

**PLANO CITY COUNCIL**  
**June 12, 2006**

**COUNCIL MEMBERS**

Pat Evans, Mayor  
Scott Johnson, Mayor Pro Tem  
Sally Magnuson, Deputy Mayor Pro Tem  
Shep Stahel  
Jean Callison  
Loretta L. Ellerbe  
Harry LaRosiliere  
Lee Dunlap

**STAFF**

Thomas H. Muehlenbeck, City Manager  
Frank Turner, Executive Director  
Bruce Glasscock, Executive Director  
Rod Hogan, Executive Director  
Diane C. Wetherbee, City Attorney  
Elaine Bealke, City Secretary

Mayor Evans convened the Council into the Regular Session on Monday, June 12, 2006, at 7:03 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present.

The invocation was led by Dr. Scott Fenton of Meadows Baptist Church.

The Pledge of Allegiance was led by Cub Scout Pack 1256 from Wells Elementary.

Mayor Evans presented plaques of appreciation to Thomas Izbicki for his service on the Building Standards Commission and Daniel M. Zadorozny for his service on the Civil Service Commission and administered an oath of office to Betty Monday Mahan as a member of the Community Relations Commission.

Mayor Evans recognized Acting Fire Chief Bob Acker for his 30 years of service to the City.

**GENERAL DISCUSSION**

Mayor Evans advised Jack Lagos, citizen of the City, that Regular Item "3" related to the Arts of Collin County Commission was not a Public Hearing and stated that he could address the item during General Discussion. Mr. Lagos spoke to clarifying the version of Articles of Incorporation of the Arts of Collin County Commission that was being amended at this evening's meeting.

Christina Cervantes spoke regarding the escalating problem of red light running and resultant accidents and further requested information on what is being done and what is planned for the future in the City. Mayor Evans thanked Ms. Cervantes for bringing the situation to the Council's attention and advised that information will be provided.

### **BOARD/COMMISSION REPORTS**

Board of Adjustment Chair Caso advised the Council that the total number of cases considered by the board has declined slightly over the last two years and reviewed the types of cases addressed. He spoke to the two general categories of residential variances being fencing and setbacks and further advised that no law suits have been brought forward during the past year. Mr. Caso stated that there will be a continuation of sign issues as development occurs. Council Member Stahel thanked the board for their thoughtfulness and attention to detail.

### **CONSENT AGENDA**

Council Member Dunlap requested that Consent Agenda Item "C" be removed for individual consideration due to a possible conflict of interest.

Council Member Stahel requested that Consent Agenda Item "S" be removed for individual consideration due to a possible conflict of interest.

Council Member Stahel and Collin County Association of Realtors representative Craig Perry requested that Consent Agenda Item "W" be removed for individual consideration.

Upon a motion made by Mayor Pro Tem Johnson 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)]

May 22, 2006

May 25, 2006

#### **Approval of Expenditures**

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

**Bid No. 2006-84-C** for Fire Station Uniforms to GST Public Safety Supply and Lion Apparel in the estimated annual amount of \$178,254. This will establish an annual fixed price contract with four optional one-year renewals. [Consent Agenda Item (B)] (See Exhibit "A")

**Bid No. 2006-150-B** for Midway Road Widening – Parker Road to Spring Creek Parkway to McMahon Contracting, L.P. in the amount of \$1,443,426. The project consists of widening Midway Road from four lanes to six lanes from Parker Road to Spring Creek Parkway and providing right turn lane improvements at the intersections of Midway Road with Windhaven Parkway and Spring Creek Parkway. The project also includes various left turn lane improvements along Midway Road from Plano Parkway to Parker Road. [Consent Agenda Item (D)] (See Exhibit “B”)

**Bid No. 2006-141-C** for an annual fixed price contract for Brick Screening Wall Repair and Maintenance Contract to Ratliff Hardscape, LLC in the estimated annual amount of \$54,400. This will establish a one (1) year contract with two (2) City optional one (1) year renewals. [Consent Agenda Item (E)] (See Exhibit “C”)

**Change Order: (Change to current City of Plano contract allowable under State law)**

To Piazza Construction , Ltd. increasing the contract by \$178,618 to install Access Control and Site Security to the expansion areas of the Operations and Equipment Services Buildings. Project No. 5249, Change Order No. 9, Bid No. 2004-175-B [Consent Agenda Item (F)]

