

CITY OF DENTON CITY COUNCIL MINUTES

August 6, 2013

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, August, 6, 2013 at 3:00 p.m. in the Council Work Session Room.

PRESENT: Council Member Engelbrecht, Mayor Pro Tem Kamp, Council Member King, Council Member Hawkins, Council Member Gregory, Council Member Roden, Mayor Burroughs

ABSENT: None

1. Citizen Comments on Consent Agenda Items

There were no citizen comments on Consent Agenda items.

2. Requests for clarification of agenda items listed on the agenda for August 6, 2013.

There were no requests for clarification of agenda items.

3. Receive a report, hold a discussion, and give direction regarding water and transportation issues which may be the subject of a November 2013 Constitutional Amendment Election called by the State of Texas.

Lindsey Baker, Intergovernmental Relations/Public Information Officer, presented information on the item. She stated that Mayor Burroughs had requested this item be placed on the agenda to discuss mayoral and council communications with the public leading up the November State constitutional election. The November ballot would provide citizens the opportunity to approve funding for water infrastructure.

Mayor Burroughs stated that he would like direction from Council on how to proceed with supporting or not supporting the water item. He wanted direction that as Mayor Council would direct him to positively support the water issue.

Consensus of the Council was to positively support the amendment.

Mayor Pro Tem Kamp asked if a resolution was needed to show support.

Mayor Burroughs felt that would be a good asset for support.

Council Member Roden suggested writing up something for the web site on what the amendment meant and what it meant for Denton and the State in general.

4. Receive a report, hold a discussion, and give staff direction regarding the FY 2013-14 City Manager's Proposed Budget, Capital Improvement Program, and Five-Year Financial Forecast.

City Manager stated that this item was listed on the agenda if Council had more questions but more detailed responses from the August 1st meeting would be presented at the August 13th meeting.

Following the completion of the Work Session, the Council convened in a Closed Meeting to discuss the following:

1. Closed Meeting:

A. Deliberations regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071.

1. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the potential purchase of certain real property interests located in the James Perry Survey, Abstract No. 1040, John Scott Survey, Abstract No. 1222, John Bacon Survey, Abstract No. 1541, and the John Davis Survey, Abstract No. 326, City of Denton, Denton County, Texas, and generally located along Western Boulevard between Airport Road and Jim Christal Road. Consultation with the City's attorneys regarding legal issues associated with the potential acquisition and condemnation of the real property 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.
2. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the potential sale of certain real property interests located in the B.B.B & C. R.R. Co. Survey, Abstract Number 185 and the William Neill Survey, Abstract Number 971. Consultation with the City's attorneys regarding legal issues associated with the potential sale of the real property 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 potential litigation.

B. Deliberations Regarding Certain Public Power Utilities: Competitive Matters - Under Texas Government Code Section 551.086.

1. Receive competitive public power information from staff in the form of a proposed operating budget for Denton Municipal Electric (DME) for the upcoming fiscal year, including without limitation, revenues, expenses, commodity volumes, and commitments, and the direction of DME; and discuss, deliberate, consider adoption of the budget and other matters, and provide staff with direction regarding such matters.
2. Receive a presentation from Denton Municipal Electric staff regarding public power utility competitive, financial and commercial matters

pertaining to TMPA, a Joint Powers Agency, being a generation resource owned in common by the City of Denton, Texas, which holds a 21.3% interest in the same; including without limitation, plans, proposals, system improvements, fuel contracting, fuel transportation contracts, other contracting issues, the fixed and variable costs of operation of the generation unit, and capital improvement plans for the generation unit. Discuss, deliberate and provide staff with direction.

C. Consultation with Attorneys - Under Texas Government Code Section 551.071.

1. Consult with the City's attorneys and provide direction with regard to the City of Denton Code of Ordinances Chapter 35-221 and Denton Development Code Section 35.7.6.10 pertaining to procedures for obtaining permits pending designation as historic landmark; further with regard to V.T.C.A, Government Code Chapter 442 as it concerns designation of historic landmarks.

D. Deliberations regarding Personnel Matters - Under Texas Government Code Section 551.074.

1. Deliberate and discuss the appointment and duties of public officers to boards or commissions exercising discretionary or rule making power as opposed to purely advisory powers, which includes without limitation the Health and Building Standards Commission, the Historic Landmark Commission, the Planning and Zoning Commission, and the Zoning Board of Adjustment.

