings as Quiet Zones, and providing a penalty clause, a severability clause, a publication clause, and providing an effective date. (Consent Agenda Item “J”)

**Ordinance No. 2010-9-7:** To adopt and enact Supplement Number 91 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 “K”)

#### **ITEMS FOR INDIVIDUAL CONSIDERATION:**

Mayor Dyer advised that Regular Agenda Items “8” and “9” would be moved to the front of the agenda.

**Public Hearing and consideration of a Resolution** to amend the 2009-10 Action Plan to include the additional activity of land purchase in the amount of \$700,000 to support homeless transitional housing and services by The Samaritan Inn; and providing an effective date. Tabled at the August 9, 2010 City Council meeting. (Regular Agenda Item “8”)

Upon a motion made by Mayor Pro Tem Dunlap and seconded by Council Member Callison, the Council voted 7-0 to remove this item from the table.

Community Services Manager Day advised the Council that The Samaritan Inn has withdrawn their request. The Council concurred to accept the applicant’s withdrawal.

**Consideration of a Resolution** to authorize the filing of an application in an amount not to exceed \$700,000 under the U.S. Department of Housing and Urban Development Section 108 Loan Guarantee Program; approving its execution by the City Manager; and providing an effective date. Tabled at the August 9, 2010 City Council meeting. (Regular Agenda Item “9”)

Upon a motion made by Mayor Pro Tem Dunlap and seconded by Council Member Callison, the Council voted 7-0 to remove this item from the table.

The Council concurred to accept the applicant’s withdrawal.

**Ordinance No. 2010-9-8:** To approve and adopt the budget and setting the appropriations for the fiscal year beginning October 1, 2010, and terminating September 30, 2011; and providing an effective date. (Regular Agenda Item “1”)

**Ordinance No. 2010-9-8 (con'td)**

Upon a motion made by Deputy Mayor Pro Tem Miner and seconded by Council Member Harris, the Council voted 7-0 to approve and adopt the budget and setting the appropriations for the fiscal year beginning October 1, 2010, and terminating September 30, 2011; and providing an effective date; and further adopt Ordinance No. 2010-9-8.

**Ordinance No. 2010-9-9:** To approve and adopt the Community Investment Program and setting the appropriations for 2010-11; and providing an effective date. (Regular Agenda Item "2")

Deputy Mayor Pro Tem Miner spoke to delays in completion of the Oak Point Park Visitor's Center while other park programs move forward and Mayor Dyer spoke in support of the center and to the operational/debt service costs.

Upon a motion made by Council Member Callison and seconded by Council Member Davidson, the Council voted 7-0 to approve and adopt the Community Investment Program and setting the appropriations for 2010-11; and providing an effective date; and further adopt Ordinance No. 2010-9-9.

**Ordinance No. 2010-9-10:** To approve and adopt the tax rate for the fiscal year beginning October 1, 2010 and terminating September 30, 2011 and providing an effective date. (Regular Agenda Item "3")

City Manager Muehlenbeck advised that this ordinance would set the rate at .4886 cents per \$100 valuation with .3135 for operations/maintenance and .1751 for debt. Council Member Callison spoke to the process addressing the budget for the short-term.

Upon a motion made by Council Member Harris and seconded by Deputy Mayor Pro Tem Miner, the Council voted 7-0 to approve and adopt the tax rate for the fiscal year beginning October 1, 2010 and terminating September 30, 2011 and providing an effective date; and further adopt Ordinance No. 2010-9-10.

**Resolution No. 2010-9-11(R):** To approve the terms and conditions of an Economic Development Incentive Agreement by and between the City of Plano, Texas and Network Engines, Inc., a Delaware corporation; authorizing its execution by the City Manager and providing an effective date. (Regular Agenda Item "4")

Director of Finance Tacke advised that Network Engines, Inc. would occupy no less than 82,000 square feet of existing space and retain, transfer or create up to 111 full-time jobs with a possible additional 13 by March 31, 2011. She advised that the value of taxable real property improvements is not less than \$190,000, business personal property \$30,000, terms of the lease are for seven years and that the agreement is in the amount of \$68,200.

Upon a motion made by Mayor Pro Tem Dunlap and seconded by Council Member Davidson, the Council voted 7-0 to approve the terms and conditions of an agreement by and between the City and Network Engines, Inc.; and further adopt Resolution No. 2010-9-11(R).

**Consideration of an Ordinance** to repeal Ordinance No. 2000-8-4 in order to terminate the existing Private Franchise Agreement by and between the City of Plano, Texas, and Allied Waste Systems, Inc. d/b/a Allied Waste Services of Plano and approving a new Private Franchise Agreement by and between the City of Plano, Texas, and Allied Waste Systems, Inc. d/b/a Allied Waste Services of Plano, providing terms and conditions upon which Allied Waste Systems, Inc. shall be granted an exclusive Private Franchise for collection and disposal of solid waste for commercial customers located within the City of Plano in accordance with Article 10-A of the City Charter and a non-exclusive Private Franchise for collection of recyclable materials from commercial customers located in the City of Plano; and authorizing its execution by the City Manager; providing a repealer clause, a severability clause, a savings clause, a penalty clause, providing for publication and an effective date. (First Reading) (Regular Agenda Item “5”)

Director of Environmental Services and Sustainability Nevil spoke to changes in the agreement including a rate change as a result of a direct pass-through of the North Texas Municipal Water District disposal rate increases and a potential “Waste to Fuel Project.” She spoke to current negotiations for the recycling processing agreement and contingencies related to this agreement. Ms. Nevil spoke to savings provided by a local processing center, positive customer feedback and recommended approval. Citizen Dwayne Clark protested continuation of the contract as a “no bid” and Daniel Alford, representing Servall spoke to the benefits of separating collection of construction debris from commercial waste.

