

**PLANO CITY COUNCIL**  
**September 27, 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 convened the Council into the Regular Session on Monday, September 27, 2010, at 7:05 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present.

The invocation was led by Reverend Alice Coder of First United Methodist Church and the Pledge of Allegiance was led by Brownie Troop 3039 of St. Mark Catholic School.

**Comments of Public Interest**

No one appeared to speak.

**Consent Agenda**

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

Upon the request of resident Dollie Thomas and Robert Haynes, Consent Agenda Item "J" was removed for individual consideration.

Council Member Smith advised that due to a possible conflict of interest, she would step down from the bench on Regular Agenda Item "1."

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

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

September 13, 2010

**Approval of Expenditures**

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

**CSP No. 2010-202-B** for the construction of Carpenter Park Recreation Center Expansion & Renovation to EMJ Corporation in the amount of \$4,246,413 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “B”)

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

To approve a contract by and between the City of Plano and Affion Public, in the amount of \$22,000 for Executive Search Services to conduct a nationwide, executive search for the City's next City Manager and authorizing the City Manager to execute all necessary documents. (RFP No. 2010-238-B) (Consent Agenda Item “C”)

To approve a contract by and between the City of Plano and Southern Specialized Risk Options, LLC, in the amount of \$79,250 for Bi-Annual City Facility Inspection Services and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “D”)

To approve an Engineering Services contract by and between the City of Plano and Freese and Nichols, Inc. in the amount of \$71,969 for the Iswm Based Program Implementation project and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “E”)

**Approval of Contract Modification**

To approve the Second Modification of the Administrative Services Agreement by and between the City of Plano and the International City Management Association Retirement Corporation (Plan No. 305870) reducing the investment services fees and changing the renewal term to a fixed three (3) year period plus two (2) additional one-year terms, and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “G”)

**Approval of Change Order**

To Weir Bros. Inc. increasing the contract by \$35,956 for Razor Road from Ohio Drive to SH 121. Change Order No. 6. Original Bid No. 2009-81-B. (Consent Agenda Item “H”)

To McMahan Contracting, L.P., increasing the contract by \$46,372 for Preston at Legacy Intersection Improvements, Change Order No. 3. Original Bid No. 2009-34-B. (Consent Agenda Item “I”)

## **Adoption of Resolutions**

**Resolution No. 2010-9-14(R):** To approve the appointment of the Health Authority for the City of Plano in accordance with Section 121.033 of the Texas Health and Safety Code; and approving the agreement between the City of Plano and Allan R. deVilleneuve, M.D. for professional services; and providing an effective date. (Consent Agenda Item “K”)

**Resolution No. 2010-9-15(R):** To approve the terms and conditions of a third amendment to the development agreement between the City of Plano, Texas, and Pinnacle AMS Development Company, LLC (now Southern/Pinnacle AMS Development Company, LLC), for development of Eastside Station – Plano; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “L”)

## **Adoption of Ordinances**

**Ordinance No. 2010-9-16:** To repeal Ordinance No. 2010-7-10; establishing the number of certain classifications within the Police and Fire Departments for fiscal year 2010-11; establishing the authorized number and effective dates of such positions for each classification effective September 27, 2010; establishing a salary plan for the Police and Fire Departments effective September 27, 2010; and providing a repealer clause, a severability clause and an effective date. (Consent Agenda Item “M”)

## **END OF CONSENT**

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

**Approval of Contract Modification:** To approve the Second Modification of the contract by and between the City of Plano and Columbia Medical Center of Plano Subsidiary, L.P. d/b/a Medical Center of Plano (Contract No. 2008-102-C) RFP for Wellness and Safety Program to reduce the contract amount from \$165,225 as provided in the First Modification to \$162,800 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “F”)

Upon a motion made by Council Member Harris and seconded by Council Member LaRosilieri, the Council voted 7-0 to approve the Second Modification to the contract between the City of Plano and Columbia Medical Center of Plano for Wellness and Safety Program to reduce the contract amount from \$165,225 to \$162,800.

Council Member Davidson resumed her seat at the bench.

**Resolution No. 2010-9-17(R):** To approve the terms and conditions of agreements between the City of Plano, Texas, and various heritage preservation organizations which render services that are beneficial to the public and serve a valid public purpose in the total amount of \$591,517; authorizing the City Manager to execute such agreements with these organizations for the provision of support of heritage preservation, and providing an effective date. (Consent Agenda Item “J”)

**Resolution No. 2010-9-17(R) (cont'd)**

Resident Dollie Thomas requested the Council reconsider the contract, citing new provisions included that may have an impact on heritage museums and spoke to the recent hiring of a director. Robert Haynes requested the Council consider the impact of provisions on disbursements, and spoke to public support for programs and the mission of the Plano African American Museum. Director of Planning Jarrell spoke to funding recommendations by the Heritage Commission and changes in language to tighten up provisions on carry forwards and outstanding issues.

