

CITY OF DENTON CITY COUNCIL MINUTES

May 6, 2014

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, May 6, 2014 at 3:00 p.m. in the Council Work Session Room at City Hall.

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

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 May 6, 2014.

Council Member Roden asked about Consent Agenda Item EE, pavement marking. He asked if there was a way to make the markings more resistant to weather.

Jim Coulter, Water Administration General Manager, stated that there were some issues with the last contractor and the contract changed vendors. The weight of vehicles and weather might affect how long the marking last.

Mayor Burroughs noted a correction in the dollar amount for Item GG on Consent and any motion should include the correct amount.

Council Member Gregory stated that there were three different items for parks on the Consent Agenda. Item L was for the North Lakes driving range, Items X and U were for noise exceptions. Since there was a Parks Advisory Board, it might be useful to have them weigh in on those recommendations.

Mayor Pro Tem Kamp stated that there were so many noise exceptions, it was never felt that it was necessary to have them considered by the Parks Board. They were routine matters and had associated timing issues.

Council Member Gregory stated that the contract for the driving range was not as routine.

Mayor Burroughs asked if the driving range upgrade was part of the long term plan for the park.

John Cabrales, Assistant City Manager, stated that the upgrade involved replacing the AstroTurf and re-vamping the center. The range had been in operation for some time and needed upgrading.

Mayor Burroughs stated that it might be a good idea for items such as this to be presented to committees for unforeseen opportunities that might be vetted.

Jim Mays, Parks Superintendent, stated that the golf course operational item was in the construction plans which were reviewed with the Parks Board on a monthly basis. Usually there were not advisory board votes on operational items.

Council Member Roden requested that Consent Agenda Item D be pulled for separate consideration. In reference to Consent Agenda Item R, expanding eligibility for a tax exemption for historically significant sites, he stated that the Historic Landmark Commission's property appearance guidance was made for the downtown area and might be outdated. He questioned what the criteria would be for the exemption qualifications if property was located other than in the downtown area.

Julie Glover, Economic Development Program Administrator, stated that the qualifications were based on the Secretary of Interior guidelines for preservation. While Denton's guidelines were written specifically for downtown, the standards would apply for areas other than downtown.

Council Member Roden stated that the date of the last incentive was prior to the TIF and questioned how the exemption would work now that the TIF was in place. He questioned if a policy discussion was needed whether to allow the exemption in a TIF zone.

Glover stated that it was legally allowable and would be done on a case by case basis.

Council Member Roden felt it was more an economic decision rather than a historic decision.

Mayor Burroughs stated that was because the exemptions were not necessarily historic in nature but rather economic.

Aimee Bissett, Director of Economic Development, stated that a revised approval process could be done for those in a TIF zone that would pass the request on to the TIF Board or EDP Board instead of just HLC.

Council Member Gregory requested that Item AA be pulled for individual consideration. The project would help eliminate a flooding problem in his district and he would like a higher level of recognition for the issue. He asked whether Council wanted to discuss Consent Agenda Item Z during the Work Session.

Mayor Pro Tem Kamp stated that the Mobility Committee had recommended Option 2.

Council Member Roden asked about the split vote from the Economic Development Partnership Board for Consent Agenda Item A.

Mayor Burroughs stated that there had been several requests similar to this one. The discussion focused on whether the requestor needed the money or not and several members of the Board questioned if the project met the criteria. Several members felt the project did not really need the money. He felt the ownership of the property should not come into consideration.

Bissett stated that the EDP Board requested that an item come to Council to discuss the intent and purpose of the downtown reinvestment grants. There was some disagreement whether the purpose was to encourage a certain type of development or provide incentive for a development that might not otherwise happen.

Council Member Engelbrecht asked about Consent Agenda D in terms of liability if someone was using someone else's phone.

City Attorney Burgess stated that would become a question of fact and what could be proven in terms of conflicting evidence of who was using the phone.

Mayor Burroughs noted that Item N had two bids thrown out due to being nonresponsive. He suggested in the future to note why the bids were non-responsive. He asked for a reason on why the two bids were not considered.

Frank Payne, City Engineer, stated that the first bid did not submit the required information with the bid and did not include a bid bond. The second bid was not considered because they scratched out some of the terms and added some that were not in the bid.

3. Receive a report, hold a discussion, and give staff direction regarding Specific Use Permit (SUP) to allow construction of a wet weather pump station and detention facility use on a property located in a Neighborhood Residential 2 (NR-2) zoning and use district on approximately 65.94 acres. The subject property is generally located west of Country Club Road and KCS Railroad, east of Fort Worth Drive, and south of Bent Creek Estate residential subdivision. (S14-0002, Hickory Creek Denton Facility)

PS Arora, Wastewater Division Manager, presented information on the need for the detention facility. The proposal was for a submersible pump station with a closed detention tank for the overflow of water. He noted the options for the sites for the facility and reviewed the price for each option. The facility would not be seen from the roadways or neighboring subdivisions. Local residents would not see the proposed facility due to the terrain and existing trees. He noted that an essential component of the proposed facility was air scrubbers to avoid any nuisance odors in the air.

Mayor Burroughs asked about the noise of the facility.

Arora stated that the facility would be used only with extreme rain conditions. The pumps should not be heard as they were underground and there was very little noise from the air scrubbers. The facility would be beneficial to the community and at the same time invisible to the community.

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

1. Closed Meeting:
 - A. Deliberations regarding Consultation with the City Attorney - Under Texas Government Code Section 551.071, Deliberations regarding Economic Development Negotiations - Under Texas Government Code Section 551.087.
 1. Receive a report and hold a discussion regarding legal and economic development issues regarding the creation of a public improvement district and proposed amendments to the economic development incentive agreements for the Rayzor Ranch mixed-use development. This discussion shall include commercial and financial information the City Council has

received from Rayzor Ranch developers which the City Council 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 incentive 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.

- B. Certain Public Power Utilities: Competitive Matters - Under Texas Government Code Section 551.086.
 - 1. Receive a briefing and information pertaining to certain competitive public power and financial issues regarding Texas Municipal Power Agency ("TMPA") on matters including, without limitation: present and future plant operations issues, plant and system expenses, maintenance issues, performance issues, financial issues, reliability issues, planning issues, and any related issues concerning the City's interest in, and its business relationship with the Texas Municipal Power Agency; and discuss, deliberate, and provide Staff with direction regarding such matters.

- C. Certain Public Power Utilities: Competitive Matters - Under Texas Government Code Section 551.086; and Consultation with Attorneys - Under Texas Government Code Section 551.071.
 - 1. Receive competitive public power, financial and commercial information from Denton Municipal Electric ("DME") staff regarding the acquisition, integration and implementation of ERCOT Shadow Settlement Software in its Energy Management Division relating to its power purchase operations, which includes bidding and pricing information for purchased power, generation and fuel, and Electric Reliability Council of Texas bids, prices, offers, and related services for purposes of supporting the Energy Management Division of DME; discuss, deliberate, provide staff with direction, consider and take final action. Consultation with the City's attorneys regarding legal issues associated with the above acquisition 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.

