



# PLANO

Professional Landmen's Association of New Orleans

JULY, 2004

www.planoweb.org

PLANO BULLETIN #030

## PLANO EVENTS

July & August	No Monthly Luncheon
Aug 18	<b>PLANO</b> OCS Sale 192 WGOM - Breakfast Oak Alley Room, N.O. Hilton Riverside
Sept 13	<b>PLANO</b> Luncheon – Muriel's Jackson Square
Sept 16	<b>PLANO</b> Seminar & Icebreaker Royal Sonesta Hotel
Oct 11	<b>PLANO</b> Luncheon Andrea's Restaurant, Metairie, LA
Oct 18	<b>PLANO</b> Fall Golf Tournament Money Hill, Abita Springs, LA
Nov 8	<b>PLANO</b> Luncheon Royal Sonesta Hotel, Bienville Suite
Dec 9	<b>PLANO</b> Christmas Social The Napoleon House
Dec 14	<b>PLANO</b> Luncheon Galatoire's Restaurant

## OTHER ACTIVITIES

Jul 4	HOLIDAY Independence Day
Jul 26	Gulf Coast Prospect Expo - Golf Lafayette, LA
Jul 27-28	Gulf Coast Prospect Expo Lafayette, LA
Aug. 7	HAPL Annual Skeet Shoot The American Shooting Center
Aug 18	MMS OCS Sale 192 WGOM New Orleans Hilton Riverside Hotel
Sept 27	HAPL Annual Golf Tournament Kingwood & Deerwood Country Clubs
Oct 14	HAPL Annual Executive Night, Hyatt



## APPOINTMENT OF PLANO BOARD 2004-2005 FOR YEAR COMMENCING JULY 1, 2004, THROUGH JUNE 30, 2005

The PLANO Board for the year July 1, 2004, thru September 30, 2005, was introduced to the PLANO Membership at June 3rd luncheon held at the Royal Sonesta Hotel, Bienville Suite, New Orleans. Members present at this luncheon are shown in the photograph to the left.

Front Row, L. to R.:  
Frank D. Barber, III, Taylor Energy Company, Devin M. Dixey, Murphy Exploration & Production Company - USA, Larry Beron, Independent, Wm. A. ("Bill") Gordon, Shell Exploration & Production Company, Warren P. Miguez, Taylor Energy Company, J. Patrick Morris, Jr., Liskow & Lewis.



Back Row, L. to R.: John T. Dale, Jr., McMoRan Oil & Gas, LLC, Jo Ann P. Anderson, Harold J. Anderson, Inc., Anne D. Bailey, ChevronTexaco, Wm. David Briggs, Legacy Resources Co., L.P., Andrew M. Adams, Gieger, LaBorde & Laperouse, L.L.C., David V. Dufour, Dominion Exploration & Production, Inc., Richard F. Price, Jr., Price Energy, LLC.

Missing from Picture:  
Scott A. O'Connor, Gordon, Arata Law Firm.  
William B. Raley, Cimarex Energy Co.

At this meeting, Frank Barber handed the gavel to Wm. A. ("Bill") Gordon, introducing Bill to the membership as PLANO President for the incoming year.

## MESSAGE FROM THE PLANO PRESIDENT 2003-2004



I want to thank the Board for giving me this opportunity to serve as President of PLANO during the upcoming year. It should be an invigorating year; we can build on the strength of our organization and give our members the chance to build strong professional relationships throughout the industry. We can make this an opportunity to keep New Orleans one of the great centers of our industry. Let us all help to enhance and strengthen our educational and networking programs.

PLANO's own Harold Anderson is the incoming President of the American Association of Professional Landmen ("AAPL"). While many of our members already belong to AAPL, this year will be an excellent opportunity to point out the benefits of our affiliation with AAPL and encourage our members to participate. AAPL has wonderful educational and networking events we can use such as its continuing education courses and NAPE.

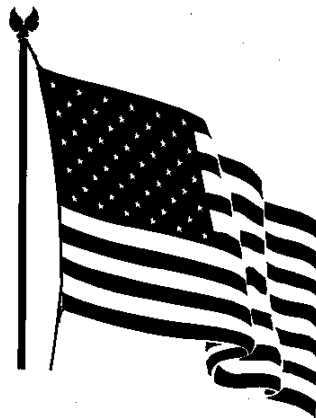


This past year saw a number of new social events added to our traditional list of activities. Our Spring Garden De'Lights in City Park continues to provide fun as well as great opportunities with its silent auction. That evening, along with our Icebreaker, Executive Night and Balcony Party made for an impressive year. To these were added some great events at the racetrack and other venues around town. Our community efforts, with PLANO's continued support of Dress for Success and Care Center, can make us all proud.

