

# CITY OF DENTON CITY COUNCIL MINUTES

August 16, 2011

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, August 16, 2011 at 3:00 p.m. in the Council Work Session Room at City Hall.

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

ABSENT: Council Members King and Watts

## 1. Citizen Comments on Consent Agenda Items

There were no citizens requesting to speak on Consent Agenda Items.

## 2. Requests for clarification of agenda items listed on the agenda for August 16, 2011.

Council Member Roden indicated that he would not be voting on Consent Agenda Item N and that it would have to be considered individually.

Council Member Gregory asked if Consent Agenda Item M would be presented with major points of discussion at this meeting.

Mayor Burroughs asked if Council Member Gregory would like to make the discussion of the item more public.

Council Member Gregory responded that would be his intent.

Mayor Burroughs suggested pulling the item from the Consent Agenda and considering it individually.

City Attorney Burgess indicated that a substitute ordinance and service plan had been provided to Council for Consent Agenda Item 5B. She recommended that Council act on those substitutions when they were ready to consider the item.

Council Member King arrived at the meeting.

## 3. Receive a report, hold a discussion and give staff direction on the 2011-12 City Manager's Proposed Budget, Capital Improvement Program, and Five-Year Financial Forecast.

Bryan Langley, Chief Financial Officer, presented details on monthly changes in sales tax collections for FY 2010-11. He stated that due to continued strong collections, staff recommended that the sales tax estimate be revised to \$22.796 million for FY 2010-11. That was \$0.139 million higher than the figure included in the FY 2011-12 proposed budget which increased FY 2010-11 surplus to approximately \$1.6 million. Additionally, FY 2011-12 estimate was recommended to be increased to \$23.446 million which was \$0.141 million higher than FY 2011-12 proposed budget. The additional revenue could increase the fund balance in FY 2011-12 or be used to fund City Council identified initiatives (\$192,616 increased to \$333,676).

Proposed Increase in Funding – Street Maintenance Activities only – Langley indicated that for FY 2011-12 the entire \$5.7 million Street Department budget (including the proposed funding) was proposed to be accounted for in the Street Improvement Fund. He reviewed information on

the current budget, bond sale savings, franchise fee growth, annual funding and cumulative funding for 2011-12.

Council Member Roden questioned at what point, in terms of streets, would the funding model for adding bike lanes be on a schedule to redo a street. He asked when it would become one project and not two for street maintenance and one for bike lanes.

Jim Coulter, General Manager-Water Administration, indicated that initial implementation would have to determine signage and stripe the lanes. As the project moved further down in the process, it would become part of the regular maintenance procedure.

Proposed FY 2011-12 General Fund Long Term Plan – Langley reviewed the proposed 2011-12 General Fund long term plan which assumed a 3% Ad Valorem growth in 2013 and 4% each year thereafter. It also included a 1 cent tax increase in 2014-15. This also included the impact of additional sales tax collections.

Potential Revised Increase in Funding – Street maintenance activities were reviewed in terms of the current budget, bond sale savings, franchise fee growth, annual funding and cumulative funding. The figures for the franchise fee growth included 100% of the franchise fee growth over 2010-11 allocated for 2012 and subsequent years.

Langley next reviewed the revised 2011-12 General Fund Long Term Plan which assumed a 3% Ad Valorem growth in 2013 and a 4% growth each year thereafter. It included 1 cent tax increase in FY 2014-15 and included the impact of the additional sales tax collection. The revised long term plan did maintain the effective fund balance of 20% throughout the years.

General Fund - the 2011-12 proposed budget identified \$333,676 in funding which could be used for: additional street maintenance funding; the implementation of various elements of the bike plan; additional traffic signals; comprehensive plan update contingency funding; DCTA downtown shuttle operating costs; or neighborhood improvement incentives. Staff was requesting Council input regarding specific initiatives and funding levels.