To L.H. Lacy Company, LTD. decreasing the contract by \$74,086, Change Order #12. Original Bid #B064-04. This change order is for revising the scope of work to eliminate turf grass preparation, planting and establishment at Preston Meadow Park from the contract with L.H. Lacy Company, LTD. [Consent Agenda Item (G)]

**Purchase from Existing Contract/Agreement: (Purchase of products/services through Cooperative Purchasing Interlocal Contract with another governmental/quasi-governmental agency or an additional purchase from current City of Plano annual purchase agreement).**

To authorize the purchase of Preston Meadow Park turf grass preparation, planting, and establishment in an amount not to exceed \$74,086 from Dyna-Mist Construction Company, Inc. through a Plano Independent School District (PISD) contract, and authorizing the City Manager to execute all necessary documents. CSP 3614 [Consent Agenda Item (H)]

To authorize the purchase of one (1) Vermeer Tub Grinder (53A) for the Compost Operations Department in the amount of \$478,784 from Vermeer of Texas through the H-GAC Cooperative Purchasing Program contract and authorizing the City Manager to execute all necessary documents (GR01-06). [Consent Agenda Item (I)]

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

To approve the terms and conditions of an Engineering Services Contract by and between the City and Jerry Parché Consulting Engineers in the amount of \$122,900 for design of 15<sup>th</sup> Street and Miscellaneous Drainage Improvements and authorizing the City Manager to execute all necessary documents. This agreement will provide for drainage improvements on 15<sup>th</sup> Street from Columbia Place to the system outfall into Spring Creek. Also included will be the installation of additional storm drain inlets on Alma Drive from Parker Road to Revere Circle and on Ohio Drive from Quincy Lane to Old Pond Drive. [Consent Agenda Item (J)]

To approve and authorize a contract with La Terra Studio, Inc. to provide Landscape Architect Services in conjunction with improvements to Enfield Park in an amount not to exceed \$164,750, and authorizing the City Manager to execute any and all documents necessary to effectuate the contract. [Consent Agenda Item (K)]

### **Adoption of Resolutions**

**Resolution No. 2006-6-1(R):** To approve the sole source purchase of twelve (12) AutoPulse Systems from Zoll Medical Corporation in the amount of \$122,128; authorizing the City Manager to take such action as necessary to effectuate the purchase; and providing an effective date. [Consent Agenda Item (L)]

**Resolution No. 2006-6-2(R):** To approve the sole source purchase of twenty-four (24) radios from Motorola Corporation in the amount of \$66,642; authorizing the City Manager to take such action as necessary to effectuate the purchase; and providing an effective date. [Consent Agenda Item (M)]

**Resolution No. 2006-6-3(R):** To approve the hiring of an Assistant City Attorney by the City Attorney; and providing an effective date. [Consent Agenda Item (N)]

**Resolution No. 2006-6-4(R):** To interpret Section 4.07 of the City Charter regarding the number of boards and commissions an official may be appointed to; and providing an effective date. [Consent Agenda Item (O)]

**Resolution No. 2006-6-5(R):** To approve the terms and conditions of a *Notice of Restriction* for 7.642 acres of land in Collin County Land Survey No. 7, Abstract 153, City of Plano, Collin County, located east of Razor Road and South of McDermott Drive, authorizing its execution by the City Manager, and providing an effective date. [Consent Agenda Item (P)]

**Resolution No. 2006-6-6(R):** To deny Atmos Energy Corp., Mid-Tex Division's Statement of Intent to increase the gas utility rates in this municipality; supporting the reduction of existing natural gas distribution rates currently charged by Atmos Mid-Tex within the City; ordering Atmos Mid-Tex to reimburse the City for its reasonable costs incurred in ratemaking proceedings or appeals of said proceedings; authorizing the Atmos Cities Steering Committee to act on behalf of City and intervene in any proceedings before administrative or judicial bodies; requiring delivery of this resolution to the company and legal counsel; and finding that the meeting at which this resolution is adopted is open to the public as required by law; and providing an effective date. [Consent Agenda Item (Q)]

**Resolution No. 2006-6-7(R):** To approve and authorize the refunds of property tax overpayments; and providing an effective date. [Consent Agenda Item (R)]

