

**PLANO CITY COUNCIL
PRELIMINARY AND REGULAR MEETINGS
October 13, 2008**

COUNCIL MEMBERS

Pat Evans, Mayor
Jean Callison, Mayor Pro Tem
Harry LaRosiliere, Deputy Mayor Pro Tem
Pat Miner
Scott Johnson
Mabrie Jackson
Sally Magnuson
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
Diane Zucco, City Secretary

Mayor Evans called the meeting to order at 5:13 p.m., Monday, October 13, 2008, in Training Room A of the Municipal Center, 1520 K Avenue. All Council Members were present. Mayor Pro Tem Callison arrived at 5:17 p.m. Mayor Evans 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, Section 551.071 and to discuss Personnel, Section 551.074 for which a certified agenda will be kept in the office of the City Secretary for a period of two years as required.

Mayor Evans reconvened the meeting back into the Preliminary/Regular Sessions at 7:06 p.m. in the Council Chambers.

The invocation was led by Imam Yaseen Shaikh of the Islamic Association of Collin County.

The Pledge of Allegiance was led by Brownie Troop 1522 of Shepard Elementary.

PROCLAMATIONS AND SPECIAL RECOGNITION

Mayor Evans recognized Hsinchu student ambassadors in the audience and received a presentation to the City of Plano from The Friends of the Plano Public Library System.

COMMENTS OF PUBLIC INTEREST

Pam Hatcher representing the Haggard Park Homeowners' Association stated concern regarding a court decision to rescind the Board of Adjustment's opinion with regard to the Plano Vietnamese Baptist Church. She spoke to the intensity of the use and inquiries made on behalf of the church for additional parking. Ms. Hatcher spoke to the City offering neither defense nor presentation that another church was held to the same standards. She spoke to this case representing a shift in the neighborhood's relationship with the City and offered assistance on future issues. City Attorney Wetherbee advised that the court declined to take evidence and that the decision was based on arguments only. She advised that while the results were not what may have been preferred, the outcome was decided by the courts and spoke to the case being presented through briefs by Staff.

CONSENT AGENDA

Upon a motion made by Deputy Mayor Pro Tem LaRosiliere and seconded by Mayor Pro Tem Callison, 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 22, 2008

Approval of Expenditures

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

Bid No. 2008-182-C for Ammunition for the Police Department with an annual fixed price contract in the estimated annual total amount of \$154,744 to Precision Delta Corporation, GT Distributors, Baileys House of Guns and The Hunting Shack. This will establish a one year contract with three City optional one year renewals. [Consent Agenda Item (B)] (See Exhibit "A")

Bid No. 2008-223-C for Consulting Services to aid the City of Plano in reviewing existing market conditions for the possible development of a new Convention Hotel and Conference Center to HVS Convention, Sports & Entertainment Facilities Consulting in the amount of \$81,000. [Consent Agenda Item (C)] (See Exhibit "B")

Bid No. 2008-210-B for the materials, construction and installation of end panels for Davis and Schimelpfenig Libraries to Libra-Tech in the amount of \$167,737. [Consent Agenda Item (D)] (See Exhibit "C")

Bid No. 2008-197-B for Portable Communication Tower to be used with the new wireless infrastructure to Scientel in the amount of \$201,555. [Consent Agenda Item (E)] (See Exhibit "D")

Bid No. 2008-212-B for the Alma Drive Widening – Spicewood Drive to Hedgcoxe Road to RKM Utility Services, Inc. in the amount of \$998,717 for the base bid (dry kiln cement). The project consists of widening Alma Drive from 4 lanes to 6 lanes from Spicewood Drive to Hedgcoxe Road and widening the northbound side in the City of Allen from Hedgcoxe Road to Tatum Drive. [Consent Agenda Item (F)] (See Exhibit “E”)

Bid No. 2008-224-B for Custer Ground Storage Tank Repairs Project to Natgun Corporation in the amount of \$2,143,500. This project consists of the removal of two 2.5 million gallon steel ground storage tanks and the construction of a 3.75 million gallon concrete storage tank. [Consent Agenda Item (G)] (See Exhibit “F”)

Bid No. 2008-198-B for 2008 Trail Repairs to Cole Construction, Inc. in the amount of \$937,226. The base bid is for removing and replacing concrete trails at various locations throughout the City of Plano. [Consent Agenda Item (H)] (See Exhibit “G”)