Mayor Pro Tem Kamp indicated that establishing a separate street fund was a major step forward. She questioned if this would improve the OCI or maintain the current rating.

Langley stated that it would help with the OCI but that \$10 million was needed. The additional funding would slow the decline but not stop it. There were two pieces of funding for streets - one involved maintenance and one involved reconstruction.

Mayor Pro Tem Kamp questioned what would happen to the OCI if 100% of the franchise fee increase were allocated.

Langley stated that \$5.5 million was needed for one OCI.

Council Member Gregory asked about the proposed bond program for streets.

Langley stated that \$20 million was proposed for 2013.

Council Member Gregory asked how that amount was determined.

Langley stated that staff had identified the amount needed for street reconstruction and added right-of-way acquisition and engineering costs to make up the \$20 million plus considered the tax rate.

Council Member Engelbrecht stated that some streets were not in the reconstruction category and felt that some streets in the reconstruction did not make any difference. He felt how the money was used was more important than just the OCI itself. He questioned if doing streets above the reconstruction level would not change the cost.

Coulter stated that would be technical criteria to be considered when staff started having meetings with Council. Some streets in the 40-45 range already were in reconstruction but could still get 5-7 years out of that road before reconstruction was needed. A consideration would be which roads to repair first that would be of the most benefit for the community.

Mayor Burroughs asked how the overall OCI was computed. He questioned if when a street went below a certain level did it drop off and was then in a different category and not computed in the OCI. OCI to him meant that the roads were salvageable.

Coulter stated that the process was getting the most good out of the money that was available.

Mayor Burroughs noted that the worst roads with a low volume could bring down the whole average.

Coulter stated that was correct.

Mayor Burroughs felt that process distorted what was serviceable. If a road was not serviceable it should be dropped off the list and not included for repair figures.

Coulter stated that there may be some low OCI with high volume that might need attention earlier than other streets. Volume would be another category to consider when determining which streets to include.

Council Member King stated that at first glance he would be in favor of 100% of the franchise fee growth and put the \$333,000 back into the budget.

Council Member Roden stated that he had not heard anything about a DCTA downtown shuttle and asked about the operating costs for that service.

Mayor Pro Tem Kamp stated that the Mobility Committee had reviewed it. DCTA had presented the proposal to the Mobility Committee.

Council Member Roden asked what would be the cost to the City per year.

Langley stated that it would be approximately \$100,000-155,000 depending on the type of service and the frequency of the service.

Council Member Gregory suggested that the schedule line up with train arrivals so that the shuttle would be operating at those times.

Mayor Burroughs asked if the additional funding could be done by specific allocations over the next several months as Council saw a need. He asked if the funds could be put in the Fund Balance and used as necessary.

Langley stated that funding could be brought back as the project matured. If Council wanted to do more for street maintenance funding, staff needed to know that now rather than later. If not, the funds could be put into any projects.

Mayor Burroughs asked about the traffic signal category.

Langley stated that those were intersections that were in need of a signal.

Assistant City Manager Martin stated that a supplemental package had 10-12 signals that were ranked high and that would be funded through TxDOT. The City would put in temporary signals until TxDOT put in the final signalization. Other signals that were needed were at Brinker and Colorado and funding could be used for those types of intersections.

Council Member Gregory stated that he had looked at the bike plan from the Mobility Committee and at the cost for immediate term and short term projects. Low to high estimates indicated immediate term funding from approximately \$663,000 - \$1.2 million. If the whole eight year project was looked at in terms of low and high estimates, the average was \$262,000 per year to implement the bike plan. Those figures did not include all of the elements of the plan. \$50,000 was already in the budget versus \$262,000 which was needed per year to implement the plan. He felt that if \$200,000 was added to the \$50,000 there might be some CIP projects that could provide some relief for the regular budget. He felt Council should pay attention to recommendations when a study was done or don't do the study.