I continue to be amazed at the energy and organizational strength of this Board. Looking forward to the upcoming year's activity, we will make every attempt to continue the fine work Frank Barber and the Board accomplished this past year. I am anticipating a great year for PLANO and seeing many of you during our events.

My sincerest wishes to all of you for a safe and happy summer.

**William A. ("Bill") Gordon, PLANO President**



## PLANO 2003-2004 OFFICERS & DIRECTORS

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**Vice President — Lawrence P. “Larry” Beron**

Independent . . . . .504-833-2115

**Secretary — Warren P. Miguez**

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**Director — David V. Dufour**

Dominion Exploration & Production, Inc. . . . .504-593-7164

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Gordon, Arata, McCollam, Duplantis & Eagan, L.L.P. . .504-569-1860

**Director — Richard F. Price, Jr.**

Price energy LLC . . . . .504-834-5559

**Director — William B. Raley**

Cimarex Energy Co. . . . .504-586-1815

**AAPL Director — Wm. David Briggs**

Legacy Resources Co., L.P. . . . .985-674-4443

**Immediate Past Pres. — Frank D. Barber, III**

Taylor Energy Company . . . . .504-589-0450

**PLANO Auxiliary President — Jo Ann Anderson**

Harold J. Anderson, Inc. . . . .504-276-5858

**PLANO Administrator & Newsletter Editor  
Margo Cameron**

Dominion Exploration & Production, Inc. . . . .504-593-7560

## PLANO’S 2004 SPONSORSHIP PROGRAM

PLANO’s 2004 Sponsorship Program is still under way. Sponsorship levels are:

Platinum	\$2,000.00
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Anyone wishing to become a sponsor is asked to contact:

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There are many advantages to becoming a PLANO Sponsor, and we urge you to become a Sponsor. Your support is sought.

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## PLANO 2004-2005 COMMITTEE CHAIRMEN

**NOTE: AN UPDATE OF THIS LISTING WILL BE GIVEN IN THE AUGUST, 2004, NEWSLETTER**

### PLANO NEW MEMBERS

#### **DeMERRIS ABALDO**

*Landman*

Merlin Oil & Gas Inc.

310 Lafayette Street

Houma, LA 70360

Tele: 1-985-873-7332

FAX: 1-985-873-7371

E-mail: jadeoil300@aol.com

#### **CHARLES D. ASHWORTH**

*Land Advisor*

Devon Energy Production Company, L.P.

P.O. Box 4616

Houston, TX 77210-4616

Tele: 1-713-286-5861

FAX: 1-713-286-5700

E-mail: charles.ashworth@dvn.com

### PLANO MEMBER TRANSFER

Effective June 21, 2004, **William J. ("Bill") Dwyer** will take up his new position as Vice President – Land with

Cenergy Exploration & Production Company

228 St. Charles Avenue, Suite 724

New Orleans, LA 70130

Office: 504-569-3300

Cell: 504-610-9268

FAX: 504-569-3333

Email: bdwyer@cepc-co-usa.com

Congratulations, Bill! All the best to you.

### PLANO DUES 2004

For those of you who have not yet paid PLANO dues for this year, please attempt to clear this obligation by submitting your check, made payable to PLANO, for \$40.00, and mailing it without delay to PLANO, P.O. Box 51123, New Orleans, LA 70151-1123.

The names of members who have not paid their dues will be placed on an "Inactive List", and no further PLANO notices, newsletters, etc. will be mailed to those individuals until dues are paid in full. We feel sure you will understand this course of action.

### PLANO NEWSLETTER

When paying dues this year, many of our members who have access to e-mail indicated they would prefer to receive the newsletter by U.S. Mail each month rather than by e-mail. In fact, almost one-third of the membership opted to receive the newsletter by this means. There is a downside to this, i.e. bulk mail postage rates cannot be obtained, resulting in an increased mailing charge each month, as well as high assembly costs for issuing the newsletter by U.S. Mail.

By using e-mail for delivery of the monthly newsletters, production costs are very reasonable. No postage costs are involved, and the newsletter can be received by membership on a timely basis.