- D. Deliberations regarding Real Property - Under Texas Government Code Section 551.072; Certain Public Power Utilities: Competitive Matters - Under Texas Government Code Section 551.086; and Consultation with Attorneys - Under Texas Government Code Section 551.071.

1. Discuss, deliberate and receive competitive public power financial and commercial information from staff and provide staff direction pertaining to proposed system improvements, plans, additions and potential purchases of real property regarding the proposed reconstruction of several electric substations and electric transmission lines, and determine possible locations for such facilities in various locations in the City of Denton, Denton County, Texas. Consultation with the City's attorneys regarding legal issues associated with the potential acquisition and/or condemnation of the tracts of real property where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and 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.
- E. Consultation with Attorneys - Under Texas Government Code Section 551.071. Deliberations Regarding Real Property - Under Texas Government Code, Section 551.072.
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 S. McCracken Survey, Abstract No. 817, City of Denton, Denton County, Texas, and generally located on the north side of N Loop 288, west of Sherman Drive. 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. (69kV Transmission Line Re-build Project C8)
 2. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the acquisition of real property interests located (1) in the David Hough Survey, Abstract No. 646, located generally in the 1400 block of South Mayhill Road; and (2) in the in the David Hough Survey, Abstract No. 646, located generally in the 1900 block of South Mayhill Road; and (3) in the David Hough Survey, Abstract Number 646, located generally in the 3900 block of Quailcreek Road, all tracts located in the City of Denton, Denton County, Texas. Consultation with the City's attorneys regarding legal issues associated with the acquisition or condemnation of the real property interests referenced 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. (Mayhill Road Widening and Improvements Project & Municipal Landfill)

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

1. Consult with and provide direction to City's attorneys regarding legal issues and strategies associated with Gas Well Ordinance 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/or impacts of federal and state law and regulations, standstill agreements or moratoria, and take any appropriate action regarding the above in the meeting today's date as it concerns municipal regulatory authority or matters relating to enforcement of the ordinance, including enacting an ordinance to extend a standstill agreement with EagleRidge Energy, LLC and EagleRidge Operating, LLC or impose a moratorium on gas well drilling and production.

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

1. Motorcycle Safety and Awareness Month

Mayor Burroughs presented the proclamation for Motorcycle Safety and Awareness month.

2. Drinking Water Week in Denton

Mayor Burroughs presented the proclamation for Drinking Water Week in Denton.

3. Shelter Thy Neighbor Week

Mayor Burroughs presented the proclamation for Shelter Thy Neighbor Week.

4. Exercise is Medicine Month

Mayor Burroughs presented the proclamation for Exercise is Medicine Month.

5. Proclamation from the Denton Fire Department to recognize the heroic efforts of Denton Landfill Employees who administered aid to save the life of critically ill person.

Chief Ross Chadwick presented life saving award to four city employees who saved the life of a citizen.

3. CITIZEN REPORTS

- A. Review of procedures for addressing the City Council.
- B. Receive citizen reports from the following:
 - 1. Isabel Cano regarding bus shelters.

Ms. Cano stated that there was a desperate need for bus shelters at the bus stops. She displayed various photos depicting bus riders without shelters and how they had to wait for the buses. She asked Council to remedy the need.

Mayor Burroughs asked Ms. Cano if she had talked with DCTA regarding the shelters.

Cano replied yes and she planned to continue discussions with them.

4. CONSENT AGENDA

Mayor Burroughs announced that Items D and AA would be pulled for separate consideration.

Council Member King motioned to approve the Consent Agenda and accompanying ordinances and resolutions with the exception of Items D and AA and with the amended dollar amount for Item GG.

Mayor Pro Tem Kamp seconded the motion and offered a friendly amendment to Item Z to add Option 2 and in Section 2, Number 1 add "Loop 288 to a four lanes of an eventual six lane divided section". Council Member King accepted that amendment to the motion.

On roll call vote, Mayor Burroughs "aye", Mayor Pro Tem Kamp "aye", Council Member Engelbrecht "aye", Council Member Gregory "aye", Council Member King "aye", Council Member Roden "aye", and Council Member Hawkins "aye". Motion carried unanimously.

Ordinance No. 2014-110

- A. Consider adoption of an ordinance of the City Council of the City of Denton, Texas, approving a grant application from Brandon Martino, representing RLB Investments, LLC, from the Downtown Reinvestment Grant Program not to exceed \$25,000; and providing for an effective date. The Downtown Task Force recommends approval (14-0). The Economic Development Partnership Board recommends approval (3-2).

Resolution No. R2014-014

- B. Consider approval of a resolution of the City Council of the City of Denton, Texas, appointing a Primary Member as an official voting representative to the North

Central Texas Council of Governments Regional Transportation Council ("RTC"); and providing an effective date.

Ordinance No. 2014-111

- C. Consider adoption of an ordinance of the City of Denton, Texas restricting parking on both sides of Wainwright Street from its intersection with Prairie Street to its intersection with Sycamore; providing a repealer clause; providing a savings clause; providing for a penalty not to exceed \$500 for violations of this ordinance; providing that violations of this ordinance shall be governed by Chapter 18 of the Code of Ordinances of the City of Denton; and providing for an effective date.

Resolution No. R2014-015

- E. Consider approval of a resolution by the City of Denton, Texas, authorizing the City Manager to sign and submit to the Department of Housing and Urban Development a 2014 Action Plan for Housing and Community Development with appropriate certifications, as authorized and required by the Housing and Community Development Act of 1974, as amended, and the National Affordable Housing Act of 1990, as amended; and providing for an effective date.

Ordinance No. 2014-113

- F. Consider adoption of an ordinance authorizing the City Manager to execute a Cooperative Purchasing Program Agreement with the City of Weatherford, 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 5528-Cooperative Purchasing Program Agreement with the City of Weatherford).

Ordinance No. 2014-114

- G. Consider adoption of an ordinance of the City of Denton authorizing the City Manager or his designee to execute a contract through the State of Texas Smart Buy Program for the purchase of five (5) Chevrolet Tahoes for the City of Denton Police Department as awarded by the State of Texas Contract 071-072-A1; and providing an effective date (File 5536-Purchase of Five (5) Tahoes awarded to Reliable Chevrolet in the amount of \$138,819.80).

Ordinance No. 2014-115

- H. Consider adoption of an ordinance authorizing the City Manager to execute an Interlocal Agreement with the Denton County Transportation Authority (DCTA) under Section 791.001 of the State of Texas Government Code, to authorize DCTA to purchase fuel and fuel management supply services from the City of Denton at a cost of 1.5% of the mark up on gross fuel receipts; authorizing the expenditure of funds therefor; and declaring an effective date (File 5527-Interlocal Agreement with the Denton County Transportation Authority for Fuel Supply and Management Services).

