

CITY OF DENTON CITY COUNCIL MINUTES

July 28, 2015

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, July 28, 2015 at 1:00 p.m. in the Council Work Session Room at City Hall.

PRESENT: Council Member Roden, Council Member Johnson, Council Member Hawkins, Council Member Briggs, Mayor Pro Tem Gregory, and Council Member Wazny.

ABSENT: Mayor Watts

1. Work Session Reports

Work Session Item D was considered.

D. ID 15-588 Hold a discussion and provide staff direction with regard to possible amendments to the City Council Rules of Procedure.

City Attorney Burgess stated that Council had a prior discussion on April 21st regarding the proposed changes of the rules. Changes made at the prior meeting included editing the rules for clarity; reorganizing two sections dealing with types of meetings and reports from members of the public; deleting time limits section as duplicative and included limits in a substantive section; updating citations; correcting erroneous references; adding a video conferencing provision; adding luncheon meetings to go along with current council practice; adding a corrected recessed meeting provision; adding specific procedures for public hearings; and clarifying the 3/4 voting requirements.

Council Member Roden stated that in the videoconferencing section, a notice had to be submitted to the City Manager not less than seven days before the meeting and that the Agenda Committee would consider the request. The request could be denied by the Agenda Committee. He questioned the reason for that provision of denial as in the future it could become political.

City Attorney Burgess stated that the seven day notice was to allow staff to be able to provide the necessary equipment to the traveling member and conduct training if not familiar with the equipment and the rules of videoconferencing. In terms of Agenda Committee, the thinking was that if a number of Council Members were traveling it might not be an efficient way to conduct business even though it might be allowed by law. It would allow the Agenda Committee a method to handle those types of situations when more than a quorum was traveling.

Council Member Roden stated that while he agreed with the spirit of those provisions he was uncomfortable with the Agenda Committee being the entity to deny the conferencing and requested that portion be rewritten.

Council Member Johnson felt that there should be a need for the videoconferencing such as being out of the city and not just wanting to do the meeting at home. He suggested having some absence rules to follow and suggested rewriting the section to state if notified of the need and if approved x days before meeting, then it would be allowed. Remove the wording about the Agenda Committee and limit the number of times it could be used.

Council Member Wazny noted consideration of someone who was ill or bedridden and who couldn't attend a meeting for x number of weeks. Don't make the provisions too restrictive.

Mayor Pro Tem Gregory felt that more work was needed on that provision but that considerations should be written on using the videoconferencing provision if unable to attend due to travel or health issues. The Agenda Committee might consider not having a meeting if there were going to be three or four members absent.

Council Member Hawkins stated that just because the availability was there, it did not have to be used.

City Manager Campbell stated that currently there was only enough equipment for one member to use the provision at one time.

City Attorney Burgess continued with time limits for members of the public wishing to address Council. The time limit for a report from members of the public would remain at four minutes and Consent or Regular agenda items would remain at three minutes. Public hearing speakers would have four minutes for citizens with Council able to reduce the time to three minutes if needed. Applicants for a zoning case would have ten minutes with a total of twenty minutes for all applicant representatives. Groups or organizations of four or more present in the Council Chambers with a written designation of a representative would have ten minutes for the representative to speak.

Location on the agenda of public reports – the public reports would remain at two separate places on the agenda with three speakers at the beginning of the meeting and any others at the end of the meeting. The six month rotation would continue. In addition, an “open mic” procedure at the beginning of the meeting was added with two speakers allowed to speak on a first come, first served basis.

Council Member Wazny liked the idea of two alternatives for speaking - either sign up by Wednesday prior to the meeting or the open mic. She did not like the limit of two speakers for open mic due to pressing topics that might not be listed on the agenda and suggested increasing the number to six.

Mayor Pro Tem Gregory asked if there was a situation that was created where a lot of people wanted to speak, could the Council suspend the rules and allow them to speak at the meeting.

City Attorney Burgess stated that the rules could be suspended to allow for additional speakers at the open mic section.

Council Member Johnson liked the idea of open mic but felt it must be thought through. If there were only an open mic, he felt those would be filled every week because there would be no requirement to be put on the agenda and the topics of discussion would not be known. Council needed to plan on hearing those individuals for whatever amount of time.