Council Member Roden stated that the qualification costs did not include engineering, right-of-way, or a bike plan coordinator. He questioned why those costs were not included and how much those would add to the estimates.

Coulter stated that in many cases it was not known if right-of-way would be needed. If right-of-way had to be purchased, costs would be very high. Engineering costs would be different for each project which was why they were not included.

Council Member Gregory questioned if the funding only addressed the actual changes in facilities and not funding for a bike coordinator.

Coulter stated that there funding amounts designated for certain projects such as Sycamore to Elm which was the cost for the project. Signals were not included in the amount.

Council Member Engelbrecht felt that something needed to be done in regards to the bike plan.

Mayor Burroughs felt it would be beneficial to identify which elements were the highest priority and could be implemented quickly. His priority would be to connect the universities to the

Downtown and the Transit Center. He felt that was the highest priority for him but funding was not there.

Mayor Pro Tem Kamp agreed and felt that Council had neglected this for a long time. She indicated that the Mobility Committee was looking to set a list of priorities.

Council Member Gregory suggested earmarking the money now but not spend any until the plan moved from draft to an approved program and then prioritize the projects. Earmark the money so when that happened, the money would be available.

Council Member Roden stated that it would help him to see the various price tags on a graph for the various projects so he would know what was needed for investment in the various projects.

Mayor Burroughs suggested putting it as a separate item in the budget so Council could consider the funding more specifically at a later date. He felt that allocating the money now would just be picking a number without specifics. The general topics were important but not the specifics at this point.

Langley stated that he was hearing that Council preferred the second five-year forecast which allocated 100% of the franchise fee and appropriate the \$333,000 as a lump sum for Council initiated projects and bring back to Council as needed.

Council Member Gregory asked if there was going to be a discussion of the Downtown Incentive Grant program as part of this budget cycle or wait for a recommendation from the Downtown Task Force.

Mayor Burroughs suggested waiting until the next budget year.

Council Member Gregory stated that then in the meantime, after consideration of this budget, anymore requests going through the system would be put on hold until deliberations were finished regarding the target figures.

City Manager Campbell stated that the 2011-12 budget had same amounts in the budget.

Assistant City Manager Fortune stated that all of the allocations were done for this year but that there were several applications in process.

Council Member Gregory stated that he was suggesting holding off applications until Council had a discussion on how to proceed.

4. Receive a report, hold a discussion and give staff direction regarding an Interlocal Agreement between the City of Denton and Denton County Transportation Authority (DCTA) for maintenance and repair of DCTA's fleet of vehicles.

Mike Ellis, Fleet Superintendent, presented details on interlocal agreement. He stated that staff had discussed potential fleet maintenance opportunities with Council on April 5, 2011 that might exist between DCTA and the City. The City's LINK Bus operations relocated to the Landfill in 2004 with approximately 40 buses, 3 light vehicles and 80 employees. DCTA had since taken

over this operation. DCTA had extended their lease and expanded their operation at the Landfill with approximately 75 buses, 10 light vehicles and more than 120 employees.

Issue - Solid Waste needed to relocate bus parking to develop the Landfill and would need to use facilities currently occupied by DCTA. The current DCTA-Solid Waste lease was month to month. DCTA and City staff had discussed the partnership for vehicle maintenance. DCTA currently outsourced Fleet Maintenance to a private operation and partnered with the City for fueling services. A service level agreement was in the process of being drafted.

Partnership Benefits - Economics of scale could be realized by providing DCTA fleet maintenance services. This would allow DCTA to focus on bus operations instead of maintenance activities and may provide DCTA additional capacity for operations. There was the possibility of consolidation of public infrastructure and operations which may reduce the need for multiple maintenance facilities in the community.

Discussion Points - To accommodate DCTA Fleet needs, the issues under consideration included (1) the addition of a 3rd shift for fleet operations, (2) the addition of 9 full-time employees by the end of 2012, (3) the transfer of existing DCTA contractor's staff to the City, (4) the expansion of Service Center operations, and (5) DCTA would fund all operational costs incurred by the City.