Ms. Nevil spoke to bidding in 1990, negotiations to increase diversion and resultant cost savings and responded to the Council, advising that information from other sources would need to be reviewed for comparison. Reid Donaldson of Allied Waste spoke to Plano having a higher disposal cost than the City of Dallas, use of transfer stations/routing, a possible increase in rates should construction be handled under a separate contract, and recycling of materials. Ms. Nevil spoke to the contract’s history, advised regarding the upcoming recycling processing agreement, and positive cost comparisons to other cities utilizing the North Texas Municipal Water District. She spoke to the rates charged to the City for use of the land fill and potential savings, benefits of transfer station and the positive comments from customer surveys. The Council requested further information regarding comparisons of services/costs.

Upon a motion made by Deputy Mayor Pro Tem Miner and seconded by Council Member Harris, the Council voted 7-0 to approve the first reading of an ordinance to repeal Ordinance No. 2000-8-4 in order to terminate the existing Private Franchise Agreement by and between the City of Plano, Texas, and Allied Waste Systems, Inc. and approving a new Private Franchise Agreement for collection of recyclable materials from commercial customers located in the City of Plano.

**Public Hearing and adoption of Ordinance No. 2010-9-12** as requested in Zoning Case 2010-10 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to amend Planned Development-65-Central Business-1 on 168.1± acres out of the Maria C. Vela Survey, Abstract No. 183, located generally at the northeast and southeast corners of Dallas North Tollway and Legacy Drive, in the City of Plano, Collin County, Texas, to establish regulations to allow for off-premise signage; 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: Shops at Legacy (Regular Agenda Item “6”)

## **Ordinance No. 2010-9-12 (cont'd)**

Senior Planner Perry advised that the request is related to signage at the Shops at Legacy and that the Planning and Zoning Commission recommends approval subject to:

The proposed regulations shall be added to Specific Provisions of the Planned Development within PD-65-CB-1: (Additions are indicated in underlined text.)

### 6. Signage Regulations

#### Multipurpose Wall Signs

##### a. General

- A multipurpose wall sign is any sign mounted on the wall of a building which is used to identify shopping centers, retail districts, office districts or commercial sites, and may include a listing of occupants within the development being identified. The multipurpose wall sign may also be an electronic changeable wall sign as defined herein.
- Multipurpose wall signs are exempt from Subsections 3.1603 (1)(b) and (2)(f) of Section 3.1600.
- An electronic changeable wall sign is a type of multipurpose wall sign that displays static images that change message or copy by programmable electronic processes. Electronic changeable wall signs shall be allowed to change copy every eight seconds.

##### b. Size and Location

- Multipurpose wall signs shall not be limited in height or width except that they shall be limited to 300 square feet in size.
- A maximum of two multipurpose wall signs shall be mounted to the parking garage located at the southeast corner of the Dallas North Tollway frontage road and Legacy Circle only. The signs shall be mounted on the north, west or south facades, and only one sign shall be permitted on each facade.
- Multipurpose wall signs may only be used to advertise occupants located within the area bounded by the Dallas North Tollway on the west, Legacy Drive on the south, Bishop Road on the east, and Legacy Circle on the north.

Planner Hill advised that letters received in opposition requested clarification.

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

Upon a motion made by Deputy Mayor Pro Tem Miner and seconded by Council Member Callison, the Council voted 7-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to amend Planned Development-65-Central Business-1 located generally at the northeast and southeast corners of Dallas North Tollway and Legacy Drive, in the City of Plano, to establish regulations to allow for off-premise signage; as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2010-10; and further to adopt Ordinance No. 2010-9-12.

**Public Hearing and adoption of Ordinance No. 2010-9-13** as requested in Zoning Case 2010-13 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 605 so as to allow the additional use of Print Shop (Major) on 11.4± acres of land out of the J. B. Roundtree Survey, Abstract No. 759, located on the south side of Plano Parkway, 850± feet west of Shiloh Road, in the City of Plano, Collin County, Texas, presently zoned Research/Technology Center; 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: William O'Neil & Company, Inc. (Regular Agenda Item "7")

Senior Planner Perry advised that the addition of a specific use permit will provide the opportunity to review additional uses and further that the Planning and Zoning Commission recommended approval as submitted.

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

Upon a motion made by Council Member Callison and seconded by Deputy Mayor Pro Tem Miner, the Council voted 7-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 605 so as to allow the additional use of Print Shop (Major) located on the south side of Plano Parkway, 850± feet west of Shiloh Road, in the City of Plano; as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2010-13; and further adopt Ordinance No. 2010-9-13.

Nothing further was discussed and Mayor Dyer adjourned the meeting at 8:15 p.m.

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**Phil Dyer, MAYOR**

ATTEST:

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Diane Zucco, City Secretary