Council Member Hawkins stated that each speaker would be allowed four minutes.

City Attorney Burgess said yes that would be the time limit.

Council Member Wazny stated that she would be agreeable to four speakers as a compromise and do a trial to see how it worked.

Council Member Roden stated that the DISD had two fifteen minute time periods with five speakers on a first come, first served basis.

Mayor Pro Tem Gregory stated that the consensus of Council seemed to be four open mic spots with Council's ability to suspend rules if needed.

City Attorney Burgess clarified that the open mic would only be at the beginning of the meeting.

Council agreed with that provision.

Council Member Briggs suggested extending the time limit on citizens speaking at public hearings to five minutes. She was not in favor of Council being able to reduce the time back to three minutes if needed.

City Attorney Burgess stated that the discussion on that point was on efficiency of the meeting with a specific request from the Council to put that provision back into the rules.

Council Member Roden stated that the issue was not simply a matter of the Council's time, it was also the time of the people coming to speak. In order to give everyone a chance to speak, there might be a time when it was necessary to reduce the time to assist the people. Three minutes was a usual amount of time to get a statement made.

Council Member Briggs asked how that process would work and questioned if the procedure would be done before the meeting or half way through the meeting.

Mayor Pro Tem Gregory felt that as Council came into meeting they would know if there were a lot of speakers or a high amount of blue cards so they would have a sense ahead of time. When an item started, the Mayor could ask Council if they wanted to use the three or four minute rule at that time. He felt that a lot of the time when there were many people on same topic, after the fourth or fifth person, there was very little new information and people repeated what other people had already said. There were also times when a person was allowed to speak longer than their allotted time due to remarks.

Council Member Hawkins noted that if there was a lot of repetition, Council could also ask questions to provide more time for a speaker.

City Attorney Burgess continued with changes to the location for public comments for the Consent Agenda. The suggestion was to leave as is but add a provision that citizen could contact the City Secretary to ask for an item to be moved to Individual Consideration.

Mayor Pro Tem Gregory noted that this provision would not prohibit a council member from also pulling in item for individual consideration.

Council Member Wazny asked for a clarification on how citizens could speak in a Work Session.

Mayor Pro Tem Gregory stated that a citizen would complete a blue speaker card regarding the Consent Agenda item in question. Otherwise a citizen would not be able to speak at the Work Session unless authorized by Council.

Council Member Wazny felt that a citizen might want to speak to a Work Session discussion but currently was unable to speak. She felt there had to be a better way to recognize citizens on non-Consent Agenda items. She suggested Council consider a provision in the future to allow citizens to speak at Work Sessions.

City Manager Campbell stated that Work Sessions were generally a place where Council received information from staff on items that generally required no action on them. It was a venue for debate among the Council on information that they had requested. The discussion items were posted and Council could invite citizens to speak but it was not a right for citizens to speak at a Work Session.

Council Member Roden felt this would be a good topic for the Council Committee on Citizen Engagement to consider on how to allow such a process. The process would have to be such to allow for the discussion to be efficient.

Council Member Hawkins felt that there were times when citizens did not like a 7-0 vote and did not know about all the work done in Work Session before the actual vote.

Council Member Johnson stated that the trick would be to determine how to recognize the public. The open mic concept might work for the Work Session also but not when Council was in the process of discussing an item.

City Attorney Burgess stated that at the April 15th meeting, Council asked for a clarification on "consensus direction" which had been incorporated and to also clarify what constituted a $\frac{3}{4}$ vote. There was one added provisions to the rules that board/commission minutes would comport with City Secretary procedures as it was felt that it would be more efficient if all of the board/commissions followed the City Secretary procedures.

Council considered Work Session Item B.

- B. ID 15-607 Receive an update, hold a discussion, and provide staff direction on the Road Impact Fee implementation.

PS Arora, Wastewater Division Manager, stated that his presentation would cover a Ryan Road example of a roadway impact fee plus ordinance/policy discussions.