Outstanding items to be addressed were: (1) DCTA bus and vehicle parking, (2) future capital expense of approximately \$689,000, (3) most capital costs to be covered by DCTA with some consideration for enhancements that would benefit municipal operations, (4) if the Service Center was expanded, Ruddell realignment, rail crossings and traffic patterns would need to be examined, and (5) zoning issues would also need to be considered.

Proposed contract specifics included a 7-10 year term which was still in discussion; dedicated technicians for DCTA equipment; proposed total contract value of \$1.6 million; budget authority for \$450,000 FTA equipment grant; \$75/hour rate on an as needed basis for additional service on heavy duty vehicles; and \$65/hour rate on any light duty vehicle.

Summary – the proposal would include (1) the addition of 9 full-time employees, (2) would have benefits of economics of scale, (3) a shared use facility, (4) would further enhance the City's partnership with DCTA, (5) a negotiated preliminary fleet maintenance agreement with DCTA in the amount of \$1.6 million, and (6) a capital development and cost sharing agreement. Staff was asking for Council direction on the general terms of the proposed agreement. DCTA was also seeking board direction on the general terms of proposed agreement.

Mayor Burroughs felt that there was no problem with the concept and questioned if this a good business decision for the city.

Ellis replied that it would be good for the City.

Mayor Burroughs asked what would happened to the full-time employees and the capital improvements at the end of the 7 year agreement.

Ellis stated that the full-time employees were tied to the contract so there would have to be a reduction in force process. In terms of the capital improvements, the City was moving in that direction any way so they would not be a waste.

Council Member Roden asked if the 25 buses included just Denton buses or others.

Ellis stated that this was DCTA's entire fleet.

Council Member Roden asked if it included the UNT shuttle.

Ellis replied correct.

Council Member Roden asked if UNT was paying for servicing of the shuttle buses.

Ellis stated that there was a contract between UNT and DCTA for those buses.

Council Member Roden asked if the larger projected property was already owned by the City.

Ellis stated that it was and that it had a rental house on it with the rest of the property vacant.

Council Member Roden stated that there was a large neighborhood in that area that already had to deal with the City's service center. He questioned if an environmental impact study had been done on the quality of life in the neighborhood.

Ellis stated no and that DCTA had another piece of property off Shady Shores but they were not interested in using that property. The thought was that there already was municipal activity in this location and to consolidate it in that area rather than develop another location which would lessen the impact on citizens.

Council Member Roden asked if the neighborhood had been contacted regarding the proposal.

Ellis stated that it had not been done at this point.

Council Member Roden asked if it would be done in the future.

Ellis stated that some rezoning of the property would be required and at that point the neighborhood would be contacted.

City Manager Campbell stated that the DCTA Board was also considering this proposal and staff was working on getting general feedback from them on the plan. After that feedback was received from the Council and the DCTA Board regarding the concept that would be the appropriate time to publicize and get information out to the community.

Council Member Gregory indicated that he was comfortable with the direction of the proposal. He questioned the cost for the realignment of the road and questioned if that part of the plan was already in the works.

Assistant City Manager Martin stated that a facility plan done several years ago talked about the realignment of Ruddell. It was not currently in the capital budget but was planned. He indicated that when Ruddell was realigned, two other railroad crossings at Willowwood and Pertain would have to be given up.

Council Member Engelbrecht asked if the costs included buffering along the homes in the parking lot.

Ellis stated that there was fencing tied to the project.

Council Member Engelbrecht indicated that he would asking for buffering in the future plans.

Council Member Roden suggested looking at other places to put the bus barn if there was some flexibility in the sites.

5. Receive a report, hold a discussion, and give staff direction regarding the Solid Waste and Recycling Services overview of the department strategic plan with additional detail the amendment of the facility permit to accommodate expanding services.