Ordinance No. 2014-116

- I. Consider adoption of an ordinance of the City of Denton, Texas authorizing the City Manager to execute a First Amendment to a Professional Services Agreement by and between the City of Denton, Texas and Lloyd Gosselink, Attorneys-at-Law, for legal services relating to the preparation, development, submittal, and other associated professional legal services required to secure a Municipal Solid Waste (MSW) Facility Permit Amendment (MSW Permit 1590-A) for the City of Denton, Texas MSW Facility; authorizing the expenditure of funds therefor; providing an effective date (File 4703 in the additional amount not-to-exceed \$400,000; aggregating a total not-to-exceed \$480,000). The Public Utilities Board recommends approval (7-0).

Ordinance No. 2014-117

- J. Consider adoption of an ordinance of the City of Denton, Texas authorizing the City Manager to execute a First Amendment to a Professional Services Agreement for engineering services by and between the City of Denton, Texas and Kimley-Horn and Associates, Inc., for engineering services relating to the Roadway Impact Fee and Rough Proportionality Policy Development for the City of Denton; authorizing the expenditure of funds therefor; providing an effective date (File 5436 in the additional amount not-to-exceed \$165,000; aggregating a total not-to-exceed \$441,500).

Ordinance No. 2014-118

- K. Consider adoption of an ordinance accepting competitive proposals and awarding a public works contract for the construction of the Denton Municipal Electric Building Renovations; providing for the expenditure of funds therefor; and providing an effective date (RFP 5506-awarded to Lemco Construction Services, LP in the amount of \$150,000. The Public Utilities Board will consider this item on May 5, 2014.

Ordinance No. 2014-119

- L. Consider adoption of an ordinance accepting competitive proposals and awarding a public works contract for the construction of the North Lakes Driving Range; providing for the expenditure of funds therefor; and providing an effective date (RFP 5428-awarded to Synthetic Grass Pros in the amount of \$184,374).

Ordinance No. 2014-120

- M. Consider adoption of an ordinance accepting competitive bids and awarding a public works contract for the construction of Hickory Street road improvements from Locust Street to Railroad Avenue; providing for the expenditure of funds therefor; and providing an effective date (Bid 5522-awarded to the lowest responsible bidder meeting specification, Jagoe-Public Company in the amount of \$2,747,026.70).

Ordinance No. 2014-121

- N. Consider adoption of an ordinance accepting competitive bids and awarding a public works contract for the Mayhill Road Improvements Structure Demolition

project; providing for the expenditure of funds therefor; and providing an effective date (Bid 5467-awarded to the lowest responsible bidder meeting specification, Midwest Wrecking Co. of Texas, Inc. in the amount of \$256,990).

Ordinance No. 2014-122

- O. Consider adoption of an ordinance of the City of Denton, Texas providing for, authorizing, and approving a three (3) year contract for the City of Denton Human Resources Department to utilize an on-line pre-employment background check service, which is available from only one source and in accordance with Chapter 252.022 of the Texas Local Government Code such purchases are exempt from the requirements of competitive bidding; and providing an effective date (File 5383 awarded to IntelliCorp Records, Inc. in the annual estimated amount of \$22,000 for a three (3) year not-to-exceed amount of \$66,000).

Ordinance No. 2014-123

- P. Consider adoption of an ordinance of the City of Denton, Texas providing for, authorizing, and approving the expenditure of funds for the purchase of a High Definition (HD) Upgrade including the replacement of cameras, audio, and video equipment for the City of Denton's Council Chambers, Work Session Room and Denton Television Control Room for Denton Television (DTV), which is available from only one source and in accordance with Chapter 252.022 of the Texas Local Government Code such purchases are exempt from the requirements of competitive bidding; and providing an effective date (File 5534 awarded to Media Rushworks, LLC in the not-to-exceed amount of \$190,000).

Ordinance No. 2014-124

- Q. Consider adoption of an ordinance accepting competitive bids and awarding a public works contract for Street Microsurfacing for the City of Denton; providing for the expenditure of funds therefor; and providing an effective date (File 5529-awarded to Viking Construction, Inc. in the unit price amount of \$3.17 per square yard for a not-to-exceed amount of \$375,000).

Ordinance No. 2014-125

- R. Consider adoption of an ordinance of the City of Denton, Texas, amending Article VII, Chapter 10 "Finance and Taxation" of the Code of Ordinances of the City of Denton to expand eligibility for a tax exemption for historically significant sites; providing for a severability clause; providing a savings clause and providing for an effective date. The Historic Landmark Commission recommends approval (7-0).

Resolution No. R2014-016

- S. Consider approval of a resolution of the City Council of the City of Denton, Texas, amending a policy for tax abatement for the City of Denton to establish guidelines and criteria governing incentive agreements and tax abatement agreements; and declaring an effective date.

Ordinance No 2014-126

- T. Consider adoption of an ordinance of the City of Denton authorizing an agreement between the City of Denton, Texas and Denton Parks Foundation; authorizing and ratifying the expenditure of funds; and providing for an effective date. (Cinco de Mayo - \$600)

Ordinance No. 2014-127

- U. Consider adoption of an ordinance of the City of Denton authorizing an agreement between the City of Denton, Texas and The American Heart Association; authorizing and ratifying the expenditure of funds; and providing for an effective date. (\$335)

Ordinance No. 2014-128

- V. Consider adoption of an ordinance of the City of Denton, Texas, authorizing the Mayor to Execute an Amendment to Interlocal Cooperation Agreement ("Agreement"), by and between the City of Denton, Texas ("City"), and the Denton Independent School District ("DISD"), amending that certain Interlocal Cooperation Agreement, dated on or about July 20, 2004, modifying the term, consideration, and termination provisions of the Agreement; and providing an effective date. (69kV Transmission Line Re-build Project C-8)

Ordinance No. 2014-129

- W. Consider adoption of an ordinance approving a City sponsorship in an amount not to exceed \$13,500 of in-kind services and resources for the 2014 Denton Air Show to be held at the Denton Enterprise Airport on June 14, 2014; and providing an effective date.

Ordinance No. 2014-130

- X. Consider adoption of an ordinance of the City of Denton, Texas, granting the Juneteenth Celebration a three-year exception, 2014, 2015, and 2016, to the limitations imposed by Section 17-20 of the Code of Ordinances of the City of Denton, Texas, granting an increase from 70 to 75 dba loudspeaker amplification and increased hours for three consecutive years, that being: June 13, 2014, 4 p.m. until 11:30 p.m. and June 14, 2014, 10 a.m. until midnight; June 12, 2015, 4 p.m. until 11:30 p.m. and June 13, 2015, 10 a.m. until midnight; June 17, 2016, 4 p.m. until 11:30 p.m. and June 18, 2016, 10 a.m. until midnight; and setting an effective date. Staff recommends approval of request.

Ordinance No. 2014-131

- Y. Consider adoption of an ordinance approving a City sponsorship in an amount not to exceed \$13,500 of in-kind services and resources for the Juneteenth Celebration to be held in Fred Moore Park on June 13-14, 2014; and providing an effective date.