The Ryan Road analysis used existing developments on Ryan Road and those projects which were in the process of development on Ryan Road. This resulted in three impact fee rate scenarios. The Ryan Road analysis for land use was reviewed. A detail of existing developments for rough proportionality versus an impact fee was demonstrated. Council discussed the figures of the detail and how they applied to the developments.

A summary of rough proportionality versus impact fee showed that (1) existing residential developments paid nothing on Ryan Road; (2) existing residential developments would have paid for under rough proportionality than proposed impact fee options; (3) rough proportionality was based on frontage resulting in uneven fees by development; and (4) other developments could pool money towards Ryan Road. It was noted that the adoption process per State law was four months. The time required to adopt the fees would be two months for land use and CIP adoption and two

months for an ordinance adoption. A majority of the ordinance would be based on statutory language but there were some policy decisions that would have to be made. Those included a determination of the collection amount, incentives, credits and rough proportionality.

Council Member Wazny asked when the impact fees would be paid.

Arora stated that the impact fee would be determined when platted. A final plat would have the final amount.

Mayor Watts arrived at the meeting.

Maximum versus collected fees with area cities and a comparison of roadway impact fee comparison with area cities was presented. In determining the collection rate, several options to consider were what should be the rate for a single family home, should non-residential get a discount, should the fee be consistent across the City and should there be incentives provided in defined areas.

Council discussed zones throughout the city, types of zones and whether land uses would be charged the same throughout all of the zones or specify a charge in different zones to encourage development of a certain type in each zone. Council requested staff research if other cities had those types of incentives within specific zones.

Two types of incentives centered on location in an established area such as a TIF or an economic development incentive with clear criteria for major investments. Council discussed the TIF and how it would relate to the fee.

Arora reviewed an extraordinary investment discount. Impact fee-based incentives could be considered if the real and personal property project value met certain values. Credits for impact fees could be given when infrastructure was built or right-of-way was dedicated for thoroughfares. Appraised values applied would be based on DCAD values. The methodology for credit could be either a credit agreement between the City and a developer or credit in dollars for eligible roadway costs. Council discussed alternate methods for determining appraised values rather than just using the DCAD.

Rough proportionality was based on road construction requirements based on the DDC for perimeter street and/or the traffic impact analysis. The Impact Fee Estimator Tool calculated rough proportionality. It would replace the current rough proportionality model in the DDC. For developments that needed extensions of system facilities the impact fee would be credited. Impact fee credits would be applied based on the calculated maximum fee for the service area.

Consensus of the Council was to hold an additional work session for further discussion and provide additional examples of costs for projects.

- A. ID 15-587 Receive a report, hold a discussion and provide staff direction on street pavement conditions and recommended maintenance funding requirements.

Tim Fisher, Water Division Manager, stated that the presentation on this item would include a history of pavement management system and comprehensive street condition survey; an overview of past funding related to street maintenance, repair and reconstruction; overview of the 2008 and 2015 Citizen's Survey; overview of 2012 and 2014 bond programs related to street construction; update from Infrastructure Management Services on the 2015 Comprehensive Street Condition Survey; and staff recommendations related to the pavement management program, future performance goals and funding strategies.

History of Pavement Management System - three comprehensive payment condition surveys were performed. The Cartegraph Work Order and Pavement Management Software System were used. Conclusions from the 2003 and 2009 studies indicated that street conditions were declining rapidly due to underfunding of street maintenance. The average OCI in 2003 was 69 while the average OCI in 2009 was 63. The distribution of street OCI conditions were atypical in that growth in the City was adding many new streets with very high OCI numbers while older streets were in much poorer condition and in rapid decline.

2008 and 2015 Citizen Surveys – in 2008 street maintenance ranked lowest of all departments and in 2015 the rating was even less.

2012 and 2014 Voter Approved Street Reconstruction bond packages – the 2012 bond program was a streets only bond package and street reconstruction only. Fifty nine street segments had been completed with fourteen other segments under constructions. The program was slightly behind schedule and was below budget at this time.

2014 bond program – this was a \$98 million program over six years and funded 195 street segments which was about 28% of unfunded street segments.