Vance Kemler, Director of Solid Waste, presented details on the Solid Waste Strategic Plan. Council had established five key focus areas one of which was “sustainable economic development and environmental stewardship”. That key area was formatted into the Solid Waste Strategic Plan. He reviewed the history of the 20 year Master Plan that was developed in 1995. Factors in that plan included cost, flexibility, economic development opportunities, risk, educational opportunities, and environmental stewardship. The 1999 Solid Waste services and goals were included in the Denton Comprehensive Plan and included (1) protect public health, (2) protect the environment and (3) encourage waste minimization and maximize material recovery and reuses. The first area of the plan included organizational excellence to utilize technology to enhance efficiency and productivity. The second major area was to promote superior utility services and facilities that included amending the MSW facility permit to provide greater than 50 years of service capacity and accommodate the solid waste and recycling services needs of the community. The third area was sustainable economic development and environmental stewardship. Tasks under that area were to obtain Council's goal of 40% diversion of waste from the traditional landfill.

Mayor Burroughs asked about commercial recycling and questioned if some developments had separate contracts with other entities.

Kemler stated correct.

Mayor Burroughs asked if that was considered in the 40% reduction figure.

Kemler stated that only those associated with the City were considered.

Mayor Burroughs asked if there were provisions for new multi-family developments to have recycling facilities or space for such facilities.



Kemler stated that new facilities would have to have provisions to accommodate recycling in the future. He continued with the fourth area of the plan which dealt with a safe, livable and family friendly community. That area would seek clean and healthy neighborhoods in the city. The fifth area was partnerships and regional leadership. Solid Waste had a major project with UTA School of Engineering and UNT Environmental Services.

A major project for Solid Waste was the facility expansion. Currently the Landfill was on a 250 permitted area and staff would like to expand the area by 250 acres to the north.

Municipal Solid Waste Permits - currently the City had a Type 1 Municipal Solid Waste permit which was the highest level of permit issued by TCEQ for MSW facilities. Denton was one of two facilities in the State that could operate an enhanced leachate recirculation facility. Kemler reviewed a feasibility study done in 2008 to make sure the expansion would meet state and federal requirements. In May 2011 legal and engineering consultants were to develop a soil boring plan. Phase 2 of the permit amendment would include engineering and geotechnical tasks. A master planned industrial facility would be developed through the Planning and Zoning Commission for special use permits. It would also have to secure Corps of Engineers approval.

Council Member Engelbrecht suggested a pilot project to put trash carts on one side of street and recycling on other side to avoid trucks having to make so many trips on the streets.

Mayor Burroughs indicated that Council would be going into Closed Session and would consider Work Session Item #6 later in the meeting.

The City Council convened in a Closed Meeting at 4:50 p.m. to consider the specific items listed below under the Closed Meeting section of this agenda.

1. Closed Meeting:

A. 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.

B. Consultation with Attorneys – Under Texas Government Code Section 551.071.

1. Consult with, and provide direction to, City’s attorneys on legal rights, restrictions, obligations, and issues associated with the proposed annexation of DH-7, DH-9, and DH-12, where a public discussion of such legal matters would conflict with the duty of the City’s attorneys to the City of Denton, Texas under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, and where such matters may become an issue in potential litigation.

2. Consultation, discussion, deliberation, and receipt of information from the City's attorneys regarding potential litigation with Denton County Electric Cooperative, Inc. d/b/a CoServ Electric and CoServ Gas, Ltd. relating to disputes concerning franchise issues, where public discussion of these legal matters would clearly 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.
- C. 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 issues on matters in which 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. Also hold a discussion regarding granting economic development incentives to a property owner for the purpose of redeveloping a major retail facility in the City of Denton, located at Loop 288 and I-35E. This discussion shall include commercial and financial information the City Council has received from the property owner which the City Council seeks to have the property redeveloped in or near the territory of the city, and with which the City Council is conducting economic development negotiations; including the offer of financial or other incentives.