In an effort to reduce costs, for those of you who have e-mail PLANO would prefer to issue the newsletter each month by that means. For those of you who have no e-mail address on record, the U.S. Mail will be used to send the newsletter to you.

We hope you will appreciate the situation, and work with us to trim all unnecessary costs.

Submitted by: PLANO Newsletter Editor,  
Margo Cameron

### e-MAIL ADDRESSES

Please check your e-mail addresses and ensure that current listings are maintained in the PLANO Directory. Your listing may be accessed through the PLANO Web-site, [www.planoweb.org](http://www.planoweb.org)



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 Lafayette, LA 70508  
 (337) 233-1827

2316 Timber Shadows Dr.  
 Suite 202  
 Kingwood, TX 77339  
 (281) 548-0090

jrmyt@suncoastland.com

russell@suncoastland.com



& ASSOCIATES, INC.

LAFAYETTE OFFICE  
 1720 KALISTE SALOOM RD.  
 SUITE D-9  
 LAFAYETTE, LA 70508  
 337.989.7200  
 337.989.7279 FAX

GRETNA OFFICE  
 317 HUEY P. LONG AVE.  
 GRETNA, LA 70053-5916  
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**Dominion**

## Dominion Exploration & Production, Inc.

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1450 Poydras Street  
 New Orleans, LA 70112  
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## PLANO LUNCHES

What's a ghost? Well, when an event reservation is made but not used, PLANO is left with a "ghost" on the reservation list. Three (3) working days, i.e. 72 hours, prior to events, PLANO is required to guarantee the number of attendees, thus establishing the cost involved. This is a standard procedure in the catering world. Persons who do not show up, or cancel after the guaranteed number has been issued, are regarded as ghosts for they cost PLANO just as much as actual attendees. PLANO has to pay, and over the course of year, this can really add up to quite an expense.

So, please help us out. If you've made a reservation for an event, that's great. We look forward to seeing you there. If things get busy and you can't make it, we'll miss you, but please make a call as soon as you know and let the event organizer know that you won't be there. Calling after the guarantee has been issued will only serve to notify us you will not be there, but we will still have to pay. Rarely, if ever, can adjustments be made to the orders.

Thanks again. See you at the next event!

Submitted by:

Larry Beron, PLANO's Vice President 2004-2005

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## AAPL DIRECTOR'S REPORT

I attended the American Association of Professional Landmen's ("AAPL") Quarterly Board of Directors Meeting held on June 15, 2004, in Austin, Texas, in conjunction with the AAPL Annual Meeting. The Annual Meeting produced great highlights for PLANO. Our own Harold Anderson became President of AAPL for the 2004-2005 year. Mitch Ackal won the prestigious AAPL Landman of the Year Award and Jo Ann Anderson won a very deserving AAPL award for Community Service. PLANO and its members should be very proud of these individuals and their accomplishments. AAPL's recognition of PLANO members for these high honors proves that PLANO is a strong and vibrant organization.

Major topics discussed at Board of Directors meeting were:

1. The future of the North American Prospect Expo ("NAPE"). Craig Young, the outgoing President, informed the Board that he had been successful in negotiating with IPAA, AAPG and SEG to provide a long term agreement to keep NAPE successful and maintain AAPL's 50% equity interest. As a result of this agreement, NAPE will continue to be the premier industry event of the year. In addition, the agreement provides for AAPL and IPAA to create a lobbying chair in IPAA for the

purpose of lobbying Congress concerning opening more and more areas of the country for access to exploration and production. Open access to areas currently off limits to exploration is one of the biggest problems facing the oil and gas industry. Increased lobbying and educating the non-oil producing states' Senators and Congressmen on this issue can only help. Thanks to Craig and Robin Forté for their tireless efforts in negotiating this agreement.

2. Current AAPL membership stands at 7345 versus 7172 this time last year.

3. AAPL membership dues notices were mailed in April, 2004. I encourage all current AAPL members to renew their membership and for non-AAPL members to consider joining AAPL. If you are not a member of AAPL and are interested in joining, please contact me at 985-674-4443. AAPL membership has its advantages. AAPL works hard to provide outstanding educational opportunities and strives to increase the professionalism of all landmen. AAPL needs every landman's support.

4. The AAPL Compensation Survey is now online ([www.landman.org](http://www.landman.org)). Please take time to complete the survey. The information gathered is secure and may help you the next time you discuss compensation with your respective employer.