Stephen Smith, Infrastructure Management Services, presented the 2015 state of the roadway network in Denton. He reviewed information on scale of investment indicated that the OCI was currently at 63 which had not declined from previous years. The concern was the backlog on streets that needed total repair. The importance of pavement management was presented in order to maintain pavements in a serviceable condition over a given period of time. Benefits of pavement management were maximized when funding was close to a steady state level for the highest cost benefit. Top down and bottom up support was critical. The principles of early intervention with light weight treatment needed to be accepted.

Tools to rate the roads - objective surveys focused on the conditions of (1) fatigue/alligator cracking, (2) wheel path rutting, (3) cracking, (4) distortion and weathering, (5) patching and potholes, (6) roughness, (7) raveling and (8) bleeding. A very poor OCI was past the point of overlay based rehabilitation with a failed base and subgrade. Rehabilitation was often driven by citizen complaints with safety becoming a concern at a very low OCI. A poor to marginal OCI had base failures, rutting at intersections, extensive cracking and patching, and was a high priority to avoid reconstruction. It was the last opportunity for surface base rehabilitation. A fair OCI had progressive cracking, few base failures, localized distresses, and were primarily non-load related. The streets were at an optimum timing for thin to moderate overlay. Good OCI ratings had few localized distresses minimal base failures. The greatest cost benefit was thinner strategies, less crown buildup, less intrusive rehabilitation and maintained existing drainage. Very good OCI had

very few distresses, no rutting, had a smooth ride, and was non-weathered with no base failures. An excellent OCI was a like new condition, with little or no distress.

Denton OCI results for 2015 – Denton had atypical conditions as it had older streets plus newer streets to work with. The need was to address the massive amounts of poor streets that had an odd distribution of concrete and asphalt. The current backlog was 14% with a target backlog of 12%. Excellent streets should be about 15% with Denton at 25%. The recommended long term goal was to control the backlog to below 12% as it was imperative to arrest the amount and growth of backlog. The City should invest in the overall network to maintain the average OCI about 65.

The goal was to identify an annual budget, examine the effects of current funding levels and any shortfalls, and prevent deterioration in pavement quality. Pavement management was priority based, not worse-first. The target OCI would cost \$14 million/year to maintain a 65 OCI. The money did not include growth, inflation, conversion from gravel to pavement, level of service increases or right of way maintenance. It also did not include ADA compliance and was not for sidewalks.

Staff recommendations – (1) continue periodic comprehensive street condition surveys on a 5 to 6 year interval (2) continue to utilize the Cartegraph Pavement View and Pavement View Plus to manage the street maintenance program, (3) continue to transition Utility Franchise fee income stream to fully fund the Street Department, (4) target performance goals and objectives for maintenance of the street assets to have a system wide average OCI of between 65 to 70 and manage the reconstruction backlog less than 12%, (5) the Street Improvement Fund should include 40% to 45% funding for non-OCI street related expenditures to cover sidewalks, pot hole repairs, base failures, and (6) transition away from dependence on debt funding for managing the reconstruction backlog once it was under operation and maintenance funding levels are increased and sustainable. Through improving the average OCI in the street system and reducing reconstruction backlog, the future costs to maintain city streets would actually be lower.

Council Member Gregory noted that funding at \$12 million for the OCI would keep it steady but \$14 million would see an increase in the overall OCI.

Fisher stated correct but that there would still be a gap in order to maintain the current OCI.

Council Member Johnson asked if new roads were included in the OCI rating.

Fisher replied correct.

Council Member Johnson stated that he was not sure the average number should be what was focused on because of all the new streets included which could produce a false positive. He suggested focusing on the percentage or segments below 40.

Council Member Wazny asked for the cost of the study.

Fisher stated that it was \$200,000 over 6 years and included a sidewalk inventory and parking lot survey.

Council Member Wazny stated that the City had ignored roads for years and was in this spot now because it did not spend the money. She suggested that for the next survey a company in Texas be used for the study.

Council Member Roden stated that he would like to see a 10 year forecast on how to solve the problem. A policy question was maintaining the best streets in the downtown area and around the universities. He felt it was hard for citizens to find out this information and suggested putting out information when certain streets were going to be fixed.

Mayor Pro Tem Gregory suggested putting the PowerPoint on line. Council needed to make hard decisions regarding the funding and prioritizing of which streets to do.