**Adoption of Ordinances**

**Ordinance No. 2006-6-8:** To rescind Ordinance No. 2003-8-4 relating to the City of Plano Retirement Security Plan as restated January 1, 2002, and adopting a new City of Plano Retirement Security Plan, as restated January 1, 2006 to comply with regulations set forth in the Internal Revenue Code; authorizing its execution by the City Manager; providing a repealer clause, a severability clause, a savings clause, and an effective date. [Consent Agenda Item (T)]

**Ordinance No. 2006-6-9:** To deny the request of Atmos Energy Corp., Mid-Tex Division, for an annual gas reliability infrastructure program (GRIP) rate increase in this municipality, as a part of the company's statewide gas utility distribution system; approving cooperation with other cities within the Atmos Energy Corp., Mid-Tex Division distribution system as part of the Atmos Cities Steering Committee (ACSC); authorizing ACSC to hire legal and consulting services and to negotiate with the company and direct any necessary litigation; authorizing intervention as part of ACSC in any appeal of the City's action to the Railroad Commission; providing a requirement for a prompt reimbursement of costs incurred by the City; finding that the meeting at which this ordinance is passed is open to the public as required by law; and providing for notice of this ordinance to Atmos Energy Corp., Mid-Tex Division; and providing an effective date [Consent Agenda Item (U)]

**Ordinance No. 2006-6-10:** To provide for the merger of the City of Plano Part-Time, Seasonal, and Temporary Employees Plan #2 into the Texas Municipal Retirement System; providing an effective date of the merger; and establishing a Plan #3 for the accounts of certain employees who do not elect to be part of the merger and designating an administrator for such plan; approving the terms and conditions of the merger agreement necessary to effectuate the changes; authorizing the City Manager to execute the Merger Agreement; and providing an effective date. [Consent Agenda Item (V)]

**Ordinance No. 2006-6-11:** To amend Sections 12-114, Parking of Trucks, Tractors, etc. in Residential Districts and 12-115, Parking of Certain Equipment in Certain Zoning Districts, of Chapter 12, Motor Vehicles and Traffic, of the City of Plano Code of Ordinances; and providing a penalty clause, a severability clause, a repealing clause, a savings clause, and an effective date. [Consent Agenda Item (X)]

**Ordinance No. 2006-6-12:** To amend Article IX, Railroads, of Chapter 12, Motor Vehicles and Traffic, of the Code of Ordinances of the City of Plano, Texas, by adding a new Section 12-258, Quiet Zones, to designate the Kansas City Southern Railroad Crossings at Ohio Drive and Coit Road as quiet zones, providing a penalty clause, a severability clause, a publication clause and providing an effective date. [Consent Agenda Item (Y)]

**Ordinance No. 2006-6-13:** To adopt and enact Supplement Number 74 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 (Z)]

**END OF CONSENT**

Council Member Dunlap stepped down from the bench on consideration of the following item.

**Bid No. 2006-144-B** for the 2005-2006 Alley Approach Reconstruction and Sidewalk Construction Project, Project No. 5718 to Jim Bowman Construction Company, L.P. in the amount of \$203,175. This project involves the replacement of alley approaches and adjacent sidewalk at various locations in the City to bring them into compliance with the TDL&R regulations. New sidewalk will also be constructed at various locations in the City. [Consent Agenda Item (C) (See Exhibit "D")]

Upon a motion made by Council Member Callison and seconded by Mayor Pro Tem Johnson, the Council voted 7-0 to approve Bid No. 2006-144-B for the 2005-2006 Alley Approach Reconstruction and Sidewalk Construction Project, Project No. 5718 to Jim Bowman Construction Company, L.P. in the amount of \$203,175.

Council Member Dunlap resumed his place at the bench.

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

**Resolution No. 2006-6-14(R):** To approve the purchase of Vesta-View telecommunications software from Affiliated Communications Inc. in the amount of \$49,375; a sole source provider, authorizing the City Manager to take such action as is necessary to effectuate the purchase and providing an effective date. [Consent Agenda Item (S)]

Upon a motion made by Council Member LaRosiliere and seconded by Council Member Ellerbe, the Council voted 7-0 to approve the purchase of Vesta-View telecommunications software from Affiliated Communications Inc. in the amount of \$49,375; a sole source provider, authorizing the City Manager to take such action as is necessary to effectuate the purchase and providing an effective date and further to adopt Resolution No. 2006-6-14(R).