Respectfully submitted,  
Wm. David Briggs, AAPL Regional Director



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## LOUISIANA LEGAL UPDATE OIL & GAS LAW DEVELOPMENTS CASES OF INTEREST

Presented by Gordon T. Whitman  
The Onebane Law Firm, Lafayette, Louisiana  
1-337-237-2660

### First Circuit Court of Appeals Holds that Failure to Deliver Assignments as Required under Joint Venture Agreement Does Not Automatically Breach Agreement.

In 1998, two companies entered into an agreement (*the "Agreement"*) to develop an oil and gas prospect (*the "Prospect"*) in LaFourche Parish, Louisiana. WOGC (*the "Operator"*) agreed to commence the drilling of a well (*the "Well"*) by a certain date and Coffee Bay Investors (*the "Investor"*) agreed to pay a lump sum by a certain date and to share in certain expenses related to the development of the prospect. The Operator held title to certain leases and the rights to a certain Farmout Agreement (*collectively referred to as the "Leases"*), and under the Agreement, Operator was to assign (*the "Assignment"*) a 50% interest in the Leases to the Investor. No assignment was ever made although the Investor made the initial payment, and the Well was never drilled. The Investor filed suit for (1) rescission of the Agreement, and (2) return of the initial payment. The Investor filed a Motion for Summary Judgment urging that the failure of Operator to assign the

Leases constituted a failure of consideration and entitled it to judgment in its favor. The trial court agreed and held for the Investor. The First Circuit of Appeal for Louisiana reversed the trial court decision and remanded the case on the basis that the Agreement was a joint venture and that the mere failure to deliver the Assignment did not necessarily breach the Agreement. *Coffee Bay Investors, L.L.C. v. W.O.G.C. Company*, No. 2003 CA 0406, 2004 WL 691669 (La. App. 1st Cir. Decided April 2, 2004).

The Investor argued that (1) the consideration for the initial payment was recited in the Agreement to be the Assignment, (2) the Operator did not make the Assignment, and (3) it was entitled to its money back. Rejecting this argu-

ment as a simplistic view, the Court then briefly surveyed the Louisiana law on "joint ventures" and held that the Agreement established a joint venture. It noted that a joint ven-

ture in Louisiana is a species of partnership and governed by the laws of partnership. From there, it held that although the "literal consideration" was not complied with by the Operator, this was not necessarily the "ultimate end or cause" for the Agreement. It found that the parties intended to share in the profits from the venture and that the Assignment was merely a vehicle for achieving that end. Accordingly, in this case, the failure to deliver the Assignment did not breach the Agreement and entitle Investor to a return of the initial payment.

The decision by the Court quoted extensively from the original holding in the case of *Hayes v. Muller*, 245 La. 356, 158 So.2d 191. In that case, the defendant took title to certain oil and gas leases pursuant to a verbal contract between the parties where they each contributed to the purchase of same. The defendant then sold one of the leases for a substantial profit and refused to share it with the plaintiff. The plaintiff filed

suit to recover his share of the profit. On rehearing, the Supreme Court rejected his demand on the basis that his claim depended upon proving a verbal interest in the leases involved and under Louisiana law, any interest in such property must be in writing. However, on original hearing, the Supreme Court had held for the plaintiff on the basis that "joint adventurers do not have to be co-owners of property used in the business of joint adventure; the property used in the joint adventure may be owned by only one of the joint adventurers and its use only devoted to the purposes of the joint adventure." The decision on rehearing in *Hayes* rejected the plaintiff's demand, but the Court in the instant case noted that was because a verbal joint venture of real estate is

### About the Author

**Gordon T. Whitman:** Born New Orleans, Louisiana, January 25, 1955; admitted to Bar, 1981, Louisiana. *Education:* University of Southwestern Louisiana (S., 1977); Louisiana State University (J.D., 1981). Phi Kappa Phi; Phi Delta Phi; Order of the Coif. Member, Louisiana Law Review, 1980-1981. Speaker, 46th Annual Meeting and 2000 International Conference of American Association of Professional Landman; Speaker, 45th Annual Meeting and 1999 International Conference of American Association of Professional Landmen; Speaker, 43rd Annual Meeting and 1997 International Conference of American Association of Professional Landmen. *Member:* Louisiana State Assistant Examiner for Committee on Bar Admissions (1993-2002), and American Bar Association; Lafayette Association of Petroleum Landmen; Professional Landmen's Association of New Orleans; American Association of Professional Landmen; Louisiana Independent Oil and Gas Association; Louisiana Association of Bank Counsel; Advisory Council to Louisiana Mineral Law Institute.