Council Member Johnson suggested spending time talking about the most impactful streets as they related to visitors, etc.

Mayor Watts stated that he was an advocate for a potential tax decrease and felt that Council needed to look realistically when considering funding.

- C. DCA14-0009k Hold a discussion on complementary amendments to the Denton Development Code; specifically Subchapters 5, 16, and 22, relating to Gas Well Drilling and Production, Definitions, and Procedures; in order to reconcile Denton's gas well regulations with House Bill 40 that was signed into law on May 18, 2015.

This item was not considered.

Following the completion of the Work Session, the City Council convened in a Closed Meeting at 5:30 p.m. to consider the specific items listed below.

1. Closed Meeting:

- A. ID 15-473 Consultation with Attorney - Under Texas Government Code, Section 551.071.

Discuss, deliberate, and receive information from the City's attorneys pertaining to the negotiation and legal consequences of meet and confer agreements with the Police and Fire Associations, and provide the City's attorneys with direction, where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceedings or potential litigation.

- B. ID 15-545 Deliberations regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071.

Receive information from staff, discuss, deliberate, and provide staff with direction regarding the potential acquisition of real property interests, to wit: an 10.771 acre

tract situated in the R. Longbottom Survey, Abstract No. 775 generally situated in the northwest quadrant at the intersection of U.S. Highway 288 and East University Drive (U.S. Hwy. 380), in the City of Denton, Denton County, Texas, for the construction, expansion and use of electric substations, switch stations or power transmission lines. Consultation with the City's attorneys regarding legal issues associated with the acquisition of the real property interests described above where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation. (Purple route, Prescott)

This item was not considered.

- C. ID 15-643 Consultation with Attorneys - Under Texas Government Code, Section 551.071; Deliberations regarding Economic Development Negotiations - Under Texas Government Code, Section 551.087.

Receive a report and hold a discussion regarding legal and economic development issues regarding economic development incentives for a business prospective in the Cole Ranch Development. This discussion shall include commercial and financial information the City Council may receive from the business owners which the City seeks to have locate, stay, or expand in or near the territory of the City, and with which the City Council is conducting economic development negotiations, including the offer of financial or other incentives. Also hold a discussion with the City's attorneys on the referenced topic where the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the provisions of the Texas Open Meetings Act, Chapter 551 of the Texas Government Code.

This item was not considered.

- D. ID 15-584 Consultation with Attorneys - Under Texas Government Code, Section 551.071.

Consult with and provide direction to City's attorneys regarding legal issues and strategies associated with the current Gas Well Ordinance, and proposed Gas Well Ordinance amendment, regulation of gas well drilling and production within the City Limits and the extraterritorial jurisdiction, including: Constitutional limitations, statutory limitations upon municipal regulatory authority; statutory preemption and vested rights; impacts of federal and state law and regulations; impacts of gas well drilling upon protected uses and vice-versa; current and proposed extension to moratorium on drilling and production; other concerns about municipal regulatory authority or matters relating to enforcement of the Gas Well Ordinance, both current and proposed; settlement matters concerning gas well drilling in the City; surface development issues involving surface and mineral estates; and legal matters associated with a citizen's initiative ordinance and pending litigation styled George

P. Bush, Commissioner, Texas General Land Office v. City of Denton Texas, Cause No. 15-02058-362 currently pending in the 362nd District Court of Denton County and Texas Oil and Gas Association v. City of Denton, Cause No. 14-08933-431 currently pending in the 431st District Court of Denton County regarding hydraulic fracturing where a public discussion of these legal matters would conflict with the duty of the City's attorneys under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.

Special Called Meeting of the City of Denton City Council at 6:30 p.m. in the Council Chambers at City Hall.

1. PUBLIC HEARINGS

- A. DCA14-0009i Hold a public hearing and consider adoption of an ordinance amending Subchapters 5, 16 and 22 of the Denton Development Code, relating to Gas Well Drilling and Production, Definitions and Procedures; providing a cumulative clause; providing a severability clause; providing for a penalty; and providing for an effective date (DCA14-0009i). The Planning and Zoning Commission recommends approval (7-0), with amendments.

