

**PLANO CITY COUNCIL**  
**October 8, 2012**

**COUNCIL MEMBERS PRESENT**

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

**STAFF PRESENT**

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

Mayor Dyer convened the Council into the Regular Session on Monday, October 8, 2012, at 7:04 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. A quorum was present.

Pastor Jack Schneider of St. Paul Lutheran Church led the invocation and Boy Scout Troop 404 from Prince of Peace Catholic Community led the Pledge of Allegiance.

Mayor Dyer recognized United Way's launch of their 2012 campaign. Mayor Dyer presented a proclamation recognizing October as Domestic Violence Awareness Month and the efforts of Verizon Wireless and The Family Place to assist those in need.

Mayor Dyer administered oaths of office to incoming board and commission members.

**COMMENTS OF PUBLIC INTEREST**

Bo Avery, representing Ruisseau Village, spoke of the potential to revitalize the 100,000 square foot vacant retail center by raising the façade and improving signage. He spoke to bringing additional tax dollars to the City, recent approval for Collin Creek mall and requested a partnership with the City. City Manager Glasscock advised that the City is currently not making retail incentives and that the Council will take the issue under advisement at a future meeting and communicate at that time.

**CONSENT AGENDA**

Mayor Dyer advised that he would be stepping down on Consent Agenda Item No. 2.

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

**Approval of Minutes** (Consent Agenda Item "A")  
September 24, 2012

## **Approval of Expenditures**

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

To approve the purchase of library materials for Plano Public Library System (PPLS) in the amount of \$100,000 from Brodart through an existing contract/agreement with Texas State Contract 715-N1 Print Materials and Multimedia; and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item "B")

To approve the purchase of library materials for Plano Public Library System (PPLS) in the amount of \$100,000 from Ingram Library Services through an existing contract/agreement with Texas State Contract 715-N1 Print Materials and Multimedia; and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item "C")

To approve the purchase of library materials for Plano Public Library System (PPLS) in the amount of \$250,000 from Midwest Tapes through an existing contract/agreement with Texas State Contract 715-N1 Print Materials and Multimedia; and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item "D")

To approve the purchase of library materials for the Plano Public Library System (PPLS) in the amount of \$400,000 from Baker & Taylor for purchase of various library materials including books, compact disks, books-on-CD and DVDs. These purchases will be made through the State of Texas CO-OP Purchasing Program under Texas State Contract 715-N1 Print Materials and Multimedia with Baker & Taylor; and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item "E")

### **Approval of Expenditure**

To approve an estimated annual expenditure in the amount of \$541,776 for City insurance premiums to be paid to the Broker of Record, Arthur J. Gallagher Risk Management Services, Inc. to be utilized by Risk Management. (Consent Agenda Item "F")

### **Adoption of Resolutions**

**Resolution No. 2012-10-1(R):** To approve the terms and conditions of an Inter Local Cooperation Agreement between the City of Plano, Texas, and the City of Richardson, Texas; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item "G")

**Resolution No. 2012-10-2(R):** To approve the terms and conditions of a grant awarded by the Edward Byrne Memorial Justice Assistance (JAG) State Formula Program through the Criminal Justice Division of the Office of the Governor of Texas to the City of Plano, Texas for Firearms and Ballistic Forensic Analysis; authorizing the execution of any and all documents in connection therewith by the City Manager; and providing an effective date. (Consent Agenda Item "H")

**Resolution No. 2012-10-3(R):** To ratify an expenditure for the maintenance and support of Naviline Software Products provided by SunGard Public Sector, Inc., the sole source provider of Naviline Software Products in an amount not to exceed \$138,490; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item "I")

**Resolution No. 2012-10-4(R):** To approve the hiring of an Assistant City Attorney II by the City Attorney; and providing an effective date. (Consent Agenda Item “J”)

**Resolution No. 2012-10-5(R):** To approve the use of contract and volunteer attorneys for prosecution services by and under the direction of the City Attorney; and providing an effective date. (Consent Agenda Item “K”)

**Resolution No. 2012-10-6(R):** To authorize the purchase of downloadable content (ebooks, music, video, and e-audio library materials) with Kindle functionality in an amount not to exceed the sum of \$150,000 from OverDrive, Inc., the sole source provider of such library materials; and authorizing its execution by the City Manager to execute all necessary documents to effectuate the purchase; and providing an effective date. (Consent Agenda Item “L”)

### **Adoption of Ordinances**

**Ordinance No. 2012-10-7:** To abandon all right, title and interest of the City, in and to that certain 85’ Drainage Easement recorded in Volume 1857, Page 841, and a certain 80’ Drainage Easement recorded in Volume 1435, Page 485, and Volume 1130, Page 658 of the Deed Records of Collin County, Texas and being situated in the Martha McBride Survey, Abstract No. 553, which are 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, ASBURY AUTOMOTIVE TEXAS REAL ESTATE HOLDINGS, L.L.C, to the extent of its interest; authorizing the City Manager to execute any documents deemed necessary; and providing an effective date. (Consent Agenda Item “M”)