Resolution No. R2014-017

- Z. Consider approval of a resolution of the City of Denton, Texas, providing the City's position to the Texas Department of Transportation pertaining to its proposed

Turnback Program; and providing an effective date.

Ordinance No. 2014-133

BB. Consider adoption of an ordinance accepting competitive proposals and awarding a contract for Cisco Networking Equipment and SmartNet Maintenance on Cisco Networking Equipment for the City of Denton; providing for the expenditure of funds therefor; and providing an effective date (RFP 5492-awarded to Presidio Networked Solutions Group, LLC in the three (3) year not-to-exceed amount of \$2,890,513).

Ordinance No. 2014-134

CC. Consider adoption of an ordinance authorizing the City Manager or his designee to execute a Purchase Agreement, by and between the City of Denton, Texas ("City"), as Buyer, and Wilma Haggard (the "Owner"); as Seller, to acquire (i) fee simple to a 1.029 acre tract; (ii) fee simple to a 0.624 acre tract; and (iii) a slope easement encumbering a 0.076 acre tract, all lands located in the David Hough Survey, Abstract Number 646, City of Denton, Denton County, Texas, and being generally located in the 1900 block of South Mayhill Road; for the purchase price of Two Hundred Ten Thousand Dollars and No Cents (\$210,000.00), and other consideration, as prescribed in the Purchase Agreement (the "Agreement"), as attached to the ordinance and made a part thereof as Exhibit "A", authorizing the expenditure of funds therefor; and providing an effective date. (Parcel M136 Haggard - Mayhill Road Widening and Improvements project and Municipal Landfill)

Approved the minutes listed below.

DD. Consider approval of the minutes of: April 1, 2014; April 7, 2014; April 8, 2014; April 15, 2014; and April 22, 2014

Ordinance No. 2014-135

EE. Consider adoption of an ordinance accepting competitive proposals and awarding a contract for Pavement Markings for the City of Denton; providing for the expenditure of funds therefor; and providing an effective date (RFP 5435-awarded to Stripe-A-Zone, Inc. in the three (3) year not-to-exceed amount of \$1,250,000).

Resolution No. R2014-018

FF. Consider approval of a resolution relating to increasing the Texas Municipal Power Agency Commercial Paper Credit Facility and providing for approval of the City thereto; providing an effective date.

Ordinance No. 2014-136 (amended amount of purchase)

GG. Consider adoption of an ordinance authorizing the City Manager or his designee to execute a Contract of Sale by and between Dr. Edward F. Wolski, as owner, and the City of Denton, Texas, as buyer, to acquire fee simple to a 10.070-acre tract located in the J.S. Collard Survey, Abstract No. 297, in the City of Denton, Denton County, Texas, generally located north of Riney Road and east of Bonnie Brae Drive, for the

public use of expansion, construction, maintenance, operation, and improvement of electric transmission and distribution lines, facilities, and structures, as well as substations, for the purchase price of One Million Two Hundred Fifteen Thousand Seven Hundred Ninety Two Dollars and Twenty Seven Cents (\$1,215,792.27), and other consideration, as prescribed in the Contract of Sale as described in the ordinance as attached as Exhibit One; authorizing the expenditure of funds therefor; and providing an effective date.

Item D was considered.

Ordinance No. 2014-112

- D. Consider adoption of an ordinance of the City of Denton, Texas adding Section 18-38 of the Code of Ordinances relating to the use of wireless communication devices while driving; by creating Section 18-38 to prohibit the use of wireless communication devices while operating a motor vehicle except for dialing a number or talking to another person with certain defenses, providing a repealer clause; providing a savings clause; providing for a penalty not to exceed \$200 for violations of this ordinance, and providing for an effective date.

Mark Nelson, Transportation Director, presented information on the ordinance. The proposal had originated at the Traffic Safety Commission and had been to Council work sessions on several occasions. The ordinance prohibited texting only and provided for use of hand held devices for emergency and FCC purposes. It did not allow for texting or searching the Internet. The ban excluded the Interstate Highway and frontage road to the Interstate. A public education campaign would proceed the effective date of the ordinance.

Council Member Roden asked if GPS navigation devices were banned.

Nelson stated that they would have to be mounted in the vehicle.

The following individuals submitted speaker cards:

John Butler, 626 Schmitz, Denton, 76209 – opposed
Gilmore Morris, 2005 Bowling Green, Denton, 76201 – opposed
Paul Silvernale, 2010 West Oak, Denton, 76201 - opposed

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

Item AA was considered.

Ordinance No. 2014-132

- AA. Consider adoption of an ordinance of the City Council of the City of Denton, Texas, approving an agreement for reconstruction of existing Union Pacific Bridge-Cooper Creek, M.P. 716.40-Choctaw Subdivision, Denton, Texas by Union Pacific Railroad

Company, a Delaware corporation, providing for the expenditure of funds therefor; providing an effective date. (\$135,000)

Frank Payne, City Engineer, presented information on the ordinance. This item would assist with local flooding at Cooper Creek in the area of the existing Union Pacific-Bridge.

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

Mayor Burroughs announced that Council would be considering Item F1 from the Closed Meeting and read the agenda caption for that item.

Council Member Gregory motioned to adopt an ordinance before Council enacting a moratorium until midnight on September 9, 2014, on the receipt, processing or approval of applications for gas well permits in the City of Denton, and also on applications for specific use permits, site plans, development plans of any nature or type, including applications for amendments to approved or pending gas well development plats, and on fire code operational permits relating to gas well drilling and production; providing for certain exemptions, and providing for a variance procedure, all as set forth and specified in the ordinance.

Council Member Roden seconded the motion.

Council Member Gregory stated that he would like to see an ordinance redraft addressing the city's continued interest and concern in protecting citizens from the impacts of gas well drilling in the city. He would also like to see consideration given to encouraging the clustering of wells in order to open up land use for the future development of the city. He thought there was a need to address the insurance and bonding provisions of the current ordinance to make sure the provisions were adequate and equitable. He felt there was a need to add some requirements somewhere in the ordinance that would give notice to landowners regarding the location of gas well drilling and production in the city. He knew that staff had noted some areas of the ordinance which might need to be reviewed more closely. He looked forward to hearing about these provisions and staff's suggestions as to creative solutions.

He asked that if the moratorium was enacted but the work on rewriting the ordinance was completed before September 9th, what would have to be done.

City Attorney Burgess stated that the new ordinance could repeal the moratorium.

Council Member Gregory asked if the rewrite was not completed by September 9th, what would be the next step.

City Attorney Burgess stated that the moratorium could be extended for whatever period of time was needed.

Council Member Gregory stated that the purpose of the moratorium was to rework the gas well ordinance.

Council Member King stated that the goal was to rework the gas well ordinance to make it more useful and defensible. The only method was to do a short term moratorium.

Council Member Roden asked if the moratorium would apply to all operators in the city.