*Areas of Practice:*  
Oil and Gas, Business





unenforceable.

The Court's holding is that failure of a party to perform a contractual provision, recited to be the consideration for the contract, does not automatically result in rescission (*at least, if the Court decides that it is not the ultimate cause*). It should be noted that this decision was decided on a motion for summary judgment; the recitation of facts was very sketchy, and no reason was offered for the failure of the Operator to assign the fifty (50%) percent interest in the Leases to the Investor. The Court did point out that the Investor had not made demand upon the Operator or formally put it in default prior to filing suit. It may be that this fact influenced the decision of the Court.

In any event, if a provision in a proposed contract is deemed to be of overriding importance, then a party may wish to consider adding that the failure to perform timely whatever is called for by the provision will result in the termination of the contract.

The above case does not appear to be final yet. In the event the holding of this case is changed upon further appeal, we will advise in a future article.

*Copies of the above case can be obtained upon request to the writer at (337) 266-1232 (fax) or whitmang@onebane.com (internet e-mail).*

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## THOUGHT FOR THE DAY

Pay as much attention to the things that are working positively in your life as you do to those that are giving you trouble.

*Submitted by the  
PLANO Newsletter Editor*

## VOLUNTEER NEEDED

Photographer for photo taking at PLANO events on an as-needed basis. Call Margo Cameron, PLANO Administrator, 504-593-7560, or e-mail to [margo\\_cameron@dom.com](mailto:margo_cameron@dom.com).

## AAPL's GeoCare BENEFITS INSURANCE PROGRAM

As part of its membership benefits, AAPL is pleased to be a participant in the GeoCare Benefits Insurance Program along with eight other associations. The Program has been in existence since 1962 and is made up of insurance plans which have been specifically designed with the needs of association members in mind.

Included in the Program are a variety of health, term life, disability, dental, long term care, and several supplemental plans. One of the major advantages of these Plans is their portability, for insured members may keep their coverage regardless of whether they are employed, work as independents, or are between jobs.

The Program is overseen by the Committee on Group Insurance which takes its responsibility to the members very seriously. Member Jane Crouch represents AAPL on this Committee.

More information about the GeoCare Benefits Program, including the Plan descriptions, rates, and applications, may be found at [www.geocarebenefits.com](http://www.geocarebenefits.com) or by phone at 800-337-3140.



### Magnum Hunter Production, Inc.

**Gregory L. Jessup, CPL**  
Vice President, Land \* Offshore

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## PLANO LUNCHEON

It seemed only yesterday that the PLANO Board for the year commencing July, 2003, was elected, and yet, here we were, June 7, 2004, saying good-bye to those individuals going off the Board following their term in office, and welcoming the new Board. The 2003-2004 Board comprised the following individuals:



*Front Row: L. to R. J. Patrick Morris, Jo Ann P. Anderson, Frank D. Barber, III, Wm. David Briggs, Anne D. Bailey  
Back Row: Wm. A. ("Bill") Gordon, Larry Beron, Andrew M. Adams, Carl F. Southern, David V. Dufour  
Missing from Photograph: Scott A. O'Connor, Wm. B. Raley, Jan van Loon*

Frank Barber, the outgoing PLANO President, expressed his gratitude and warmest thanks to the Board for having elected him President for a year. It had been a most enjoyable year, one filled with great events and, more importantly, the camaraderie of both the Board and membership. In an expression of great thanks for services rendered, Frank then presented awards to the following Board members on completion of their period in office, namely:



*L. to R. Frank Barber, Rosalind Rowell, receiving award for Jan van Loon, Oats & Hudson*

*L. to R. Frank Barber, Carl F. Southern, ExxonMobil Production Company*



*L. to R. Frank Barber, outgoing PLANO President, receiving the "Golden Gavel" Plaque being presented to him by David Briggs*

David Briggs, PLANO's AAPL Director and Immediate Past President, was called upon to present several awards. The first award – Company of the Year, "awarded to a business affiliate of an active PLANO member who has demonstrated exceptional support of PLANO through its contributions of employee time, office services and/or final resources" – was issued to Taylor Energy Company. Glenda V. Bellanca, Vice President, Administration, accepted the award on behalf of Taylor Energy Company.



