

PLANO CITY COUNCIL
December 10, 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 C. Wetherbee, City Attorney
Diane Zucco, City Secretary

Mayor Dyer convened the Council into the Regular Session on Monday, December 10, 2012, at 7:18 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. A quorum was present.

Senior Pastor Sam Fenceroy of Mt. Olive Church of Plano led the invocation and Girl Scout Troop 3465 of Thomas Elementary led the Pledge of Allegiance.

Mayor Dyer administered the oath of office and introduced Brian Crawford as the new City of Plano Fire Chief. Mayor Dyer accepted, on behalf of the City, a donation from The Friends of the Plano Public Library.

COMMENTS OF PUBLIC INTEREST

Citizen Randy Gates spoke to efforts to create a farmers' market ordinance and requested consideration of individual vendors as responsible food establishments rather than the market as a whole and to the market assisting in gathering their information.

CONSENT AGENDA

Upon the request of Council Member Dunlap, Consent Agenda Item "B" was removed for individual consideration due to a possible conflict of interest.

City Secretary Zucco advised regarding revision to Consent Agenda Item "K."

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

Approval of Minutes (Consent Agenda Item “A”)
November 26, 2012

Approval of Expenditures

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

Bid No. 2013-28-B for Bob Woodruff Park-South Pavilion Renovation Project to T&G Corporation dba Florida T&G Corporation Texas Division, Inc. in the amount of \$317,900 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “C”)

Bid No. 2013-22-B for High Point Park and Carpenter Park Athletic Facility Improvements to Dean Electric, Inc. in the amount of \$2,734,185 and authorizing the City Manager to execute all necessary documents. Improvements at High Point Park include: renovation of walkways, plaza, restrooms, electrical room, backstops, and dugouts; replacement of irrigation system and existing shade structure; and new improvements of an additional restroom, signage, shade structures, and a screened storage/dumpster area. Improvements at Carpenter Park include: a restroom building, storage area, plaza, bicycle parking and irrigation pump. (Consent Agenda Item “D”)

RFP No. 2012-204-C for three (3) years effective January 1, 2013 with three (3) additional one (1) year City optional renewals for Employee Benefits Consulting Services for Human Resources to Holmes Murphy & Associates in the annual amount of \$108,000 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “E”)

Purchase from an Existing Contract

To approve the purchase of Microsoft software licenses for one (1) year with two (2) City optional one (1) year renewals, through a Microsoft Enterprise Agreement in the amount of \$1,005,196 from Dell Marketing, LP, through an existing DIR (Department of Information Resources) contract and authorizing the City Manager to execute all necessary documents. (DIR-SDD-1014) (Consent Agenda Item “F”)

Adoption of Resolutions

Resolution No. 2012-12-1(R): To approve the purchase of 1,905 sq. ft. of land for a Street Easement and 1,033 sq. ft. for a Temporary Construction Easement located at the southeast corner of Independence Parkway and Parker Road by and between Peter and Stacy Daniels and the City of Plano; and authorizing the City Manager to execute any necessary documents; and providing an effective date. (Consent Agenda Item “G”)

Resolution No. 2012-12-2(R): To authorize the establishment and amendment of Daily Admission and Facility Rental Fees at the Plano Aquatic Center pursuant to Chapter 15, Parks and Recreation, Article IV, User Fees, of Section 15-81, Establishment of a Fee, of the City Code of Ordinances of the City Council of the City of Plano, Texas; and providing an effective date. (Consent Agenda Item “H”)

Resolution No. 2012-12-3(R): To approve the purchase of software maintenance in the amount of \$57,739 from Environmental Systems Research Institute, Inc., a sole source provider; authorizing the City Manager to issue a purchase order for the services; and providing an effective date. (Consent Agenda Item “I”)

Resolution No. 2012-12-4(R): To establish energy conservation goals as required by Texas Health and Safety Code §388.005, as amended by Senate Bill 898 of the 82nd Legislative Session of 2011; requiring the filing of an annual report on compliance with the City’s energy conservation goals with the State Energy Conservation Office (“SECO”) on a form provided by SECO; and providing an effective date. (Consent Agenda Item “J”)

Resolution No. 2012-12-5(R): To approve the terms and conditions of an Interlocal Agreement requesting North Central Texas Council of Governments (NCTCOG) to pursue development of the Cotton Belt Passenger Rail Project utilizing the Public and Private Facilities and Infrastructure Act; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “K”) (adopted with revisions)

END OF CONSENT

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

Bid No. 2013-25-B for Spectator Covers at Russell Creek, Project 6284 to Jim Bowman Construction Co., L.P. in the amount of \$225,030 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item B”)

Upon a motion made by Mayor Pro Tem Smith and seconded by Council Member Miner, the Council voted 7-0 to award Spectator Covers at Russell Creek, Project 6284 to Jim Bowman Construction Co., L.P. in the amount of \$225,030.

Council Member Dunlap resumed his seat at the bench.