City Attorney Burgess stated correct.

Council Member King stated that there was a variance appeal procedure for the process if needed and some exceptions as well.

City Attorney Burgess stated correct.

On roll call vote to adopt Ordinance No. 2014-137, Mayor Burroughs "aye", Mayor Pro Tem Kamp "aye", Council Member Engelbrecht "aye", Council Member Gregory "aye", Council Member King "aye", Council Member Roden "aye", and Council Member Hawkins "aye". Motion carried unanimously.

Item 6A was considered.

6. ITEMS FOR INDIVIDUAL CONSIDERATION

Resolution No. R2014-019

- A. Consider approval of a resolution approving the naming of the Center for the Visual Arts after Fred and Patsy Patterson and Roy Appleton, Jr. and declaring an effective date.

John Cabrales, Assistant City Manager, presented information on the Pattersons and Mr. Appleton in conjunction with the naming of the building. He reviewed the background of the request from the Chamber regarding the naming of the building. The Patterson-Appleton Center for Visual Arts would be the name for the building.

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

Council returned to the regular agenda order.

5. ITEMS FOR INDIVIDUAL CONSIDERATION - CONSIDERATION OF THE USE OF EMINENT DOMAIN TO CONDEMN REAL PROPERTY INTERESTS

Ordinance No. 2014-138

- A. Consider adoption of an ordinance finding that a public use and necessity exists to acquire through the exercise of the right of eminent domain (I) fee simple to a 7.393 acre tract (the "Mayhill Tract"); (II) fee simple to a 4.508 acre tract (the "Landfill Tract"); and (III) a Slope Easement (herein so called), encumbering a 0.804 acre

tract, each affected tract located in the John B. Brandon Survey, Abstract Number 1515, City of Denton, Denton County, Texas, as more particularly described on Exhibit "A", attached hereto and made a part hereof, located generally in the 1400 block of South Mayhill Road (the "Property Interests"), for (A) as concerns the Mayhill tract and the Slope Easement, the public use of expanding and improving Mayhill Road, a municipal street and roadway; and (B) as concerns the Landfill Tract, for the public use of expanding and improving the City of Denton Landfill, a permitted municipal Solid Waste disposal facility; authorizing the filing and prosecution of eminent domain proceedings to acquire the Property Interest; authorizing the expenditure of funds therefore: making findings; providing a savings clause; and providing an effective date. (Parcel 134 RTS&M, LLC- Mayhill Road Widening and Improvements project and City of Denton Landfill, a permitted municipal solid waste disposal facility)

Paul Williamson, Real Estate Manager, presented the details of the ordinance. He stated that the ordinance would make a finding that a public use and necessity existed to acquire property through eminent domain for the Mayhill Road Widening and Improvements project and the City of Denton Landfill.

Council Member Gregory motioned, Council Member Hawkins seconded:

"I move that the City of Denton, Texas authorize the use of the power of eminent domain to acquire (I) fee simple to a 7.393 acre tract (the "Mayhill Tract"); (II) fee simple to a 4.508 acre tract (the "Landfill Tract"); and (III) a Slope Easement ("Slope Easement"), encumbering a 0.804 acre tract, located generally in the 1400 block of South Mayhill Road (the "Property Interests"), for (A) as concerns the Mayhill tract and the Slope Easement, the public use of expanding and improving Mayhill Road, a municipal street and roadway; and (B) as concerns the Landfill Tract, for the public use of expanding and improving the City of Denton Landfill, a permitted municipal Solid Waste disposal facility, located in the City of Denton, Texas, generally located in the 1400 block of South Mayhill Road, each affected tract located in the John B. Brandon Survey, Abstract Number 1515, City of Denton, Denton County, Texas, as more particularly described on Exhibit "A", to the ordinance now under consideration and on the overhead screen being now displayed to the audience, for the public use (a) as concerns the Mayhill tract and the slope easement, the public use of expanding and improving Mayhill Road, a municipal street and roadway; and (b) as concerns the landfill tract, for the public use of expanding and improving the City of Denton landfill, a permitted municipal solid waste disposal facility, in the City of Denton, Texas"

On roll call vote, Mayor Burroughs "aye", Mayor Pro Tem Kamp "aye", Council Member Engelbrecht "aye", Council Member Gregory "aye", Council Member Roden "aye", and Council Member Hawkins "aye". Motion carried unanimously.

Real property description is attached as Exhibit 1 to the Minutes.

6. ITEMS FOR INDIVIDUAL CONSIDERATION

- B. Consider adoption of an ordinance of the City Council of the City of Denton authorizing the City Manager to approve a Settlement Agreement by and between the City of Denton, Texas and EagleRidge Energy, LLC and EagleRidge Operating, LLC relating to locations allowed for gas well drilling in the city, limitations on drilling, operational requirements, gas well site plans, gas well permits, vested rights, and other matters involving EagleRidge's gas well operations in the city; and further approving a Specific Use Permit to allow gas well drilling and production on a property located within a Neighborhood Residential Mixed Use (NRMU) zoning and use district on approximately 2.64 acres generally located south of Airport Road, east of Interstate 35 West, and west of South Bonnie Brae Street (S09-0007) and as to the Specific Use Permit approval, providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; providing for severability and effective dates.

This item was not considered.

- C. Consider adoption of an ordinance of the City of Denton, Texas approving a second amendment to an Economic Development Program Grant Agreement dated June 15, 2010, between the City of Denton and Allegiance Hillview, L.P., which was duly assigned, in part, to RED Rayzor Ranch, LLC; and providing an effective date.

Aimee Bissett, Economic Development Director, presented information on an amendment to the economic development grant for Rayzor Ranch. In addition to the improvements the developer made to Highway 380, improvements were also made to the water quality and roads in the area. The Rayzor Ranch development since the current developer took over in 2010 had a significant impact on property and revenue taxes. The developer was requesting an amendment to the existing agreement (1) time extension of 3 years to 2018, (2) additional phasing for the south side from 600,000 to 300,000 initial retail improvements and 300,000 on back side of that with the grant split for those two phases, (3) an expanded definition of total taxable sales to include point-of-sale purchases and mixed beverages collected by the City as a result of the Rayzor Ranch Development, (4) an extension of the 380 agreement terms on the south side to 25 years from 20 years which would make sure the development was producing for those years (5) sale back provision for the Dillard's building, and a provision of moving from Golden Triangle Mall to Rayzor Ranch to have a sunset provision of 5 years and (6) a cap increase to \$68 million only if additional costs were incurred such as TxDOT improvements.

Council Member Gregory stated that there often was confusion regarding incentive programs. He asked if such a program decreased the standards previously in place in terms of construction aesthetics, landscaping, etc.

Bissett stated that it did not.

Council Member Gregory asked if the City would get more sales in property tax revenue for this.

Bissett stated that this was a performance based incentive. If there was no increase in sales tax, the developer would not receive the incentive.

Mayor Pro Tem Kamp stated that Dillard's was a private company that made its own decisions. She asked about the five year sunset provision.