**Ordinance No. 2012-10-8:** To repeal Ordinance No. 2012-9-30; establishing a certification pay plan for classified members of the Plano Fire and Police Departments; establishing an assignment pay plan for members of the Plano Fire Department serving in the capacity of paramedic; establishing a Paramedic Preceptor pay plan for members of the Plano Fire Department; establishing an assignment pay plan for members of the Plano Police Department serving in the capacity of Field Training Officers; and providing a repealer clause, a severability clause and an effective date. (Consent Agenda Item “N”)

### **END OF CONSENT**

**Resolution No. 2012-10-9(R):** To authorize the Arts Center of North Texas to return any restricted assets to the appropriate donors and to return the land to donors as determined by the Arts Center of North Texas; to satisfy any existing liabilities and to dissolve in accordance with applicable law; any remaining assets shall be returned in equal shares to Plano, Allen, and Frisco; setting an effective date. (Regular Agenda Item “1”)

Citizen Jack Lagos spoke to the Arts Center of North Texas (ACNT) being owned by the three cities along with their assets; the ACNT spending \$4.5 million of the cities’ money during their existence and owing this back; and that all assets belong to the cities unless it can be shown they are restricted. He spoke to the ACNT balance sheet indicating assets of \$24.5 million, determining donations that are restricted versus those that are not and providing documentation.

City Attorney Wetherbee advised that the Arts Center of North Texas is an independent entity, formed by the three cities who received assets directly. She stated that their Articles of Incorporation dictate how funds are to be distributed and that after paying liabilities and returning restricted assets, remaining funds will be provided to the cities. Mr. Lagos spoke to a possible different interpretation by a court of law.

**Resolution No. 2012-10-9(R) (cont'd)**

Upon a motion made by Mayor Pro Tem Smith and seconded by Council Member Miner, the Council voted 8-0 to authorize the Arts Center of North Texas to return any restricted assets to the appropriate donors and to return the land to donors as determined by the Arts Center of North Texas; to satisfy any existing liabilities and to dissolve in accordance with applicable law; any remaining assets shall be returned in equal shares to Plano, Allen, and Frisco; and further to adopt Resolution No. 2012-10-9(R).

Due to a possible conflict of interest, Mayor Dyer stepped down from the bench on the following item.

**Public Hearing and adoption of Ordinance No. 2012-10-10 as requested in Zoning Case 2012-27** to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to amend Planned Development-185-Regional Commercial on 14.8± acres located at the northeast corner of Dallas North Tollway and Parker Road, in the City of Plano, Collin County, Texas, to modify the development standards, including but not limited to reducing the front yard setback on Parker Road; 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: Cencor Realty Services (Regular Agenda Item "2")

Director of Planning Jarrell advised that this item requests reduction of the front yard setback along Parker Road to accommodate a mixed-use urban development and spoke to similar setbacks along Type D thoroughfares (this is a Type C). She stated that the Planning and Zoning Commission recommended approval as follows (Proposed additions are indicated by underlined text.):

Restrictions:

The permitted uses and standards shall be in accordance with the Regional Commercial (RC) zoning district unless otherwise specified herein.

**General Provisions of the Planned Development**

1. The zoning exhibit shall be adopted as part of the ordinance.
2. A maximum of 265 multifamily residential dwelling units shall be allowed by right within Tract 1. Multifamily residential is prohibited within Tracts 2 and 3.
3. Site Design
  - a. The district shall have a central north/south pedestrian-oriented private roadway that runs from Parker Rd. to the existing east/west fire lane of the regional theater property to the north. The private roadway shall have diagonal or 90° on-street parking and sidewalks on both sides of the roadway. The minimum width of the sidewalks shall be 12 feet. The sidewalks may be used for outdoor eating areas, outdoor display, and other activities commonly associated with a pedestrian-oriented development, if a minimum six feet sidewalk clearance and/or distance to curb line of the private roadway is maintained.
4. Trash collection facilities shall be exempt from the minimum distance requirements from rights-of-way of Type C and above thoroughfares as specified in Section 2.824 (Regional Commercial) Subsection 6 (a) (Special District Requirements).
5. Area, Yard, and Bulk Requirements