Darren Groth, Gas Well Administrator, stated that his presentation would include background information, the legal framework, implementation – zoning, implementation - gas well standards, and Planning and Zoning Commission recommendations. Lessons learned over the years showed that setbacks were leading concerns for all parties, mineral/surface development should minimize impacts, existing sites versus new sites, and the concerns over HB 40.

The background information on the process since December 16, 2014 was reviewed. HB40 impacted municipal regulatory oversight for gas regulations indicating that authority to regulate an oil and gas operation was expressly preempted unless the activity fell under narrowly drawn exceptions and met a four part test. The four part test included (1) regulated only aboveground activity related to an oil and gas operation that occurred at or above the surface of the ground, (2) was commercially reasonable, (3) did not effectively prohibit an oil and gas operation conducted by a reasonably prudent operator, and (4) was not otherwise preempted by state or federal law. The definition of commercially reasonable was reviewed and noted that an ordinance considered commercially reasonable would be one that had been in effect for at least 5 years and had allowed the oil and gas operations at issue to continue during that period.

City Attorney Burgess noted that an ordinance, although in play for 5 years, whether or not it was commercially reasonable, had to be determined by a court of law and could be overcome by other evidence. The city of Fort Worth's ordinance had received favorable consideration at the Texas legislature. That ordinance was used as a model for Denton's revisions, where feasible.

Groth stated that aboveground surface activities a city could regulate included fire and emergency response, traffic, lights, noise, imposing notice and reasonable setback requirements.

The timeline associated with consideration of the ordinance was reviewed. It was noted that the moratorium would expire on August 18th.

Implementation - zoning – the framework regulations for setbacks, permit procedures, and relief measures had been placed in the Denton Development Code (DDC). Site standards would remain in the DDC with a differentiation of existing sites from new sites. Master Planned Communities and Planned Development regulations would be in accordance with their approved plan.

Council Member Roden asked if the six areas noted were followed, would they also have to meet the commercially reasonable test.

City Attorney Burgess stated that HB 40 did not give cities the authority to regulate these items. All of those must be regulated in a manner that is commercially reasonable under HB 40.

Setbacks – a setback was the distance between drilling and production sites and protected uses or residential subdivision plats. There were three types of setbacks – drilling and production site setbacks, reverse setbacks and minimum setbacks by variance or waiver. With new and existing sites the new site setback was based on zoning district categories and differentiated separation standards for new sites and existing sites. There was uniform treatment for existing sites across zoning district categories. The new site setbacks as proposed by staff and the ones proposed by the Planning and Zoning Commission for residential, commercial, industrial and MPC and PD districts were reviewed. These were measured from the edge of gas well development site plan boundary.

Mayor Pro Tem Gregory asked for an explanation of the different categories between site and minimum setback.

Groth stated that a property owner would have to obtain a waiver to consent to a reduced setback. If 100% of the property owners did not agree, the waiver would go to the Zoning Board of Adjustment (ZBA) and the ZBA could reduce the setback. In some instances, the gas operators could give up a site such as two near each other to grant a reduced setback if one was given up for future drilling.

Mayor Pro Tem Gregory asked if there were guidelines in the proposed ordinance for the ZBA to use to make such a determination. He questioned if the ZBA could grant a smaller setback but not down to the minimum.

Groth stated that there were some criteria in the ordinance but also had specific criteria for variances.

City Attorney Burgess stated that the DDC had specific guidelines and whether lesser setbacks could go any distance but not less than minimum.

Mayor Pro Tem Gregory suggested that before the next meeting criteria for the ZBA to make a variance should be developed.

Council Member Briggs asked if there was a situation where a developer could automatically get a variance.

Groth stated that the Planning and Zoning Commission recommendation was to not have a development reduction requirement. He presented the Commission proposal for a reverse setback.

The Commission had recommended 225 feet for a reverse setback but the motion had been made with 500 feet measured from the construction edge or GWDSP boundary.

City Attorney Burgess stated that all of her notes indicated a reverse setback at 225 and the 500 feet was an error.