Purchase from an Existing Contract

To authorize the purchase of the Resurfacing of the Bay Floors at Fleet Services in the amount of \$73,678 from Gomez Floor Covering, Inc. through the BuyBoard Cooperative Purchasing Contract and authorizing the City Manager to execute all necessary documents. (BuyBoard Contract No. 241-06) [Consent Agenda Item (I)]

To approve the purchase of ten 3M Selfcheck™ machines in the amount of \$198,205 from Alpha Data Corporation for the Plano Public Library System (PPLS) through an existing contract/agreement with Texas State Contract #TXMAS 6-70030 and authorizing the City Manager to execute all necessary documents [Consent Agenda Item (J)]

To approve the purchase of library materials for the Plano Public Library System (PPLS) in the amount of \$540,000 from Baker & Taylor 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 (K)]

To approve the purchase of library materials for the Plano Public Library System (PPLS) in the amount of \$150,000 from Ingram Library Services through an existing contract/agreement with Texas State Contract 715-N1 Print Materials and Multimedia; authorizing the City Manager to execute all necessary documents. [Consent Agenda Item (L)]

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

To approve the purchase of library materials for the Plano Public Library System (PPLS) in the amount of \$140,000 from Midwest Tapes through an existing contract/agreement with Texas State Contract 715-N1 Print Materials and Multimedia; authorizing the City Manager to execute all necessary documents. [Consent Agenda Item (N)]

Renewal of Contract

To approve renewals for Library Periodicals and related subscription services between EBSCO Information Services and the City of Plano for two years for a sum of \$75,113 each year subject to the availability and appropriation of funds; and authorizing its execution by the City Manager and providing an effective date. (2007-16-C – Approved 11/27/06) [Consent Agenda Item (O)]

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

To approve an Engineering Services Contract by and between the City of Plano and Birkhoff, Hendricks & Conway, L.L.P., in the amount of \$99,895 for Custer Ground Storage Tank Repairs and authorizing the City Manager to execute all necessary documents. [Consent Agenda Item (P)]

To approve a Landscape Architectural Professional Services Agreement by and between the City of Plano and JBI Partners in the amount of \$67,500 for Jack Carter Park Service Center Yard Renovation and authorizing the City Manager to execute all necessary documents. These improvements are needed to move the maintenance yard away from the flood plain, provide additional storage space and improve circulation. [Consent Agenda Item (Q)]

To approve a Contract by and between the City of Plano and Plano Economic Development Board in the amount of \$858,361 to initiate, promote, monitor and perform activities related to economic development; and authorizing the City Manager to execute any and all documents in connection therewith. [Consent Agenda Item (R)]

Approval of Agreement

To approve an Agreement between the City of Plano, Texas, and RecycleBank LLC to implement an incentive based recycling program to municipality residents; in the amount of \$36,000 for the initial six-month trial term; funding will be provided for the initial six-month term from a grant from NCTCOG; and authorizing the City Manager to execute all necessary documents; and providing an effective date. [Consent Agenda Item (S)]

Amendment to Professional Services Agreement

To authorize an amendment to a Professional Services Agreement between the City of Plano and RCC Consultants, Inc. in the additional amount of \$63,685 through an existing contract/agreement (2008-157-I) for Police and Fire Data System Replacement and Upgrade Project; authorizing the City Manager to execute all necessary documents. [Consent Agenda Item (T)]

Subdivision Improvement Agreement

To ratify the terms and conditions of a Subdivision Improvement Agreement by and between the City of Plano, Texas and UDR Developers, Inc., for oversize participation in Ridgeview Drive both east and west of Coit Road. The Agreement authorizes the City to reimburse UDR Developers, Inc. for the oversize off-site paving improvements from Coit Road west 200' upon acceptance of the improvements and also provides for the typical oversize reimbursement abutting the developer's frontage east of Coit Road in accordance with the Subdivision Ordinance. [Consent Agenda Item (U)]

Reimbursement of Oversize Participation

To approve and authorize reimbursement to UDR Developers, Inc. for oversize participation for paving improvements in Ridgeview Drive associated with construction of Coit/Ridgeview Apartments in the amount of \$99,116. [Consent Agenda Item (V)]

Adoption of Resolutions

Resolution No. 2008-10-1(R): To approve the terms and conditions of an Interlocal Cooperation Agreement for Library Services by and between the City of Plano and Collin County, Texas providing the terms and conditions for receipt of funding in the amount of \$78,250 from Collin County; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the Agreement herein; and providing an effective date. [Consent Agenda Item (W)]