Bissett stated that in 2010 the agreement had a provision to protect the Golden Triangle Mall. If Dillard's left the Mall, there was the potential of a scenario where Rayzor Ranch might own the building in the Mall. Council put a provision in the agreement that if that occurred and if Rayzor Ranch owned the building Rayzor Ranch would agree to offer the building back to the Mall for fair market value. Another provision was if an anchor closed its location at the Mall and moved to Rayzor Ranch, the developer would not receive the incentive from that tenant.

Speaker Cards were received from the following:

Garr Herring, 2201 I35, Denton, 76205 - opposed to the deletion of the provisions relating to the Golden Triangle Mall and urged the Council to not approve the agreement without the provisions for Mall or table the amendment until it could be discussed further.

Matt Ludemann, 2201 I35, Denton, 76205 - opposed to removal of the provisions regarding the Mall.

Council Member Roden asked Mr. Ludemann if he was opposed to the concept or the length of the sunset.

Ludemann stated he wanted to keep the length of the original agreement.

Council Member Gregory expressed a concern that Council had several work sessions on this and Mr. Ludemann felt that the Mall was not made aware of this.

Ludemann stated that the issue of the sunset came up yesterday and they learned about it today. They received got copy of second amendment this afternoon. They had several discussions on the issue and always requested to protect the clauses.

Council Member Gregory stated that if the Council postponed a decision until next Tuesday it would provide a chance to communicate with staff and allow for a Work Session before meeting on the item.

Bissett stated that there had been several work sessions on the item with most of those general discussions to leave the provisions for the Mall. The shift came when Dillard's announced it was staying at the Mall and how that changed the request from RED to have the provisions removed. RED felt it put them at a disadvantage if the provisions remained in the agreement.

Council Member Roden stated that the decision of Dillard's was the game changer and felt that the Council should lock down the issue to give some ease to the situation. He was in favor of moving forward instead of putting it off.

Council Member Engelbrecht stated that Council had been given a counter argument and would now be deciding on the dais instead of discussing the issue at length.

Council Member Hawkins felt that he would like to better understand the agreement and would like more time for discussion.

Council Member Gregory motioned, Council Member Hawkins seconded to continue the item to the May 13, 2014 Council meeting. On roll call vote, Mayor Pro Tem Kamp "aye", Council Member Engelbrecht "aye", Council Member Gregory "aye", Council Member King "aye", Council Member Roden "aye", and Council Member Hawkins "aye". Mayor Burroughs "nay". Motion with a 6-1 vote.

Resolution No. R2014-020

- D. Consider approval of a resolution accepting a petition to annex 40.33 acres of land contiguous to the City of Denton, Texas, located in the northeastern area of the City of Denton's Extraterritorial Jurisdiction (ETJ); generally located northeast of the City limits, on the west side of Cooper Creek Road approximately 1,200 feet north of Fishtrap Road and 800 feet south of Silver Dome Road and legally described as being a tract of land situated in the Thomas H. Living Survey, Abstract No. 729, Denton County, Texas and being all of a tract of land described in the deed to C.L. Byrom and wife, Anita Byrom as recorded in Volume 308 Page 264 of the deed records of Denton County, Texas. (A14-0001, Windsor Oaks)

Brian Lockley, Director of Planning and Development, presented the details of the proposal. The request was to accept a petition to annex property in Denton County north of Mingo Road. He reviewed the future land use map and the annexation process. This request would be to initiate the process for annexation. He reviewed the process involved to officially annex the property and presented the advantages and disadvantages for the annexation. The Development Review Committee recommended approval. If approved, staff would begin the annexation process. No special called council meeting would be needed for the annexation.

Mayor Burroughs stated that he had made prior requests when annexing property that the Council consider the proper zoning for the property if it was consistent with surrounding property instead of the default zoning that currently was assigned. He would like that considered for this proposed annexation.

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

- E. Consider an appeal of the denial of a Certificate of Appropriateness by the Historic Landmark Commission to accept previously installed windows, flagstone on the floor of the front porch and a wood fence on the northeastern side of the property. The request also included approval of existing paint on the window trim, chimney of the house, and new construction of a driveway gate on the southeastern side of the house. The property is located at 1807 N. Bell Avenue and is within a Neighborhood Residential 3 (NR-3) zoning district and the Bell Avenue Historic

Conservation District. On April 14, 2014, the Historic Landmark Commission denied the request (8-0).

Nana Appiah, Planning Supervisor, presented the details of the request which was an appeal of a denial of the Historic Landmark Commission to accept previously installed windows, flagstone on the floor of the front porch and wood fence on the northeastern side of the property. The request also included approval of existing paint on the window trim, chimney of the house and new construction of a driveway gate on the southeastern side of the house. The property was located in the Bell Avenue Conservation District. He reviewed the location map the boundaries of the Bell Avenue Conservation District and background and history of the property.

Council and staff discussed the time line for repairs to the house, a list of modifications that were supposedly approved by the homeowners, errors made by both staff and the homeowner and whether the changes done would have a different effect if not in a historic conservation district.

Council Member Gregory stated that on April 5th an incorrect permit was issued for the removal of a structure on the property, on April 24th staff issued a wrong permit for windows and on April 24th a stop work order was also issued for the windows.

Appiah replied correct that the stop work order was issued the same day because work was started before the permits were picked up. They were informed by phone that the permit was approved and started work before actually getting the permit.

Mayor Burroughs noted that Speaker Cards had been submitted for this item.

Richard Hayes, representing the property owners, spoke in favor.

Council discussed with Mr. Hayes the issues of missed steps in the process, standards for the neighborhood, and who performed the work at the house in terms of volunteers versus paid contractors.

Mayor Burroughs felt there were two issues. One was the appropriateness of the changes and whether they adversely affected the character of neighborhood. Whether the changes indicated were appropriate or not. The second issue was the process and defending the process and not establishing a precedent. There were points on whether the changes were appropriate or not as far as consistent with character of the neighborhood. The question was how to defend the processes when they were not regarded when started.

Hayes stated that the home was purchased to donate it to the Church. The errors were not malicious. The porch was a good faith misunderstanding and the windows were a contractor error. He hoped that if a mistake was made and a Certificate of Appropriateness was not received in advance, that it was not a death penalty.

Council Member Gregory asked if there was a resolution to the situation. One side wanted to change everything back and one side wanted to not change anything.

Hayes stated that they would change the window trim color, move the fence or take off the flagstone if needed.

Ernie Stripling, 1815 N. Bell, Denton, 76209, spoke in opposition.

Angela Stripling, 1815 N. Bell, Denton, 76209, spoke in opposition.

Rev. Kyle Walterscheid, 2105 Del Mar, Denton, 76210, spoke in support.