Groth continued with setback reduction procedures. The procedures would apply to site setbacks in order to reduce the distance down to the minimum and involved property owner waivers, Board of Adjustment variances, an administrative variance allowed under limited circumstances, and enhanced performance standards.

Mayor Pro Tem Gregory asked if the administrative variance was specified in the ordinance or was just an understanding of procedures.

Groth stated that there were strict criteria in the ordinance. The sequence for gas well permitting was presented. In terms of drilling and production site, the size of the site would be limited to 2 acres, unless there was a need for larger site up maximum size of 5 acres. Expiration dates would still apply. Environmental and operational functions would be in compliance with federal and state regulations. Drilling and production standards would remain in the DDC such as site layout and design; development, operations, and equipment; fire safety and emergency response; nuisance prevention and mitigation; and enhanced mitigation, when applicable.

Enhanced performance standards applied when a setback distance was reduced below the "site" distance and contained the three categories of noise mitigation, fencing and screening, and production monitoring.

Groth stated that staff had provided two versions of the proposed ordinance. One was a redline version that reflected the Commissions policy recommendations regarding setbacks and variances, along with staff's non-policy recommended changes. The second was a clean version that reflected staff's policy recommendations regarding setbacks and variances, along with staff's non-policy recommended changes.

Council Member Roden questioned how reverse setbacks were determined and how adequate notification was provided to potential buyers of a piece of property.

Groth stated that new requirements for notification for platting included a note on the plat, a depiction on the plat lot survey and a location of site to the lot. There was also a declaration of restricted covenants and requirements for notice when the applications were filed. The impacted area received a notice of application plus signage on the site of the existing well that it could possibly be reworked.

Mayor Pro Tem Gregory asked about the section on watershed protection and references to flood way and flood fringe as he did not see definitions of those.

Groth stated that those were not currently included in the ordinance.

Mayor Pro Tem Gregory stated that he would like those included in the ordinance. He did see a reference regarding fencing around an open pit but he did not think open pits were allowed.

Groth stated that it referenced existing open pits and that looped open pits were not allowed.

Mayor Pro Tem Gregory stated that originally there were general rules regarding noise mitigation and then they got very specific which made them unenforceable. The regulations were then changed to match the same rules as everyone had. Now it appeared that the regulations were going back to being very specific. He was concerned about the enforceability of those and questioned if a legal opinion was needed in either open or closed session.

Groth stated that the regulations had very strict requirements and then was changed to match State law.

Mayor Pro Tem Gregory stated that he needed an explanation as to why it appeared that the course was changing again as he was concerned about enforceability.

City Attorney Burgess stated that the ordinance did not impact the State law provision. It still existed in State law and could be used as a tool from the State law.

Mayor Pro Tem Gregory asked about the provision about a different type of sign to go on a drilling site. All of the existing wells had to place those signs with the new wording.

Council Member Wazny stated that there had been no discussion regarding master planned communities or planned developments. These were large areas where the new regulations would not apply such as Cole Ranch, Hunter Ranch and Robson Ranch. Those areas would be grandfathered in and the new regulations would not apply.

The Mayor opened the public hearing.

The following individuals spoke during the public hearing:

Sharon Wilson, 101 North Greenfield, Allen – in support
Adam Briggles, 1315 Dartmouth, Denton – in support
Christie Wood, 1020 Coit, Denton – in opposition
AC Adam, 1806 Andover Lane, Corinth – in support
Dalton Allen, 111 Lexington, Denton – in support
Calvin Tillman, 100 Jerry Street, Aubrey – in opposition

Council questioned Tillman about provisions in the Dish ordinance in terms of measuring setbacks, reverse setbacks, number of wells in Dish and setbacks from the well head or equipment.