*L. to R. David Briggs, Glenda V. Bellanco.*

J. Keith Couvillion, Deepwater Land Manager – Gulf of Mexico, with ChevronTexaco, New Orleans, was presented with the Landman of the Year Award. This award is given to "an active PLANO member who exemplifies the Land profession in his or her expertise in all phases of Land work, ethical business practices, leadership, and contribution to PLANO, the Land profession and the industry." Keith, well known and respected by those in the industry, qualified on all counts for this prestigious award.

## PLANO LUNCHEON continued



*L. to R. David Briggs, J. Keith Couvillion*

The Betty S. Baronne Award, established July 30, 1981, is "...Awarded to a Federal, State or Local Government Representative in an oil and gas-related position who has displayed a high degree of competence and expertise in his or her area of responsibility and a desire to aid Landmen in their efforts to work with recipient's office or agency." This most coveted award was this year presented to Steven ("Steve") Waddell, Supervisor in the Adjudication Unit with Minerals Management Service, New Orleans. Steve is known to a wide circle of people in the industry dealing with the MMS. For those not too well versed in the rules and regulations laid down by the MMS. Steve goes out of way to ensure that they fully understand all requirements.



*L. to R. David Briggs, Steven ("Steve") Waddell*

But, another side exists to Steve. He is an accomplished organist. From using the left-side of his brain when handling MMS matters, Steve goes home at nights to use the right-side of his brain

playing the 12-rank pipe organ he is building in the 20ft. x 20 ft. music room that he converted from the garage at his residence. This music room also houses a restored 1896 Chickering baby grand piano and electric organ. What a talented man is Steve!

The final award to be issued was PLANO's Special award, "...Awarded to an active PLANO member who has helped to bring positive recognition to PLANO, AAPL, the Land profession and the industry through his or her contribution to civic projects and/or the community." The award was issued to Margo Cameron, Dominion Exploration & Production, Inc., New Orleans. Over the years, Margo has devoted much of her time and talent to PLANO's Spring Garden De'Lights project, one of the most innovative and meaningful projects developed by PLANO, and certainly one that has earned much praise for both PLANO and the City of New Orleans.



*L. to R. David Briggs, Margo Cameron proudly displaying PLANO's Special Award.*

Frank Barber, in his closing remarks to the assembled luncheon group, stated that he wanted to express his thanks for the support of the PLANO Board and membership to raise the funds necessary for construction and completion of the PLANO Demonstration Garden within the confines of the New Orleans Botanical Garden, a project titled "PLANO's Spring Garden De'Lights." Over the past two years, \$40,000 had been raised, and it gave Frank Barber great joy to introduce to everyone present Paul Soniat, Director of the New Orleans Botanical Garden, who had been invited to the luncheon to receive PLANO's check for this sum.



L. to R.: Frank Barber, Paul Soniat

Paul Soniat, on examining the check, stated that he was pleasantly surprised and somewhat overwhelmed at the amount of the check. The donation was much greater than he had expected. Paul thanked the Board warmly for their generosity. He indicated that these funds would be applied towards completion of the ironwork, bowers, much needed lighting, underground drainage, and replacement of one of the fences at the Demonstration Garden. We would be remiss if we didn't let the membership know that Frank Barber has been a staunch supporter of the PLANO Demonstration Garden from inception to date, and has been instrumental in ensuring that increased funding was obtained from both private sources and the PLANO Board to complete the project. A hearty round of applause is due Frank for his sustained effort in this regard.

The meeting concluded with Frank Barber walking to the podium to complete his final act as PLANO President for the period 2003-2004, surely one of the most successful years in the history of PLANO, and that involved the passing of the gavel to William A. ("Bill") Gordon, a Staff Contracts and Joint Venture Representative, with Shell Exploration & Production Company, New Orleans. Bill will hold the office of PLANO President for the year 2004-2005. The photograph below shows Bill, gavel in hand, concluding the meeting.



Please join the PLANO Board in wishing Bill all the very best for the year ahead. It is likely to be a year fraught with problems for, as is known to all of us, the Deepwater Business Unit of ChevronTexaco is gearing up for transfer to Houston. PLANO's membership base in New Orleans keeps shrinking with the passage of time, and it is anyone's guess what will transpire in this city due to lack of business expansion.

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