Council Members LaRosiliere and Davidson spoke to the appropriateness of new provisions, but stated concern regarding their immediate impact and to proceeding in a going-forward manner. Ms. Jarrell spoke to consideration of the contract for the upcoming fiscal year. Mr. LaRosiliere spoke to the outstanding audit with the Plano African American Museum (PAAM) and the retroactive nature of new provisions and City Attorney Wetherbee advised regarding possible removal of a "reachback" provision for FY 2010-11. Mayor Dyer spoke regarding staged funding included in the agreement's language and to approval of disbursement of 50% of funds by October 31, 2010, and holding the next payments until resolution of the audit to occur before December 31, 2010. Mr. LaRosiliere spoke to establishing a mechanism so that decisions regarding possible breach of agreements may be made at an earlier time and to organizations providing information in a timely manner. Mayor Pro Tem Dunlap spoke to consideration prior to Heritage Commission recommendations.

Deputy City Manager Glasscock spoke to preparation of a letter to PAAM from the Internal Audit Committee and Council consideration if no resolution is determined at the Staff level. The Council discussed resolution of the audit before December 31, 2010 before additional funding is disbursed, PAAM appealing to Council and payback of any City monies with funding other than that received in grants.

Upon a motion made by Council Member LaRosiliere and seconded by Mayor Pro Tem Dunlap, the Council voted 8-0 to approve the terms and conditions of agreements between the City of Plano, Texas, and various heritage preservation organizations in the total amount of \$591,517; with a supplemental condition requiring resolution of an outstanding audit with the Plano African American Museum by December 31, 2010, in order for that organization to receive additional funding; and further to adopt Resolution No. 2010-9-17(R).

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

**Resolution No. 2010-9-18(R):** To approve the terms and conditions of a Real Estate Contract and Lease by and between Emajeon Haggard Hall and the City of Plano for the purchase and lease of approximately 58.91 acres of land located at the intersection of Park Boulevard and Alma Drive, Plano, Collin County, Texas; authorizing the City Manager to execute such contract; and providing an effective date. (Regular Agenda Item "1")

**Resolution No. 2010-9-18(R) (cont'd)**

Director of Parks and Recreation Fortenberry spoke to the property located at the intersection of Park Boulevard and Alma Drive and its unique characteristics. Park Services Manager Fox reviewed the background of the property, its agricultural history and the bond referendums approved by voters in 2001, 2005 and 2009 affirming acquisition of the land. He reviewed the use of park services by citizens, recommended standards of the National Recreation and Park Association and advised that the parcel has been on the Parks Master Plan since 2000. Mr. Fox spoke to serving the southwest portion of the City through a community park, acquisition of a property for the Chisholm Trail and future development to include public input. He spoke to contract terms and a lease back to the seller so that no operations/maintenance costs are incurred until a future date. Mr. Fox responded to the Council, advising that there is money allocated for the trail extension and Ms. Fortenberry advised that the debt has been sold for the down payment.

Mayor Dyer opened the floor for comments. Resident Kevin Butler spoke in support of the acquisition. No one else spoke regarding the item. Deputy Mayor Pro Tem Miner spoke to the vision of the City, sense of place in its parks and the need for green space.

Upon a motion made by Deputy Mayor Pro Tem Miner and seconded by Mayor Pro Tem Dunlap, the Council voted 7-0 to approve the terms and conditions of a Real Estate Contract and Lease between Emajeane Haggard Hall and the City of Plano for 58.91 acres located at the intersection of Park Boulevard and Alma Drive and further to adopt Resolution No. 2010-9-18(R).

Council Member Smith resumed her seat at the bench.

**Public Hearing and adoption of Ordinance No. 2010-9-19** as requested in Zoning Case 2010-14 to amend Subsection 2.820 (CC – Corridor Commercial) of Section 2.800 (District Charts) of Article 2 (Zoning Districts) and related sections of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, pertaining to residential setback requirements of the Corridor Commercial zoning district; and providing a publication clause, a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: City of Plano (Regular Agenda Item “2”)

Director of Planning Jarrell advised that in 2007, the Council amended the Corridor Commercial zoning district to remove regulations that increase the front, side, and/or rear yard setbacks for nonresidential development adjacent to residential districts and to the need to remove related language. She spoke to challenges in development and to application of general and residency adjacency standards in addressing concerns. Ms. Jarrell advised that the Planning and Zoning Commission recommended approval as follows:

Amend Subsection 2.820 (C - Corridor Commercial) 3. (Area, Yard and Bulk Requirements) of Section 2.800 (District Charts) of Article 2 (Zoning Districts and Uses) as follows:

**Maximum Height:** 20 story, not to exceed 325 feet in height ~~except as noted in Setbacks from Residential Districts below~~

**Ordinance No. 2010-9-19 (cont'd)**

~~**Setbacks from Residential Districts:** In addition to the above yard requirements, the following additional setbacks shall apply: (as measured from nearest residential district boundary line)~~

~~A minimum setback of three times the height up to a maximum height of eight stories or 140 feet, whichever is more restrictive, for a minimum distance of 1,000 feet.~~

~~Beyond 1,000 feet, the setback shall be increased at one times the height above eight stories or 140 feet, whichever is more restrictive, up to 20 stories or 325 feet in height, whichever is more restrictive.~~

Upon a motion made by Council Member LaRosiliere and seconded by Council Member Callison, the Council voted 8-0 to amend Subsection 2.820 of Section 2.800 of Article 2 and related sections of the Comprehensive Zoning Ordinance pertaining to residential setback requirements of the Corridor Commercial zoning district; as requested in Zoning Case 2010-14 and as recommended by the Planning and Zoning Commission.

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