Public Hearing and Comment - Review of the Consolidated Annual Performance Evaluation Report describing the use of Federal Funds. This report details how the City used U.S. Department of Housing and Urban Development funds during the 2011-2012 grant year. (Regular Agenda Item “1”)

Community Services Manager Day advised that this report represents the second year of operation under the 2010-2014 Consolidated Plan of Housing and Community Development Needs and spoke to the City’s use of American Recovery and Reinvestment Act funds to address homelessness, grant funds for construction efforts and providing any comments received to the Department of Housing and Urban Development. She advised that two of twelve numeric goals have been met.

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

Public Hearing and consideration of an Ordinance as requested in Zoning Case 2012-26 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended; amending Heritage Resource Designation No. H-4 to allow the additional use of Assembly Hall, on 0.5± acre located at the northwest corner of M Avenue and 16th Street and being more particularly described as Lot 2-B, Block 6, Clint Foreman Heirs Addition, an addition to the City of Plano, Collin County, Texas, presently zoned Multifamily Residence-1 with Heritage Resource Designation H-4; 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: Stanley E. & Pat Black. (Tabled 11/12/12) (Regular Agenda Item “2”)

Upon a motion made by Deputy Mayor Pro Tem Harris and seconded by Council Member Duggan, the Council voted 8-0 to remove the item from the table.

Development Review Manager Firgens spoke to Council’s decision on November 12, 2012, to table the request in order to provide for full participation in its consideration. She advised that there is no revised information to consider with the exception of additional letters in support and stated that because adjacent property owners’ opposition still constitutes more than 20% of the land within the 200-foot notice area, approval requires a three-quarter majority vote. Ms. Firgens advised that the item has been recommended by the Planning and Zoning Commission for approval subject to the following:

1. Allow assembly hall use as defined in Section 1.600 (Definitions) of the Zoning Ordinance, as an additional permitted use with the following restrictions:
 - a. The maximum occupancy for the property (including indoor and outdoor) shall collectively be 45 people (inclusive of staff and guests);
 - b. No outdoor or indoor activity shall occur after 10:00 p.m.; and
 - c. No amplified music allowed on the property.

Ms. Firgens responded to Council Member Dunlap, advising that adjacent property to the north, owned by the applicants, has the ability to provide twelve parking spaces with site plan and platting approval and that the heritage designation can apply to a portion of a lot. She further advised that the applicant would need to demonstrate how they intend to meet parking requirements through the site plan approval process. Mr. Dunlap reviewed several of the uses allowed by right with the underlying Multi-Family-1 zoning including: assisted living, continuing care, household care, daycare and those utilizing a specific use permit including: household care institution, religious facility, and school.

Mayor Dyer opened the Public Hearing. Robert Miklos, representing the applicant, spoke to addition of the bed and breakfast designation in 1992, use of the property for fundraisers and weddings for twenty years and the owners’ believe that the use was permitted based on the property’s history. He spoke to approval by both the Heritage and Planning and Zoning Commissions after their consideration of the location.

Zoning Case 2012-26 (cont'd)

Mr. Miklos spoke to neighbors in support, plans for parking on the property, restrictions in the hours of operation and amplified sound, and the lack of registered complaints. Applicant Pat Black spoke to the cost of property upkeep and advised that previous events ran no later than 11:00 pm. She spoke to passage of the bed and breakfast designation in 1992 without restrictions and the opportunity to put specific limitations in place. Applicant Stan Black thanked the Council for their consideration and spoke to the types of events held, economic impact on the Downtown area, precedent for commercial use in the venue, other commercial operations in the area, and discussions held with Staff and neighbors.

Myra Gordon spoke to events attended at the location and Council consideration of the decisions of both the Heritage and Planning and Zoning Commissions. She spoke to either giving the applicant the opportunity to continue hosting events or risk seeing the home deteriorate. Wendy Hansen spoke in support of the use and economic benefits provided to the downtown area. Allen resident Randy Williams spoke in support of the request, maintaining the viability of the business and compromises agreed to by the applicant. Wylie resident Teresa Kristoff spoke to the lack of evidence related to neighborhood issues with the use, benefits of appropriate zoning to revitalize commerce and the concessions agreed to by the applicants. Frisco resident Nicholas Gibson, and Plano resident Jason VanSickel spoke to the unique and historic nature of the Carpenter House. Plano resident Jacob Namney spoke to the lack of evidence of previous complaints. Kyle Montgomery, spoke in support of the request and compromises made for neighbors. She spoke to issues of traffic, parking, trash and noise in typical single-family neighborhoods. Travis Black spoke to the legacy of the Carpenter House and the potential for disrepair. Marty Younkin spoke in support of the request and typical noise issues in residential areas.

Citizen Randy Wright, representing Citizens Against Spot Zoning, spoke to concerns of the neighborhood including noise, parking, personal safety, food safety, and property values. He spoke in support of a bed and breakfast use, historic properties not typically located in business areas, any change in zoning being permanent in nature, the history of an illegal operation, Staff's recommendation of denial, neighbors' rights and the inappropriateness of spot zoning. No one else spoke for or against the request. The Public Hearing was closed.