Council Member Stahel resumed his placed at the bench.

**An Ordinance** to amend Ordinance No. 2005-11-14, codified as Article XII, Temporary Signs, of Chapter 6, Buildings and Building Regulations, of the City of Plano Code of Ordinances by amending Section 6-492, Real Estate Signs, to provide additional rules for off-site real estate signs; providing penalty, severability, repealing, review and publication clauses; and an effective date. [Consent Agenda Item (W)]

Craig Perry, representing the Collin County Association of Realtors, read a resolution from his organization supporting amendment of the sign ordinance. He responded to Council Member Ellerbe, stating that their executive committee advised that inclusion of a name and phone number on signs would not pose a problem. City Attorney Wetherbee spoke to this providing information, but not being an enforcement tool and stated that it would add to the complexity of the sign ordinance. Chief Building Official Mata spoke to Staff following signage to locate those who have placed them. Council Member Callison spoke to waiting a year to consider adding the name/address.

Council Member Stahel spoke to citizens in November 1989 circulating a petition calling for a referendum regarding temporary signs in the City's right-of-way. He spoke to approval of the referendum by 63% of the voters and to the effectiveness of code enforcement efforts. Mr. Stahel spoke to this being a competitive advantage for the City and not violating the intent of the citizen referendum. He spoke to the original realtors' request being for open house directional signs and to the proposed ordinance including all off-site real estate signs, no limit on the number of signs, no identification requirement and no review for twelve months. Mr. Stahel requested amending the proposed ordinance to limit the signs to open house directional signs only, one sign per off-site lot, including the name of the realtor on the sign and a six-month term with an expiration date unless the Council takes affirmative action. He spoke to being mindful of the effort involved in the passage of a citizen referendum and to the possibility that another commercial group may request changes.

Mr. Mata responded to Council Member LaRosiliere, stating that twelve months for review would allow time for education and informing the public regarding the amendments. Mr. Perry responded to Council Member Stahel, stating that while all sellers are not members, the association would do their best to get the word out regarding any revisions. He further stated that their request was specific to open house signs. Mr. Mata responded to Council Member Ellerbe regarding the number of signs currently being picked up and Council Member Stahel spoke to identification requirements on political signs.

City Attorney Wetherbee spoke to the specificity of the message possibly being an enforcement issue. Mayor Evans spoke to original discussions of a short-term sign allowance and stated that imposing a limited time for placement of signs would prevent a proliferation of signage. Council Member Stahel spoke to revising the proposed ordinance to include the words, "open house" and Council Member Callison spoke to this providing clarity. Council Member LaRosiliere spoke to those with off-site signs on their property "policing" that part of the ordinance, not being so specific in wording and deferring to Staff regarding the time for review. He spoke to making it "workable" and providing for adjustment.

City Attorney Wetherbee stated that verbiage permitting real estate signs advertising the lease of individual units in multifamily districts is contained in the current sign ordinance and refers to the opening of apartment complexes. Mr. Stahel spoke to providing clarification that this signage is to be on-site at the complexes. City Attorney Wetherbee spoke to an "open house" sign containing a variety of information and to Staff developing a definition and language so that "extra" messages would not detract from the original message.

The Council discussed the number of signs that might be located on one lot and Mayor Evans spoke to this issue being self-regulating by the property owner. The Council concurred to retain language keeping the ordinance in effect unless Council action is taken and not to include a name/address/phone number on the signs. City Attorney Wetherbee advised she would bring back revisions at the June 26, 2006 meeting.

Upon a motion made by Council Member Dunlap and seconded by Council Member Callison, the Council voted 8-0 to table an ordinance to amend Ordinance No. 2005-11-14, codified as Article XII, Temporary Signs, of Chapter 6, Buildings and Building Regulations, of the City of Plano Code of Ordinances by amending Section 6-492, Real Estate Signs, to provide additional rules for off-site real estate signs; providing penalty, severability, repealing, review and publication clauses; and an effective date until June 26, 2006.