Council convened back into the Work Session at 5:50 p.m. and considered Work Session Item #6.

6. Receive a report, hold a discussion, and give staff direction on the execution of a contract for Professional Services for Wallace Roberts and Todd to serve as the consultant on the update to the City of Denton Comprehensive Plan.

Brian Lockley, Development Review Administrator, presented details of the contract. In February 2010 Council directed staff to proceed with an update of the Denton Development Plan. In April 2011, a request for qualifications was issued seeking qualified professionals with considerable experience in citizen involvement, citizen participation, planning, land use, and sustainability to develop an update to the Comprehensive Plan. Five proposals were submitted with staff interviewing three of those firms. Following interviews with those three firms, panel members ranked the interviews. The proposed firm had done other similar projects and would partner with three other firms to assist them with the project. Staff was requesting direction from Council on how to proceed. An actual figure for the project was not yet determined but \$800,000 had been set aside for the project.

Mayor Burroughs asked about the cost for the original Denton Plan.

Bryan Langley, Chief Financial Officer, stated that it was between \$250,000-300,000 with staff doing much of the work.

Council Member Gregory stated that his only concern was the negotiation aspect. Since a figure was already set aside for the project, he was concerned that the negotiations would work up to that number.

Council Member Roden asked about trying to do the rewrite in-house as an amendment to the current plan.

Assistant City Manager Greene stated City staff had the talent to do the rewrite but the problem was objectivity from an outside perspective to apply to the City.

Council Member Roden stated that there was a lot of citizen participation in the last process and was concerned that there might not be enough citizen input based with a consultant.

Greene stated that staff was looking for the same amount of citizen involvement with the rewrite as with the original plan.

Mayor Burroughs stated that with the prior task, the consultant had direction on what to follow but staff implemented it.

Council direction was to proceed in the negotiation process.

Council convened in a Regular Meeting at 6:30 p.m. in the Council Chambers.

**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. Presentation of 2011 National City Water Taste Test Competition Award

Mayor Burroughs presented the award to Randy Markham of the Water Department.

**3. CITIZEN REPORTS**

A. Review of procedures for addressing the City Council.

B. Receive citizen reports from the following:

1. Caleb O'Rear regarding Smoke Free Denton.

Mr. O'Rear presented information concerning a smoke free Denton. He felt Denton was still behind by allowing smoking in restaurants and other buildings. He was the CEO of Presbyterian Hospital and they had gone to a smoke free facility. He encouraged the Council to address the issue of a smoke free Denton and felt this would be an excellent topic for a Council Work Session.

**4. CONSENT AGENDA**

Mayor Burroughs stated that Items M and N would be considered separately.

Mayor Pro Tem Kamp motioned, Council Member Gregory seconded to approve the Consent Agenda and accompanying ordinances and resolutions with the exception of Items M and N. On roll call vote, Council Member King "aye", Council Member Gregory "aye", Council Member Engelbrecht "aye", Council Member Roden "aye", Mayor Pro Tem Kamp "aye", and Mayor Burroughs "aye". Motion carried unanimously.

Resolution No. 2011-029

- A. Consider approval of a resolution of the City of Denton approving a modification to the stipulation made a part of the settlement agreement between the Alliance of Oncor Cities ("AOC") and Oncor Electric Delivery Company LLC ("Oncor" or "Company") regarding the Company's statement of intent to change electric rates in all cities exercising original jurisdiction; determining that this resolution was passed in accordance with the requirements of the Texas Open Meeting Act; repealing any prior resolutions inconsistent with this resolution; requiring delivery of this resolution to the Company and Legal Counsel; and declaring an effective date.