Regular Meeting of the City of Denton City Council at 6:30 p.m. in the Council Chambers at City Hall, 215 E McKinney, Denton, Texas.

1. PLEDGE OF ALLEGIANCE

The Council and members of the audience recited the Pledge of Allegiance to the U. S. and Texas flags.

2. PROCLAMATIONS/PRESENTATIONS

A. Proclamations/Awards

There were no proclamations/awards for this meeting.

3. CITIZEN REPORTS

There were no citizen reports for this meeting.

4. CONSENT AGENDA

Council Member King motioned, Mayor Pro Tem Kamp seconded to approve the Consent Agenda and accompanying ordinances and resolutions. On roll call vote: Council Member Engelbrecht, Mayor Pro Tem Kamp, Council Member King, Council Member Hawkins, Council Member Gregory, Council Member Roden, Mayor Burroughs – “aye”. Motion carried unanimously.

Approved the minutes listed below.

A. Consider approval of the minutes of:

July 9, 2013

July 16, 2013

Ordinance No. 2013-187

B. Consider adoption of an ordinance authorizing the City Manager to execute an Interlocal Cooperative Purchasing Program Agreement with the City of College Station, Texas under Section 271.102 of the Local Government Code, to authorize City of Denton contracts for the purchase of various goods and services; authorizing the expenditure of funds therefor; and declaring an effective date (File 5315-Interlocal Agreement with the City of College Station).

Ordinance No. 2013-188

C. Consider adoption of an ordinance of the City of Denton authorizing the City Manager or his designee to execute a contract through the Houston-Galveston Area Council of Governments (H-GAC) for the acquisition of residential refuse and recycling carts including replacement parts, for the City of Denton Solid Waste Department; and providing an effective date (File 5249-Purchase of Residential Recycling and Refuse Carts awarded to Rehrig Pacific Company in the not-to-exceed amount of \$745,100 for a thirty (30) month time period). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2013-189

D. Consider adoption of an ordinance of the City of Denton, Texas authorizing the City Manager to execute a Professional Services Agreement by and between the City of Denton, Texas and Teague Nall and Perkins, Inc. for engineering services including land surveying, civil engineering, project permitting and related consulting services for Denton Municipal Electric Capital Improvement Projects; authorizing the expenditure of funds therefor; providing an effective date (File 5306-in the not-to-exceed amount of \$4,160,000). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2013-190

E. Consider adoption of an ordinance of the City of Denton, Texas authorizing the City Manager to execute a Professional Services Agreement by and between the City of Denton, Texas and D&S Engineering Labs, PLLC, for geotechnical, construction materials engineering and testing, and construction inspection services for Denton Municipal Electric Capital Improvement Projects; authorizing the expenditure of funds therefor; providing an effective date (File 5311-in the not-to-exceed amount of

\$1,650,000). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2013-191

F. Consider adoption of an ordinance of the City of Denton, Texas amending a Professional Services Agreement by and between the City of Denton, Texas and SGS Engineering, LLC, for structural, electric design, and other engineering related consulting services for Denton Municipal Electric Capital Improvement Projects; authorizing the expenditure of funds therefor; providing an effective date (File 4755-Amendment to Professional Services Agreement in the not-to-exceed amount of \$6,675,000 for a total not-to-exceed amount of \$7,935,000). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2013-192

G. Consider adoption of an ordinance accepting competitive proposals and awarding a contract for fiber optic services for Denton Municipal Electric in a three (3) year amount not to exceed \$450,000; providing for the expenditure of funds therefor; and providing an effective date (RFP 5160-awarded to Cable Contractors, LLC, dba Contract Services and Equipment). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2013-193

H. Consider adoption of an ordinance awarding a contract under the Texas Multiple Award Schedule (TXMAS) program for the purchase of furniture for the City of Denton Joint Public Safety Training Facility as awarded by the State of Texas (Contract TXMAS-3-7110400); providing for the expenditure of funds therefor; and providing an effective date (File 5290-Furniture for Joint Public Safety Training Facility awarded to Krueger International, Inc. in the amount of \$140,407.29). (2009 Congressionally Selected Award funded through the US Department of Justice)