**Public Hearing and adoption of Ordinance No. 2006-6-15 – Comprehensive Plan Revision – Request to amend the Parks and Recreation Element of the Comprehensive Plan** - An ordinance of the City of Plano, Texas, adopting the updated Parks and Recreation Element of the Comprehensive Plan, amendments to the text as originally adopted by Resolution No. 87-2-21 (R) and amendments to the Master Plan as originally adopted by Resolution No. 88-6-12 (R); approving the utilization of said element 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 (1)]

Senior Planner Sims spoke to the purpose of the update to provide conformance with the revised format of the Comprehensive Plan and to respond to changing conditions. He advised that the organization of the element includes key factors and issues; objectives and strategies; and three themes being: *Livable City*, *City of Organized Development* and *City in Transition*. Mr. Sims spoke to inclusion of information regarding the status of the City's trail systems, completion of facilities and the general location of new facilities and future park lands. He advised that the request has been approved by the Parks and Recreation Planning Board and the Planning and Zoning Commission who recommend approval as submitted. Director of Parks and Recreation Wendell responded to Council Member Stahel, stating that the plan indicates two major park acquisitions and that additional land would be along linear parks and creeks as well as other small parcels.

Mayor Evans opened the Public Hearing. No one spoke either for or against the request. The public hearing was closed.

Upon a motion made by Council Member LaRosiliere and seconded by Deputy Mayor Pro Tem Magnuson, the Council voted 8-0 to adopt the updated Parks and Recreation Element of the Comprehensive Plan, amendments to the text as originally adopted by Resolution No. 87-2-21 (R) and amendments to the Master Plan as originally adopted by Resolution No. 88-6-12 (R); approving the utilization of said element 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 as recommended by the Planning and Zoning Commission; and providing an effective date; and further to adopt Ordinance No. 2006-6-15.

**Public Hearing and adoption of Ordinance No. 2006-6-16 – Comprehensive Plan Revision – Request to amend the Public Services and Facilities Element of the Comprehensive Plan**

- An ordinance of the City of Plano, Texas, adopting the updated Public Services and Facilities element of the Comprehensive Plan, amendments to the text as originally adopted by Resolution No. 87-2-21 (R); approving the utilization of said element 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 (2)]

Senior Planner Sims spoke to the departments and divisions encompassed by the request including Public Safety Communication, Fire and Police, Library Services, Environmental Health – Animal Service Division, Engineering – Facilities Maintenance and Services, Public Works – Environmental Waste Division and Convention and Visitor’s Bureau. He advised that the purpose of the update is to conform to the revised format of the Comprehensive Plan and respond to changing conditions. Mr. Sims spoke to the element including key factors and issues, objectives and strategies and the three themes of the Comprehensive Plan which are: *Livable City*, *City of Organized Development* and *City in Transition*. He advised that the request has been reviewed by the Facilities Planning Committee and the Planning and Zoning Commission who recommend approval as submitted.

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

Upon a motion made by Deputy Mayor Pro Tem Magnuson and seconded by Council Member Ellerbe, the Council voted 8-0 to adopt the updated Public Services and Facilities element of the Comprehensive Plan, amendments to the text as originally adopted by Resolution No. 87-2-21 (R); approving the utilization of said element 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 as recommended by the Planning and Zoning Commission; and providing an effective date; and further to adopt Ordinance No. 2006-6-16.

**Resolution No. 2006-6-17(R):** To approve the Amended and Restated Articles of Incorporation of Arts of Collin County Commission, Inc.; providing a repealer clause; and providing an effective date. [Regular Agenda Item (3)]

City Attorney Wetherbee advised the Council that the Arts of Collin County Commission is in the process of obtaining their IRS determination letter and the changes proposed include expanding the list of charitable activities engaged to include science and education, disposition of assets in the event of dissolution, and updating the current directors. She advised that the other cities have acted on the amendments and stated that prior articles approved by the Council were submitted to the Secretary of State. Ms. Wetherbee stated that any action on this item would replace what is on file.

**Resolution No. 2006-6-17(R) (cont'd)**

Upon a motion made by Deputy Mayor Pro Tem Magnuson and seconded by Council Member Callison, the Council voted 8-0 to approve the Amended and Restated Articles of Incorporation of Arts of Collin County Commission, Inc.; providing a repealer clause; and providing an effective date; and further to adopt Resolution No. 2006-6-17(R).

There being no further discussion, Mayor Evans adjourned the meeting at 8:40 p.m.

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**Pat Evans, MAYOR**

ATTEST:

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**Elaine Bealke, City Secretary**