Resolution No. 2011-030

- B. Consider approval of a resolution of the City Council of the City of Denton, Texas, ("City") approving a settlement between Atmos Energy Corp's Mid-Tex Division and Atmos Texas Municipalities ("ATM") resulting in no change in base rates and approving tariffs which reflect costs related to the Steel Pipe Replacement Program; finding the rates set by the attached tariffs to be just and reasonable; requiring delivery of the resolution to the company and legal counsel; determining that the meeting at which this resolution was approved complied with the Open Meetings Act; making other findings and provisions related to the subject; and declaring an effective date.

Resolution No. R2011-031

- C. Consider approval of a resolution allowing the Black Chamber of Commerce to be the sole participant allowed to sell alcoholic beverages at the Blues Festival on September 17 - 18, 2011, upon certain conditions; authorizing the City Manager or his designee to execute an agreement in conformity with this resolution; and providing for an effective date. The Parks, Recreation and Beautification Board recommends approval (5-0).

Approved the noise exception request listed below.

- D. Consider a request for an exception to the Noise Ordinance for the purpose of the 13th Annual Denton Blues Festival, sponsored by the Denton Black Chamber of Commerce. The event will be held in Quakertown Park on Saturday, September 17, 2011, from 1:00 p.m. to 10:30 p.m. and Sunday, September 18, 2011, from 1:00 p.m. to 8:30 p.m. The exception is specifically requested to increase hours of operation for amplified sound on Saturday from 10:00 p.m. until 10:30 p.m.

and for amplified sound on Sunday. The amplified sound will not go above the allowable 70 decibels for an outdoor concert.

Resolution No. R2011-032

- E. Consider approval of a resolution voting for a member to the Board of Managers of the Denco Area 9-1-1 District; and declaring an effective date.

Ordinance No. 2011-126

- F. Consider adoption of an ordinance of the City Council of the City of Denton, Texas, approving a grant application from Ed Canada, owner of 207 N. Elm Street, from the Downtown Incentive Grant Program not to exceed \$10,000; and providing for an effective date. The Economic Development Partnership Board recommends approval (6-0).

Ordinance No. 2011-127

- G. Consider adoption of an ordinance of the City Council of the City of Denton, Texas, approving Bylaws for Tax Increment Reinvestment Zone Number 1 (Downtown TIF). The TIF Board recommends approval (7-0).

Ordinance No. 2011-128

- H. Consider adoption of an ordinance of the City Council of the City of Denton, Texas, approving the Project Plan for Tax Increment Reinvestment Zone Number 1 (Downtown TIF). The TIF Board recommends approval (7-0).

Ordinance No. 2011-129

- I. Consider adoption of an ordinance of the City Council of the City of Denton, Texas, approving the Finance and Feasibility Plan for Tax Increment Reinvestment Zone Number 1 (Downtown TIF). The TIF Board recommends approval (7-0).

Ordinance No. 2011-130

- J. Consider adoption of an ordinance authorizing the City Manager to execute an agreement between the City of Denton and CareHere, LLC; approving the expenditure of funds; and providing for an effective date.

Ordinance No. 2011-131

- K. Consider adoption of an ordinance of the City of Denton approving a Lease Agreement between the City of Denton and Columbia Medical Center of Denton Subsidiary, L.P. d/b/a Denton Regional Medical Center for the City of Denton's Health Center in the Denton Regional Medical Center Professional Building; authorizing the expenditure of funds therefor; and providing an effective date.

Ordinance No. 2011-132

- L. Consider adoption of an ordinance of the City of Denton, Texas amending certain provisions of Chapter 17 of the Denton Code of Ordinances, the Denton Property Maintenance Code, including Sections 17-2, 17-35, 17-40, 17-60, 17-153 and 17-154; providing a severability clause; and providing an effective date.

Item M was considered.