**Ordinance No. 2012-10-10 (cont'd)**

- a. Minimum Building Height: Two story (30 feet) for buildings within Tracts 1 and 3.
  - b. Maximum Building Height: Eight story (120 feet) for hotel use; six story (100 feet) for all other structures other than parking garages; 52 feet for parking garages with no maximum number of levels. (The parking garages shall be permitted to have levels of parking over and above retail, surface parking, or other permitted uses on the ground level.)
  - c. Maximum Building Setback: Buildings fronting the north/south pedestrian-oriented private roadway and the existing east/west fire lane of the regional theater shall be constructed such that a minimum of 60% of the facade is located within 20 feet from the back of curb unless restricted by easements. Where easements are present, 60% of the facade must be built to the easement line.
  - d. Setbacks from Parkwood Blvd.: Minimum of 50 feet as measured from the property line or three times the height, minus 90 feet as measured from the nearest residential district boundary line, whichever is more restrictive.
  - e. Setbacks from Parker Rd.: Minimum of 30 feet as measured from the property line.
6. Landscaping
- a. Except as stated below, landscaping shall be provided per Section 3.1200 (Landscaping Requirements) and Section 4.600 (Dallas North Tollway Overlay District):
    - i. The required 30-foot landscape edge along the Dallas North Tollway frontage road may be reduced to ten feet in width, and the required 30-foot landscape edge along Parkwood Blvd. may be reduced to eight feet in width. A continuous meandering sidewalk interspersed with plant materials and berms as set forth in Subsection 4.604(3) shall not be required.
    - ii. Street trees shall be provided at a rate of one tree per 50 linear feet of street along all public streets and on both sides of the north/south pedestrian-oriented private roadway. Street trees may be placed in tree islands, between the curb and the sidewalk, or in the landscape edge. There is no minimum or maximum spacing between trees.
7. Parking
- a. Unless listed below, the minimum required parking within this planned development shall comply with Section 3.1100 (Off-Street Parking and Loading). The minimum required parking for multifamily uses and nonresidential uses other than hotels shall be provided as follows:
    - i. Multifamily Use: One space per bedroom
    - ii. Nonresidential Uses: One space per 250 square feet of floor area
  - b. Total required parking shall be computed on a district-wide basis regardless of any phase/property lines. Parking stall and drive aisle dimensions shall comply with Section 3.1100 (Off-Street Parking and Loading).

**Ordinance No. 2012-10-10 (cont'd)**

8. Building Materials

- a. Building Materials: First floor exterior elevations of buildings and parking garages shall comply with the building material requirements of the RC zoning district. Second floor and higher exterior elevations shall comply with the building material standards except that specified materials shall only be required on 60% of the facade elevation. Interior elevations concealed by buildings or parking garages shall be exempt from material standards but shall be consistent in color and finish with the rest of the building or parking garage.
- b. Elevations of parking garages that face public streets, the north/south pedestrian-oriented private roadway, and the existing east/west fire lane of the regional theater, shall comply with the building material requirements of the RC zoning district.
- c. Visual barriers shall be installed to cover any openings between parking levels of a parking garage for openings that both (i) face a residential use east of Parkwood Blvd. directly across from the property and (ii) are located above the third level of the parking garage. Visual barriers measuring at least four feet in height shall extend above the parapet walls of the top levels of parking garage facades that both (i) face a residential use east of Parkwood Blvd. directly across from the property and (ii) are located above the third level of the parking garage.
- d. Buildings with first floor nonresidential uses that front the north/south pedestrian-oriented private roadway, except for parking garages, shall have a minimum of 40% of the ground floor facade comprised of window area. For the purposes of this standard, ground floor is defined as that portion of a building from the street-level finish floor elevation and extending 12.5 feet above the street-level finish floor elevation.

9. Signage

- a. For building facades and sidewalks/parkways fronting the north/south pedestrian-oriented private roadway and building facades fronting the existing east/west fire lane of the regional theater property to the north allowable signs must comply with Subsection 3.1605 (Downtown Sign District).
- b. All other signage must comply with Section 3.1600 (Sign Regulations) and Section 4.600 (Dallas North Tollway Overlay District).

Mayor Pro Tem Smith opened the Public Hearing. David Palmer, of Cencor Realty, spoke to plans for the development and landscaping and requested approval. He responded to the Council that construction will begin in November 2012. No one else spoke for or against the request and the Public Hearing was closed. Ms. Jarrell responded regarding the landscaping width on the south side of Parker Road (opposite this location).

Upon a motion made by Deputy Mayor Pro Tem Harris and seconded by Council Member Miner, the Council voted 7-0 to amend Planned Development-185-Regional Commercial on 14.8± acres located at the northeast corner of Dallas North Tollway and Parker Road, in the City of Plano, to modify the development standards, including but not limited to reducing the front yard setback on Parker Road; as requested in Zoning Case 2012-27 and as recommended by the Planning and Zoning Commission and further to adopt Ordinance No. 2012-10-10.

Mayor Dyer resumed his seat at the bench.