Resolution No. 2008-10-2(R): To approve the terms and conditions of an Interlocal Cooperation Agreement for Library Services by and between the City of Plano and Denton County, Texas providing the terms and conditions for receipt of funding in the amount of \$11,200 from Denton County; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the Agreement herein; and providing an effective date. [Consent Agenda Item (X)]

Resolution No. 2008-10-3(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 \$682,710; 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 (Y)]

Resolution No. 2008-10-4(R): To approve the City of Plano's participation in "TEXPOOL," a public funds investment pool; designating authorized representatives and investment officers; and providing an effective date. [Consent Agenda Item (Z)]

Resolution No. 2008-10-5(R): To approve and grant two electric easements to Oncor Electric Service Company on City property located on the north side of 15th Street, 127.53' west of Dallas Area Rapid Transit and the southwest corner of 15th Street and "H" Avenue, authorizing its execution by the City Manager and providing an effective date. [Consent Agenda Item (AA)]

Resolution No. 2008-10-6(R): To approve an Easement and Right-of-Way Agreement between the City of Plano and Oncor Electric Delivery Company LLC providing for electric service to the Plano Sports Authority recreation facility at Enfield Park; and authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (BB)]

Adoption of Ordinances

Ordinance No. 2008-10-7: To adopt and enact Supplement Number 83 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 (CC)]

Ordinance No. 2008-10-8: To approve the terms and conditions of a Boundary Adjustment Agreement between the City of Plano, Texas and the City of Frisco, Texas; authorizing the City Manager to execute the Agreement on behalf of the City of Plano; and providing an effective date. [Consent Agenda Item (DD)]

Ordinance No. 2008-10-9: To approve the carrying forward of Fiscal Year 2007-2008 funds to Fiscal Year 2008-2009; and providing an effective date. [Consent Agenda Item (EE)]

END OF CONSENT

The Council resumed discussion of the Preliminary Agenda.

**Consideration and Action Resulting from Executive Session Discussion:
Personnel Reappointments/Appointments to Boards and Commissions**

Heritage Commission

Upon a motion made by Council Member Dunlap and seconded by Council Member Magnuson, the Council voted 8-0 to reappoint Brian Chaput and Anne Quaintance-Howard, to appoint Brian Chaput as Chair and to appoint B.C. "Bud" Hopkins for a two year term.

Planning and Zoning Commission

Upon a motion made by Deputy Mayor Pro Tem LaRosiliere and seconded by Council Member Johnson the Council voted 8-0 to reappoint James Duggan as Chair. The Council deferred consideration of a vacancy.

Plano Housing Authority

The Council deferred consideration of this board.

Retirement Security Plan Committee

Upon a motion made by Council Member Magnuson and seconded by Council Member Dunlap the Council voted 8-0 to appoint Mark Israelson as Chair.

Personnel Reappointments/Appointments

Parks and Recreation Planning Board

Upon a motion made by Council Member Dunlap and seconded by Council Member Miner the Council voted 8-0 to reappoint Mary F. Long and Bill Neukranz, appoint David L. Loughridge for a two year term, appoint Kayci Brooks Prince to an interim term and appoint Bill Neukranz as Chair.

Library Advisory Board

Upon a motion made Council Member Dunlap and seconded by Deputy Mayor Pro Tem LaRosiliere the Council voted 8-0 to reappoint Debra Conway Benton and Pearl Garza Fracchia, appoint Carl Ford for a two year term, appoint Russell Kissick to an interim term and appoint Gregory J. Myer as Chair.

Community Relations Commission

Upon a motion made by Deputy Mayor Pro Tem LaRosiliere and seconded by Council Member Magnuson the Council voted 8-0 to reappoint Kimberly Jene Brogan and to defer other appointments.

Cultural Affairs Commission

The Council deferred consideration of this board.

Animal Shelter Advisory Committee

Upon a motion made by Council Member Jackson and seconded by Council Member Miner the Council voted 8-0 to appoint Aubrie Wolff for a two year term and appoint Sunny Lee Ruth as Chair.

Public Arts Committee

The Council deferred consideration of this board.

Self Sufficiency Committee

Upon a motion made by Council Member Dunlap and seconded by Council Member Jackson the Council voted 8-0 to reappoint Louis J. Heck and Gregory "Greg" R. Huckaby and appoint Mr. Huckaby as Chair. The Council deferred consideration of an interim vacancy.

Senior Citizens Advisory Board

The Council deferred consideration of this board.

Tax Increment Financing Reinvestment Zone No. 1 Board

The Council deferred consideration of this board.