Council discussed with Rev. Walterscheid how to restore good faith with the neighborhood since these errors had been made

The following individuals spoke in support of the proposal:

Beth Peyton, 4700 Argyle Lane, Argyle, 76226
Jacqueline Burkepile, 2912 Newport Ave, Denton, 76209
Matthew Burkepile, 2912 Newport Ave., Denton, 76209
Edgar Sprinkle, 2017 Mistywood, Denton, 76209
Emilio Gonzales, 2205 Mitchell, Krum, 76249
Sarah Suadelknka, 208 Brook Circle, Krum, 76249
Rodney Hess, 3523 Cooper Creek, Denton, 76208
Bettye Myers, 2913 Croydon, Denton, 76209

Deb Conte, 2106 N. Bell, Denton, 76209 spoke in opposition.

Council discussed with Ms. Conte the summary provided with points of agreement, flagstone versus brick or concrete porches, the ramifications of not following the procedures outlined in obtaining a Certificate of Appropriateness, position of the fence and gate, the painting of the chimney, and the size and number of the windows

Raymond Sedge, 836 Sandpiper, Denton, 76205, spoke in support.

Comment cards were received from the following:

Trey Alley, 501 Londonderry, Denton – in support
Johnny Guajardo, 2124 Crestmeadow, Denton – in support
Joscelyn Trompter, 909 McCormick, Denton, 76201 – in support
Natalie Paulus, 503 Fulton, Denton, 76201 – in support
Valerie McBride, 1708 Sante Fe Trail, Krum, 76249 – in support
Maria Escobar, 1303 Wilderness, Denton, 76205- in support
Lucinda Hess, 3523 Copper Creek, Denton, 76208- in support
Gene Hartman, 818 Stanley, Denton, 76201 – in support
Bailey Chandler, 1711 Emerson, Denton, 76209 – in support
Tammy Metzler, 31 Royal Oaks Circle, Denton, 76210 – in support
James Montfort, 1131 Oakhurst, Denton, 76210 – in support
Gary Hayden, 2106 N. Bell, Denton, 76209 – in support of HLC
Norma and Don Muller, 2601 Sheraton, Denton, 76209 – in support
Lynn Hanson, 2601 Sheraton, Denton, 76209 – in support
Trey Elmore, 201 Inman, Denton, 76205- in support
William Suadlenka, 208 Brook Circle, Krum – in support

Greg Paulus, 503 Fulton, Denton, 767201 – in support
Jose Escobar, 1303 Wilderness, Denton, 76205 – in support
Jeff Krueger, 3905 Deer Forest, Denton, 76208 – in support
Emilio Gonzalez, 2205 Mitchell, Krum, 75249 – in support
Kevin Kearney, 8713 Scarlet Trail, Lantana, 76226 – in support
Bobbie Halpenny, 1816 N. Bell, Denton, 76209 – neutral
Riley Patterson, 2700 Santa Monica, Denton, 76205 – in support
Emily Curran, 3000 Montecito, Denton 76205 – in support
Bret Curran, 3000 Montecito, Denton, 76205 – in support
Natalie Cannon, 909 McCormick, Denton, 76201- in support
Roni Beasley, 3808 Montecito, Denton, 767205 – in support

Council Member Roden stated that the Council was in an odd position as usually a Certificate of Appropriateness was completed before the work was done. In this case, Council might be asked to take items away that were done before and had to agree either with the Historic Landmark Commission or the applicant. He questioned if Council would be able to require a change in the windows, or move the fence or change the porch.

Burgess stated that the Council's decisions would be framed based on the information before them. This was an appeal by an applicant and the Council was in the position of granting the appeal or denying the appeal for each of the items.

Council Member Roden asked if the Council denied the appeal but the goal was to take it a step further and have some of the work redone, did a denial of the appeal give the authority to force change of windows or only agreed with the HLC citations.

Burgess stated that there would be a question regarding what kind of enforcement mechanisms were available to the governing body. The issues pending before Court should not be considered by Council as that was a different process.

Mayor Burroughs noted that if the appeal was not granted, there were multiple code violations with daily fines. He questioned if there was a conditional or limited variance approval.

Burgess stated that there was broad ranging authority to grant or deny the appeal or put on conditions.

Mayor Pro Tem Kamp felt that the Council wanted some sort of compromise. She questioned if Council had the authority to require a replacement of the windows or the flagstone.

Burgess stated if the Council wanted, it could grant the appeal for some items and deny others based on the feeling of the Council. Council needed to make a determination on each of the six items.

Council Member Roden motioned, Mayor Pro Tem Kamp seconded to (1) deny the windows, (2) deny the flagstone; (3) move the fence back to the existing side, (4) item was already waived so was ok as is; (5) unclear of painting of chimney so was ok as is, (6) remove the driveway gate. Items 1, 2, 3 and 6 would be denied; Item 4 and 5 would accept the appeal.

Mayor Burroughs stated that the fence was moving back to the existing fence so it was more than a denial. The fence would maintain the placement of the old fence and was going back to the existing fence more than denial.

Council Member Hawkins motioned, Council Member King seconded to amend the main motion to replace only three of the windows.

Council discussed the amendment to the motion in terms of the type of windows to use for the replacement, whether the placement of the fence would impact the number of windows to replace, whether the windows would be wood or vinyl and the type of glass suggested for the windows.

On roll vote for the amendment to the motion, Council Member King "aye". Mayor Burroughs "nay", Mayor Pro Tem Kamp "nay", Council Member Engelbrecht "nay", Council Member Gregory "nay", Council Member Roden "nay", and Council Member Hawkins "nay". Motion failed with a 1-6 vote.

Council discussed and clarified that the main motion concerning the fence was to have it moved only back to the original fence line.

Council Member Engelbrecht stated that he was not in support of the motion concerning the flagstone. He felt the color scheme of the flagstone fit in the neighborhood as well as brick or painted concrete.

Council Member Engelbrecht motioned, Council Member King seconded to amend the main motion to approve the flagstone as currently installed. On roll call vote, Council Member Engelbrecht "aye", Council Member King "aye", and Council Member Hawkins "aye". Mayor Burroughs "nay", Mayor Pro Tem Kamp "nay", Council Member Gregory "nay", and Council Member Roden "nay". Motion failed with a 3-4 vote.

Council Member Engelbrecht motioned, Council Member King seconded to amend the main motion to allow a drive gate on the south side in front of air conditioner but not at the corner of the house. On roll call vote, Mayor Pro Tem Kamp "aye", Council Member Engelbrecht "aye", Council Member King "aye", and Council Member Hawkins "aye". Mayor Burroughs "nay", Council Member Gregory "nay", and Council Member Roden "nay". Motion carried with a 4-3 vote.

On roll vote of the main motion as amended, Mayor Burroughs "aye", Mayor Pro Tem Kamp "aye", Council Member Engelbrecht "aye", Council Member Gregory "aye", Council Member King "aye", and Council Member Roden "aye". Council Member Hawkins "nay". Motion carried with a 6-1 vote.