Pat Black responded to Council Member Miner, advising that event food is provided through catering and that hosts may bring in wine and/or beer for events. City Attorney Wetherbee advised that on-site residency is a requirement of bed and breakfast use. Council Member Miner stated opposition and spoke to zoning running with the land and concerns that the property is located within a residential neighborhood. He made a motion to deny the request.

Council Member Gallagher spoke to historic districts typically having a blend of commercial and residential uses, prior consideration by members of the Heritage and Planning and Zoning Commissions, and lack of prior complaints against the property. Mayor Dyer advised that since there was no second for the motion made by Council Member Miner, it was removed from the table.

Zoning Case 2012-26 (cont'd)

Council Member Dunlap clarified with Mr. Wright and adjacent property owner Janis Allman, the uses that can be developed by right and by specific use permit on Multi-Family-1 zoned property. Ms. Firgens advised that the bed and breakfast designation remains with the property whether it is utilized or not and that limitations on the number of people for daycare or assisted living facilities would need to be vetted through the Building Inspections Department via the Certificate of Occupancy process. Ms. Black responded to Council Member Dunlap, stating that they were advised in 2000 that no record of issuance of a Certificate of Occupancy could be found and stated agreement with the number of event attendees, parking and audio restrictions. Ms. Firgens responded to the Council, advising that the building is individually dedicated and protected, it can be expanded within guidelines and that religious ceremonies are permitted with compliance.

A motion was made by Council Member Miner and seconded by Mayor Dyer to deny the request. The Council voted 3-5 with Mayor Pro Tem Smith, Deputy Mayor Pro Tem Harris and Council Members Davidson, Duggan and Gallagher voting in opposition. The motion failed.

A motion was made by Council Member Gallagher and seconded by Mayor Pro Tem Smith to approve the request. The Council voted 5-3 with Mayor Dyer and Council Members Dunlap and Miner voting in opposition. Because the Council did not vote to approve by a three-quarter vote, the motion failed.

Public Hearing and adoption of Ordinance No. 2012-12-6 as requested in Zoning Case 2012-50 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to rezone 37.4± acres located on the west side of the Dallas North Tollway, 1,200± feet south of Spring Creek Parkway in the City of Plano, Collin County, Texas, from Regional Employment to Commercial Employment; with Specific Use Permit No. 633 so as to allow the additional use of New Car Dealer; directing a change accordingly in the official zoning map of the City; and providing a publication clause, a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: Owen Haggard and Acres of Sunshine, LTD. (Regular Agenda Item “3”)

Director of Planning Jarrell advised that the applicant is requesting to rezone the property leaving a strip of land to the west which could serve as a buffer between this use and an existing residential neighborhood. She advised that the Future Land Use Plan recommends major corridor development and that the Planning and Zoning Commission has recommended approval as submitted.

Mayor Dyer opened the Public Hearing. Applicant Owen Haggard spoke to transmission lines on the property and other automobile dealerships in the area. Finley Ewing, President and CEO of The Ewing Automotive Group requested approval of the request and spoke to support of area homeowners and property/sales tax benefits to the City. Bennett Ratliff, President of The Ratliff Group, spoke to planned access to the site from the Dallas North Tollway, homeowner support, and the request's consistency with land use and economic development guidelines. No one else spoke for or against the item. The Public Hearing was closed.

Ordinance No. 2012-12-6 (cont'd)

Upon a motion made by Council Member Dunlap and seconded by Council Member Miner, the Council voted 8-0 to rezone 37.4± acres located on the west side of the Dallas North Tollway, 1,200± feet south of Spring Creek Parkway in the City of Plano, from Regional Employment to Commercial Employment; with Specific Use Permit No. 633 so as to allow the additional use of New Car Dealer; as requested in Zoning Case 2012-50 and as recommended by the Planning and Zoning Commission; and further to adopt Ordinance No. 2012-12-6.

Public Hearing and adoption of Ordinance No. 2012-12-7 to amend the Thoroughfare Plan map of the Comprehensive Plan as originally adopted by Resolution No. 86-11-22(R) providing procedures approving the utilization of said map as revised and amended by the appropriate personnel and departments of the City of Plano for the purpose of guiding future development within the City of Plano, Texas; and providing an effective date. Applicant: City of Plano (Regular Agenda Item "4")

Director of Planning Jarrell advised that this item is related to the previous zoning case as the roadway is no longer required for connectivity. She advised that the Planning and Zoning Commission reviewed the request and found no adverse impact on streets or intersections and further recommends approval as submitted.

Mayor Dyer opened the Public Hearing. Plano citizen Owen Haggard spoke in support of the request. No one else spoke either for or against the request.

Upon a motion made by Council Member Davidson and seconded by Council Member Duggan, the Council voted 8-0 to amend the Thoroughfare Plan map of the Comprehensive Plan as originally adopted by Resolution No. 86-11-22(R) and as recommended by the Planning and Zoning Commission; and further to adopt Ordinance No. 2012-12-7.

Nothing further was discussed. Mayor Dyer adjourned the meeting at 9:36 p.m.

Phil Dyer, MAYOR

ATTEST

Diane Zucco, City Secretary