Discussion Regarding Chisholm Trail South Master Plan

Long Range Planning Manager Zimmerman spoke to the objectives dealing with future needs of the Plano Senior Center and Harrington Park, creating a major community gathering place and focal point, extending the trail to link with Richardson's system, removing barriers at 15th Street and Plano Parkway, and preserving/enhancing key natural features wherever possible while utilizing public and private assets. He spoke to the key components of grade separations beneath 15th Street and Plano Parkway, expansion of Harrington Park, connection to the mall, and an urban center west of the creek brought about through public improvements and changes in zoning. Mr. Zimmerman spoke to potential redevelopment, a possible retirement community, expansion of the senior center, and pedestrian bridges offering a unique design element and becoming anchors to improve and enhance the visual character of the area. He spoke to implementation including land acquisition, senior center expansion and rezoning in the near term (1-5 years), grade separation of the trail in 2009, and consideration of the bridges, additional trails and urban common areas in 10-15 years.

Mr. Zimmerman responded to the Council, advising that there is an electrical substation at Alma Drive and 16th Street and that the bike trail would be brought up behind LaMadeline's restaurant with future plans to continue southward into Richardson. He responded to Council Member Dunlap stating that the current Corridor Commercial zoning does not allow for a mixing of residential with non-residential uses except for an apartment that has been grandfathered at the location. Director of Planning Jarrell provided clarification advising that a retirement facility would be permitted with a specific use permit and responded to Council Member Dunlap that the concept of the appropriate locations for residential may be an item for future consideration. Council Member Dunlap spoke in favor of the presentation and having the information readily available.

Discussion Regarding Valet Parking

Executive Director Turner spoke regarding possible valet parking service in Downtown Plano and other locations where public streets and rights-of-way are used for parking. He spoke to efforts of the Engineering Department, Transportation Division and Legal Department in compiling recommendations which may be brought forward at Council's direction. Mr. Turner spoke to an ordinance calling for the issuance of a license specifying the stand location, hours of operation and where cars would be taken. He spoke to regulations regarding the number of spaces, distances from crosswalks and advised that the valet service would be non-exclusive with no fee charged for parking but gratuities accepted. Mr. Turner spoke to general support received from the Shops at Legacy, recommendations resulting in an orderly use of right-of-way and extending a benefit to citizens. He advised there would be no effect on private property valets and responded to the Council that the planning process will address the location where cars will be parked, benefits to those in close proximity and consideration of the use of public parking and public rights-of-way. Mr. Turner spoke to standards for separation between stands and distance from crosswalks and addressing situations at the Shops at Legacy. He advised Mayor Pro Tem Callison that residents will not be affected and that the ordinance has been drafted for commercial users and City Attorney Wetherbee spoke to enforcement through revocation of licenses. Mr. Turner advised that Staff will continue work on the ordinance.

Council items for discussion/action on future agendas

Council Member Johnson requested an agenda item to consider the effect of a Dallas ordinance calling for collection of City expenses for those involved in an accident that reside outside the City of Dallas and City Attorney Wetherbee advised that Staff will bring forward information. Council Member Dunlap requested an agenda item come forward regarding a Regional Transportation Council resolution related to their public policy agenda for the state legislature. Mayor Evans requested a call for a Public Hearing to amend the Zoning Ordinance as it relates to the regulation of private clubs be scheduled for October 27, 2008. She further requested a future agenda item to address methods for honorary street naming.

Consent and Regular Agenda

No items were discussed.

The Council resumed discussion of the Regular Session.

Resolution 2008-10-10(R): To amend Resolution No. 2007-6-9(R) and Resolution No. 2008-4-25(R) to extend the date in the Capital Funding Agreements approved by those resolutions to October 1, 2010 for the Cities to receive credit for advancing capital funds for the proposed project upon the Cities entering into a Contribution Agreement for an approved project; authorizing the City Manager to execute all documents in connection therewith; and providing an effective date. [Regular Agenda Item (1)]

Upon a motion made by Deputy Mayor Pro Tem LaRosiliere and seconded by Council Member Magnuson, the Council voted 8-0 to amend Resolution No. 2007-6-9(R) and Resolution No. 2008-4-25(R) to extend the date in the Capital Funding Agreements approved by those resolutions to October 1, 2010 for the Cities to receive credit for advancing capital funds for the proposed project upon the Cities entering into a Contribution Agreement for an approved project; authorizing the City Manager to execute all documents in connection therewith; and providing an effective date; and further to adopt Resolution 2008-10-10(R).