Ordinance No. 2013-194

I. Consider adoption of an ordinance accepting competitive proposals and awarding a contract for the purchase and installation of an audio and video system for the City of Denton Joint Public Safety Training Facility; providing for the expenditure of funds therefor; and providing an effective date (RFP 5267-awarded to Lantek Communications in the not-to-exceed amount of \$267,955.48). (2008 Community Oriented Policing Services (COPS) grant)

Ordinance No. 2013-195

J. Consider adoption of an ordinance accepting competitive proposals and awarding a contract for wood grinding services for the City of Denton Beneficial Reuse Department in a three (3) year amount not to exceed \$525,000; providing for the expenditure of funds therefor; and providing an effective date (RFP 5238-awarded to Thelin Recycling Company, LP). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2013-196

K. Consider adoption of an ordinance of the City of Denton, Texas authorizing the City Manager, or his designee, to execute a Contract of Sale (herein so called), as attached hereto and made a part hereof as Exhibit "A", by and between Timothy J. Murphy,

Trustee of the Baker Revocable Trust, as Owner (herein so called), and the City of Denton, Texas, as Buyer, regarding the sale and purchase of fee simple to a 1.475± acre tract, more or less, situated in the William Crenshaw Survey, Abstract No. 318, located in the City of Denton, Denton County, Texas, as more particularly described in the Contract of Sale, located generally in the 1400 Block of North Ruddell Street (the "Property Interests"), for the purchase price of Eighty Five Thousand Dollars and No Cents (\$85,000.00), and other consideration, as prescribed in the Contract of Sale; authorizing the expenditure of funds therefor; and providing an effective date. (North Ruddell Street Connection)

Approved the re-appointment listed below.

L. Consider the re-appointment by the City Manager of Darhyl Ramsey to the Civil Service Commission.

Resolution No. R2013-017

M. Consider approval of a resolution appointing members to the Board of Directors of the Denton Health Facilities Development Corporation; and providing an effective date.

5. ITEMS FOR INDIVIDUAL CONSIDERATION

Resolution No. R2013-018

A. Consider approval of a resolution approving the naming of the Downtown Denton Transit Center after Dr. Euline Brock, and declaring an effective date.

Mark Nelson, Director of Transportation, presented information on the item. He indicated that as part of the July 9, 2013 Transit Center briefing staff was directed to coordinate with DCTA to bring forward a resolution for consideration to rename the Downtown Denton Transit Center as the Euline Brock Downtown Denton Transit Center. DCTA officials indicated that they would be favorable to the name change as there would be little to no impact to marketing and branding currently in place.

Mayor Pro Tem Kamp asked about the funding for appropriate plaques and markers for the building.

Nelson stated that the wording was not yet finalized but there was an account open with funds available for those plaques.

Mayor Burroughs noted that the recognition was not because Euline Brock was a former Mayor. It was far beyond that was and was a personal honor due to her dedication on the subject.

Mayor Pro Tem Kamp motioned, Council Member King seconded to approve the resolution. On roll call vote: Council Member Engelbrecht, Mayor Pro Tem Kamp, Council Member King, Council Member Hawkins, Council Member Gregory, Council Member Roden, Mayor Burroughs – "aye". Motion carried unanimously.

Resolution No. R2013-019

- B. Consider approval of a resolution of the City Council of the City of Denton, Texas placing a proposal on the September 17, 2013, City Council public meeting agenda to adopt a 2013 Tax Rate that will exceed the lower of the rollback rate or the effective tax rate; calling two public hearings on a tax increase to be held on August 20, 2013, and September 10, 2013 and calling a budget public hearing on the Fiscal Year 2013-2014 Annual Program of Services of the City of Denton to be held on August 20, 2013; requiring publication of notices of the public hearings in accordance with the law; requiring publication of a notice of tax revenue increase in accordance with the law; requiring the posting of the notices of the public hearings on the City's Internet website; requiring the posting of the notices on the City's public access channel; and providing an effective date.

Chuck Springer, Director of Finance, presented the background information on the item. He stated that the resolution set the maximum tax rate for 2013 and called a public hearing on the tax increase and budget hearing. Texas State law provided for certain requirements governmental entities had to meet in order to make tax payers aware of tax increases. The effective tax rate was the calculated rate that would provide a taxing unit approximately the same amount of revenue it received in the previous year on properties taxed in both years. Denton's effective tax rate for 2013 was \$0.68872/\$100 valuation. The roll back rate provided 8% increase in revenue from the previous year for maintenance and operations plus debt service rate. Denton's roll back rate for 2013 was \$0.732528/\$100 valuation. Staff was recommending adoption of the resolution.