7. PUBLIC HEARINGS

- A. Hold a public hearing and consider approval of a resolution of the City Council of Denton, Texas, making findings that the proposed Rayzor Ranch Public Improvement District No. 1 and the proposed public improvements will promote the interests of the City and confer a special benefit on a definable part of the City; providing that the district and proposed public improvements are feasible and

advisable; providing findings with respect to the nature and estimated cost of the proposed public improvements, the boundaries of the district, the method of assessment, and apportionment of costs between the District and the City; authorizing the creation of the District and directing the City Secretary or other officer to publish notice of the creation; and providing an effective date. The Economic Development Partnership Board recommends approval (7-0).

Aimee Bissett, Director of Economic Development, stated that stated that a PID was an economic tool as part of a package of economic tools for Rayzor Ranch for the south side of the development. The request had been made by the property owners of Rayzor Ranch. The recommendation was to table this item until Council could consider the 380 agreement.

The Mayor opened the public hearing.

Council Member Engelbrecht questioned if the public hearing would be closed or continued to the next meeting.

City Manager Campbell stated that unless there were questions for next week, the public hearing could be closed and the consideration of the tabled ordinance could continue. However, if the Council desired, the public hearing could continue until the next meeting.

Council Member Gregory suggested closing the public hearing and postponing a decision until the next meeting. The item then would be considered under Items for Individual Consideration and the public could complete a Speaker Card if comments were requested.

The Mayor closed public hearing

Council Member Engelbrecht motioned, Mayor Pro Tem Kamp seconded to continue the item to the May 13, 2014 Council meeting. On roll call vote, Mayor Burroughs "aye", Mayor Pro Tem Kamp "aye", Council Member Engelbrecht "aye", Council Member Gregory "aye", Council Member King "aye", Council Member Roden "aye", and Council Member Hawkins "aye". Motion carried unanimously.

Ordinance No. 2014-139

- B. Hold a public hearing and consider adoption of an ordinance amending Subchapter 35.5.7.3 of the Denton Development Code, "General Regulations", to change the Maximum Floor Area Ratio in the Industrial Center General zoning district from 0.4 to 2.0 in the City of Denton, Denton County, Texas; providing for a penalty in the maximum amount of \$2,000.00 for violations thereof, severability and an effective date. (DCA14-0002, Floor Area ratio in Industrial Center General)

Brian Lockley, Director of Planning and Development, stated that this amendment to the Denton Development Code was related to the maximum floor area ratio in the Industrial Center General zoning district. The change would be from 0.4 to 2.0 and did not regulate the building height setback of lot coverage. It was felt that the current standard was a barrier to development in this zoning district. He reviewed the analysis showing that the amendment was appropriate with the Development Code standards. This amendment would only affect the IC-G zoning district. The

Development Review Committee and the Planning and Zoning Commission recommend approval

Mayor opened the public hearing.

No one spoke during the public hearing.

Mayor close the public hearing

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

Ordinance No. 2014-140

- C. Hold a public hearing and consider adoption of an ordinance regarding a Specific Use Permit (SUP) to allow construction of a wet weather pump station and detention facility use on a property located in a Neighborhood Residential 2 (NR-2) zoning and use district on approximately 65.94 acres. The subject property is generally located west of Country Club Road and KCS Railroad, east of Fort Worth Drive, and south of Bent Creek Estate Residential Subdivision; and providing for a penalty in the maximum amount of \$2,000.00 for violations, thereof, severability and an effective date. (S14-0002, Hickory Creek Detention Facility) The Planning and Zoning Commission recommends approval (7-0).

Brian Lockley, Director of Planning and Development, stated that the proposed specific use permit would allow for a wet weather pump station to be located in a neighborhood residential zoning district. He reviewed the zoning map, current zoning, future land use and public notification map.

PS Arora, Wastewater Division Manager, stated that the project was the Hickory Creek Interceptor project which was a wet weather retention center with pump stations. The tanks would not be visible from adjacent roadways or neighboring subdivisions.

The Mayor opened the public hearing.

No one spoke during the public hearing.

The Mayor closed the public hearing.

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

Ordinance No. 2014-141

- D. Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, denying a request for an Environmentally Sensitive Area Alternative Development Plan on approximately 3.71 acres of land, generally located at the northeast corner of E. University Drive (U.S. 380) and Loop 288, within a Employment Center Industrial (EC-I) zoning district and legally described as within the W. Lloyd Survey, Abstract Number 774, in the City of Denton, Denton County, Texas; providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; providing a severability clause and an effective date. (ADP13-0004) The Planning and Zoning Commission recommended denial of this request (4-3). A supermajority vote by Council is required for approval.

Brain Lockley, Director of Planning and Development, presented the details of the project. He reviewed the location of the property, current zoning, FEMA floodplain map and the concept plan. The applicant was proposed to reclaim the floodplain with fill material. A neighborhood meeting was held with concerns expressed regarding potential flooding of home sites which had been an issue in the past, traffic circulation particularly with regards to access to the site from both Spring Valley and University Drive, zoning of site and associated permitted uses, effect that future development of the site might have on neighborhood property values. The criteria of alternative environmental sensitive area was reviewed. The Planning and Zoning Commission recommended denial as did the Development Review Committee.

Council Member Engelbrecht questioned if the zoning was compatible with the surrounding area.

Lockley stated that staff was trying to find the most suitable development and possibly rezone the property

The Mayor opened the public hearing.

The following individuals spoke during the public hearing:

Lee Allison, representing the developer, spoke in favor
John Burnett, no address given, opposed
Ryan Irick, 1900 Spring Valley, Denton, 76209 – opposed
Tony Volner, 3107 Twilight Drive, Denton, 76208 – opposed
Julie Howell, 3102 Twilight, Denton, 76208 - opposed
Helen Reed, Twilight Drive, Denton, 76208 – opposed

The Mayor closed the public hearing.

Mr. Allison was allowed a five minute rebuttal. He stated that the request was for a variance for a fill request and not to deal with land use. The property was already zoned.

Council Member Engelbrecht suggested considering a more extensive discussion regarding what ECI was and what would be possible for development. Another neighborhood meeting might be good before consideration.

Council Member King stated that the proposal was not changing the zoning but rather reclaiming a small portion of the property.

Council discussed the provisions of the proposal, the reclaiming of the property, appropriate zoning, and protection of the neighborhood.

Council Member Gregory motioned, Council Member Engelbrecht seconded to adopt the ordinance. On roll call vote, Mayor Burroughs "aye", Mayor Pro Tem Kamp "aye", Council Member Engelbrecht "aye", Council Member Gregory "aye", Council Member Roden "aye", and Council Member Hawkins "aye". Council Member King "nay". Motion carried with a 6-1 vote.

8. CITIZEN REPORTS

There were no citizen reports for this section of the meeting.

9. 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 Closed Meeting.

With no further business, the meeting was adjourned at 2:20 a.m.

MARK A. BURROUGHS
MAYOR
CITY OF DENTON, TEXAS

JENNIFER WALTERS
CITY SECRETARY
CITY OF DENTON, TEXAS