Public Hearing and adoption of Ordinance No. 2008-10-11 as requested in Zoning Case 2008-66 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit 596 so as to allow the additional use of Gymnastics/Dance Studio on 1.2± acres located on the north side of Summit Avenue, 500± feet east of Jupiter Road, in the City of Plano, Collin County, Texas, presently zoned Light Industrial-1; 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, and an effective date. Applicant: Mike Epperson [Regular Agenda Item (2)]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission recommended approval of the request as submitted.

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

Ordinance No. 2008-10-11 (cont'd)

Upon a motion made by Council Member Magnuson and seconded by Council Member Johnson, the Council voted 8-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit 596 so as to allow the additional use of Gymnastics/Dance Studio on 1.2± acres located on the north side of Summit Avenue, 500± feet east of Jupiter Road, in the City of Plano, Collin County, Texas, presently zoned Light Industrial-1; as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2008-66; 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, and an effective date; and further to adopt Ordinance No. 2008-10-11.

Resolution No. 2008-10-12(R): To approve the terms and conditions of a Development Agreement by and between Tenth Street Plano, L.P. (TSP) and the City of Plano, Texas for renovation of existing improvements located at 910 10th Street, Plano, Texas; authorizing its execution by the City Manager; and providing an effective date. [Regular Agenda Item (3)]

Executive Director Turner spoke to vacant industrial space and a proposal with incentives of \$800,000 to support rebuilding infrastructure, public assets, screening and contribute support for demolition and abatement of environmental hazards on the site. He advised that the agreement calls for the developer to undertake the work and be reimbursed with initial improvements complete in twelve months. Mr. Turner spoke to an additional timeframe during which TSP would seek at least 85% occupancy and achieve an increase in assessed property value after which the full amount of the incentive would be considered a grant. He advised that should the occupancy or increase in value not materialize, \$500,000 would be considered a grant with the remainder a loan. Mr. Turner responded to the Council, advising that \$600,000 of the monies will be used for public improvements and that these will be designed to benefit surrounding properties as well. Council Member Dunlap spoke to the agreement providing monies for public benefit and being designed so that there can be a reuse in the future. Council Member Miner spoke to revitalization of the area.

Upon a motion made by Council Member Miner and seconded by Council Member Dunlap, the Council voted 8-0 to approve the terms and conditions of a Development Agreement by and between Tenth Street Plano, L.P. and the City of Plano, Texas for renovation of existing improvements located at 910 10th Street, Plano, Texas; authorizing its execution by the City Manager; and providing an effective date; and further to adopt Resolution No. 2008-10-12(R).

Presentation and Discussion of a Long Term Electric Power Agreement with Cities Aggregation Power Project (CAPP). [Regular Agenda Item (4)]

Executive Director Hogan spoke to the City's membership in CAPP and an opportunity to participate in an aggregation of cities and other entities to identify a pricing advantage in a long-term contract for power needs.

Geoffrey M. Gay, General Counsel to CAPP, spoke regarding work done to stabilize prices and a proposal locking down a five-year transaction. He spoke to an option for a long-term contract (24-years) should there be enough participation, offering predictable rates with less volatility to gas prices and being recognized by policy makers for offering hope to residential and small business customers. Mr. Gay spoke to the history of natural gas pricing and its relationship to electricity pricing and spoke to the difficulty in making predictions. He spoke regarding generation capacity in the State of Texas and an anticipated shortage in 2023 and to a long-term contract guaranteeing power from specific resources priced at specific levels regardless of what occurs. He advised that this agreement is a policy choice, stated confidence that in the near future the price of natural gas will determine the primary price of generation capacity, and spoke to the time and cost necessary to implement nuclear plants. Mr. Gay spoke to cities leading the way and identifying steps that could be taken to improve the market.

Council Member Johnson spoke to the benefits of CAPP and to receiving further financial information. He stated concern regarding the security of monies paid “up front” and what incentives there might be for the provider to maintain the contract over 24 years. Mr. Gay spoke to the agreement providing reduced-cost power in exchange for financing based upon the high bond ratings of participating cities and prepayment of capacity costs. He advised that every default does not lead to termination, spoke to bankruptcy protection through a forward contract designation and the right of default and stated that he does not expect the current price of natural gas to be maintained. He responded to Council Member Dunlap, advising that there is no joint liability between cities and that if a municipality were to claim bankruptcy the others have no responsibility to pick up their costs.

Mayor Evans spoke to more information coming forward on October 27, 2008. There being no further discussion, Mayor Evans adjourned the meeting at 8:47 p.m.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, City Secretary