**Public Hearing and consideration of an Appeal of the Planning & Zoning Commission's Denial of Zoning Case 2012-25** – Request to rezone 19.7± acres from Planned Development-202-Research/Technology Center to Single-Family Residence-6 located on the south side of 14th Street, 350± feet east of Plano Parkway. Zoned Planned Development-202- Research/Technology Center. Applicants: Dale R. & Melody K. Burton, Treasure Ann Langford, and Harold B. Warnick, Jr. (Regular Agenda Item “3”)

Planning Manager Firgens advised that the current zoning on the subject property was established in 2008 and that the applicant has been unsuccessful in marketing it given the designation. She advised regarding the surrounding land uses and zoning including the Police Training Academy, golf course, and mini-warehouse/public storage and stated that the proposed zoning does not comply with the Future Land Use Plan. Planning Manager Firgens spoke to review of the Research/Technology (RT) district in 2011 and retention of zoning in this area at the request of property owners. She advised that the request is not consistent with recent Comprehensive Plan amendments which recommend that residential rezoning 1) not be isolated, and 2) be evaluated to determine the impact on infrastructure, public safety response, school capacity and access to amenities. Ms. Firgens spoke to issues of sewer capacity, public safety response time and access to nearby parks and advised that the Planning and Zoning Commission stated concern with the adjacent land uses and felt there may be an opportunity for another use given the current zoning. She spoke to ensuring public street access and determining the appropriate zoning for adjacent properties and advised that a reversal of the denial would require a three-quarter vote of approval from the Council. Ms. Firgens responded to Mayor Dyer regarding the amount of adjacent property located in the flood plain. City Manager Glasscock stated concern regarding the encroachment of residential zoning near the Police Training Academy (gun range).

Mayor Dyer opened the Public Hearing. Rick Fambro, representing the applicants, spoke to difficulties in marketing the property with the current zoning, rezoning of other R/T properties, demand for residential communities in east Plano, sporadic use of the gun range and the decreased sound emanating from the facility following acoustic improvements. He spoke to amenities in the area including a golf course to the north and park land to the east, proposed improvement to sewer capacity, the property's topography limiting commercial use, and plans for access to adjacent properties. Don Plunk, President of Henry S. Miller Dalcon, Inc., spoke to sound abatement that can be provided in homes in the area and stated that prospective buyers will be notified of the location of the gun range. Mr. Fambro responded to Deputy Mayor Pro Tem Harris, advising that development of Single-Family-7 would be a challenge given the development costs. Resident Kari Rushing spoke regarding her adjacent property being purchased for commercial use and stated concern regarding the requested rezoning. She requested a secondary access and fire lane be provided to her property should the request be approved. No one else spoke for or against the request. The Public Hearing was closed.

Police Administrative Manager Brashear responded to the Council, advising that complaints regarding the gun range are more typical as residents spend more time outdoors and spoke to the in-service training schedule. Council Member Duggan spoke to the owner's inability to sell the property given the current zoning and potential homebuyers researching their purchase. Council Member Miner spoke to other residential zoning which has developed in the area given the same conditions of noise and emergency response and to the developer's offer to mitigate sewer capacity. He made a motion which was seconded by Mayor Pro Tem Smith. No vote was taken at this time.

Mayor Dyer spoke to the site's isolation, proximity to the gun range and lack of open space, and spoke to the challenges of development as anything other than residential given the topography. Mr. Fambro responded to Council Member Davidson regarding access to adjacent properties and Ms. Firgens advised that the school district has some limited capacity available.

**Appeal of the Planning & Zoning Commission's Denial of Zoning Case 2012-25 (cont'd)**

Matt Dorsett of Spires Engineering spoke regarding planned increases to sewer capacity and stated that costs would be borne by the developer. He further spoke to the development costs being reflected in the request for Single-Family-6 zoning. Ms. Firgens spoke to the planned hike/bike trail to the east, challenges of accommodating increased sewer capacity, and ensuring that access to adjacent properties is provided. Council Member Dunlap spoke to the property's challenges under R/T zoning given its distance from highways and topography. He spoke to the amenities of a nearby golf course, open flood plains spaces, and incidental noise inherent to a community and in support of the motion.

The motion made by Council Member Miner and seconded by Mayor Pro Tem Smith was restated and the Council voted 8-0 to rezone 19.7± acres from Planned Development-202-Research/Technology Center to Single-Family Residence-6 located on the south side of 14th Street, 350± feet east of Plano Parkway as requested in Zoning Case 2012-25.

The Council concurred in directing Staff to meet with adjacent property owners to determine appropriate zoning.

Nothing further was discussed. Mayor Dyer adjourned the meeting at 8:42 p.m.

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**Phil Dyer, MAYOR**

ATTEST

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Diane Zucco, City Secretary