Mike Cheves, 900 Jeffrey, Denton – in opposition
Jodi Ismert, 819 Anna, Denton – in opposition
Jerry Yensan, 4238 I35 North, Denton – in support
Ron Seifert, 1400 Morin, Denton – in support
Elida Tamez, 1700 Willowwood, Denton – in opposition
Theron Palmer, 1700 Willowwood, Denton, - in opposition
Agatha Beins, 1901 Panhandle, Denton – in opposition
Branden Finley, 806 Denton, Denton – in opposition
Deborah Armintor, 2003 Mistywood, Denton – in opposition
Shula Armintor, 2003 Mistywood Lane, Denton – in opposition

Lee Ramsey, 525 Loop 288, Denton – in support
Sandy Mattox, 4008 Vinyard, Denton – in opposition
Tara Linn Hunter, 602 Woodland, Denton – in opposition
Rodney Love, 700 N. Austin, Denton – in opposition
Brad Shelton, 3000 Carmel, Denton – in support
Ed Soph, 1620 Victoria, Denton – in opposition
Kelli Barr, 1005 W. Hickory, Denton – in support
Charles Brown, 2908 Pennsylvania, Denton – in support
Nicole Chochrek, 1223 Highland Park Road, Denton – in opposition
Michael Hennen, 724 Thomas, Denton - in opposition
Chance Wilson, 1209 CR 1304, Bridgeport – undecided
Ed Ireland, 777 Taylor, Fort Worth – neutral
Chris Rosprim, 2113 Emerson, Denton – in support
Morgan Larson, 2210 Westwood, Denton- in opposition
Emily Smith, 2105 Stella, Denton – in support
Alison Trapp, 3137 Crisoforo, Denton – in opposition

Comment Cards were submitted by:

JB and Shirley Haisler, 1200 Cowling Sanger - in support
Larry Beck, 915 E. Sherman, Denton – in opposition
Susan Vaughn, 1330 Phoenix, Denton - in opposition
Todd Ellis, 3437 Crisoforo, Denton – in opposition
Paula Collins, 1223 Highland Park Road, Denton – in opposition
Sharon Spiess, 7501 Stallion, Denton – in opposition

The Mayor closed the public hearing.

Council Member Wazny stated that Council was listening to citizens and was not going to vote on the ordinance at this meeting. She would consider what the Planning and Zoning Commission had recommended and what citizens had said. She motioned to postpone the item to a date certain of August 4th.

Mayor Pro Tem Gregory asked for the number of gas well inspectors.

Groth stated that there were only two at this point. There were 153 gas wells to inspect at least 2 times per year. Two annual inspections were required.

Council Member Briggs stated that she did not support a weaker ordinance and felt other cities were watching Denton to see what it was going to do. If the ordinance was made weaker, it would be validating HB 40.

Mayor Pro Tem Gregory stated that he was not comfortable with the setbacks as well as production tanks on the edge of a site. He wanted more awareness of setbacks for flashpoints, etc.

Council Member Wazny motioned, Mayor Pro Tem Gregory seconded to table consideration until a date certain of August 4, 2015. On roll call vote, Council Member Roden "aye", Council Member Johnson "aye", Mayor Watts "aye", Council Member Hawkins "aye", Council Member Briggs

"aye", Mayor Pro Tem Gregory "aye", and Council Member Wazny "aye". Motion carried unanimously.

2. CONCLUDING ITEMS

- A. Under Section 551.042 of the Texas Open Meetings Act, respond to inquiries from the City Council or the public with specific factual information or recitation of policy, or accept a proposal to place the matter on the agenda for an upcoming meeting AND Under Section 551.0415 of the Texas Open Meetings Act, provide reports about items of community interest regarding which no action will be taken, to include: expressions of thanks, congratulations, or condolence; information regarding holiday schedules; an honorary or salutary recognition of a public official, public employee, or other citizen; a reminder about an upcoming event organized or sponsored by the governing body; information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the municipality; or an announcement involving an imminent threat to the public health and safety of people in the municipality that has arisen after the posting of the agenda.

Mayor Watts asked for a table top exercise discussion with DISD, Fire and County for a plan in evacuating schools in case of a gas emergency.

- B. Possible Continuation of Closed Meeting topics, above posted.

Mayor Watts announced that Council would be returning to the Closed Meeting to continue the discussion of Closed Meeting Item D. Council went into Closed Meeting at 11:40 p.m.

With no further business, Council returned to Open Session at 1:08 a.m. and adjourned.

CHRIS WATTS
MAYOR
CITY OF DENTON, TEXAS

JENNIFER WALTERS
CITY SECRETARY
CITY OF DENTON, TEXAS