Council Member Gregory motioned, Council Member Hawkins seconded to approve the resolution. On roll call vote: Council Member Engelbrecht, Mayor Pro Tem Kamp, Council Member King, Council Member Hawkins, Council Member Gregory, Council Member Roden, Mayor Burroughs – "aye". Motion carried unanimously.

- C. Consider nominations/appointments to the City's Boards & Commissions.
1. Airport Advisory Board
 2. Animal Shelter Advisory Committee
 3. Community Development Advisory Committee
 4. Health & Building Standards Commission
 5. Historic Landmark Commission
 6. Human Services Advisory Committee
 7. Library Board
 8. Parks, Recreation and Beautification Board
 9. Planning and Zoning Commission
 10. Public Art Committee
 11. Public Utilities Board
 12. Traffic Safety Commission

The following individuals were nominated:

Airport Advisory Board – Jeremy Fykes
Animal Shelter Advisory Committee – Randy Wuensche, Kathleen Duffy
Community Development Advisory Committee – Larry Varnes
Health & Building Standards Commission – Jeff Wawro; Greg Coward
Historic Landmark Commission – .Eric Pulido, Laura Mauelshagen
Human Services Advisory Committee – Stephen Coffey
Library Board – Jean Greenlaw
Planning and Zoning Commission - Brian Bentley; Amber Briggle, Thom Reece
Traffic Safety Commission – Nancy DiMarco
Zoning Board of Adjustment – Jchon Paradise

Council Member Hawkins motioned, Council Member King seconded to approve the nominations. On roll call vote: Council Member Engelbrecht, Mayor Pro Tem Kamp, Council Member King, Council Member Hawkins, Council Member Gregory, Council Member Roden, Mayor Burroughs – “aye”. Motion carried unanimously.

6. **PUBLIC HEARINGS**

Ordinance No. 2013-197

- A. Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, regarding amending the Denton Development Code by increasing the duration of a permit for Farmer's Market; adding Open Air Market as a temporary use in Section 35.12; and creating a separate definition for Open Air Market in Section 35.23; providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; providing for severability; and establishing an effective date. The Planning and Zoning Commission recommends approval 6-0.

Ron Menguita, Development Review Liaison, presented information regarding the item. The ordinance would extend the duration of a permit for the Farmer's Markets and add Open Air Market as a temporary use in Subchapter 25.12.

The first permit for the Farmer's Market was issued in 2012 and every year it continued to grow with interest and demand for a longer season. The Community Market Coordinator was requesting a 9 month permit. The proposal was to extend the permit from 6 to 9 months and add open air market as a temporary use. It also clarified the definition of Farmer's Market and removed open air market. The Planning and Zoning Commission recommended approval.

Council Member Roden questioned why not to have a full year permit instead of a restricted one.

Menguita stated that the permitted zoning period was for non-residential. If the permit were year round it would be a retail type use and may be not in a suitable location. It was also a seasonable event with 9 months being a compromise for the type of permit.

The Mayor opened the public hearing.

Vicki Oppenheim spoke in favor.

The Mayor closed the public hearing

Council Member Engelbrecht motioned, Mayor Pro Tem Kamp seconded to adopt the ordinance. On roll call vote: Council Member Engelbrecht, Mayor Pro Tem Kamp, Council Member King, Council Member Hawkins, Council Member Gregory, Council Member Roden, Mayor Burroughs – “aye”. Motion carried unanimously.

7. CITIZEN REPORTS

- A. Review of procedures for addressing the City Council.
- B. Receive citizen reports from the following:
 - 1) Tyler Carlton regarding an endorsement of marriage equality.

Mr. Carlton was not present at the meeting

8. 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.

There were no items presented by Council.

- B. Possible Continuation of Closed Meeting under Sections 551.071-551.086 of the Texas Open Meetings Act.

There was no continuation of the Closed Meeting.

With no further business, the meeting was adjourned at 7:13 p.m.

MARK A. BURROUGHS
MAYOR
CITY OF DENTON, TEXAS

JENNIFER WALTERS
CITY SECRETARY
CITY OF DENTON, TEXAS