Ordinance No. 2011-133

- M. Consider adoption of an ordinance establishing an economic development program under Chapter 380 of the Local Government Code for making grants of public money to promote economic development and to stimulate business activity in the City of Denton; approving an agreement with GTM Development, Ltd., regarding the purchase of Golden Triangle Mall and renovation and improvement of an approximate 73.2 acre parcel of land commonly known as Golden Triangle Mall generally located at the northwest corner of I-35 E. West and East Loop 288 in Denton, Texas; authorizing the expenditure of funds therefore; and providing an effective date.

Linda Ratliff, Director of Economic Development, presented details of the agreement. Staff had been working with GTM Development since April 2011 regarding a possible Chapter 380 Economic Development Program Grant Agreement. Under the agreement, GTM would purchase Golden Triangle Mall from Chase Bank, renovate or cause renovation of existing properties within the boundaries of the project, construct or cause the construction of new space within the mall proper and/or pad sites, and invest or cause investment of \$45-50 million. She reviewed the required investment by GTM, eligible costs, grant payments, agreement terms, and loss of retailers. The grant represented a 20-year agreement to share 50% of the increase in sales tax generated by the project. The total amount of grant payments would be established on October 1, 2014 when the Required Investment must be completed. A minimum Required Investment of \$45 million would result in a \$7.12 million total incentive. Grant payments would cease at 20 years or \$9.5 million, whichever came first. If the minimum Required Investment of \$45 million was not reached by October 1, 2014, the agreement would be terminated and grant payments would cease.

Mayor Pro Tem Kamp stated that the tax dollars did not come from taxes from residences but rather were incremental sales tax that the property would earn itself.

Ratliff stated correct that this development group had many successes in the past with other malls. This was a performance based agreement and would have to produce to receive any funding.

Council Member Roden asked about how a representative from the company saw the mall in the future.

Gar Herring, GTM Development, stated that the vision for the mall was something better than currently located at the mall. This was the best property in the City but had been ignored for many years and stores had not been remodeled. A lot of the new vision was to remodel the sites inside the mall. The plan was to budget enough money to remodel the stores with additional plans to add significant food at the location and better choices of food. They wanted to make the mall more of a destination. That would include more glass, color and more signage. They were working with the department stores to renovate the inside and outside to make the stores brighter and to provide more choices in the department stores with better merchandise. The goal was to keep shoppers in Denton. They would also like to add another entertainment component to the mall.

Council Member Gregory stated that the developer was making a significant investment in the property and betting that the investment would generate increased sales.

Herring stated correct and if it didn't work, they would not receive any incentives.

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

Item N was considered.

Ordinance No. 2011-134

- N. Consider adoption of an ordinance authorizing the City Manager, or his designee, to execute for and on behalf of the City of Denton, Texas (the "City") an Easement Encroachment Agreement (the "Agreement"), by and between the City and the University of North Texas ("UNT"), regarding the encroachment by UNT upon a Drainage Basin Easement owned by the City, encumbering an approximate 5.297 acre tract of land, more or less, located in the E. Pulchalski Survey, Abstract Number 996 and the A.N.B. Tompkins Survey, Abstract No. 11246, generally located at 1251 South Bonnie Brae Street, City of Denton, Denton County, Texas; providing for termination of ordinance and agreement upon failure of UNT to approve and execute the agreement, and providing an effective date. The Public Utilities Board recommends approval (5-0).

Council Members Roden and Gregory left the meeting with conflicts of interest.

City Attorney Burgess reminded Council that a motion should include the substitute document as presented by the Legal Department.

Mayor Pro Tem Kamp motioned, Council Member Engelbrecht seconded to adopt the amended ordinance as presented by Council. On roll call vote, Council Member King "aye", Council Member Engelbrecht "aye", Mayor Pro Tem Kamp "aye", and Mayor Burroughs "aye". Motion carried unanimously.

Council Members Roden and Gregory returned to the meeting.

**5. ITEMS FOR INDIVIDUAL CONSIDERATION**

Ordinance No. 2011-135

- A. Consider adoption of an ordinance adopting a Service Plan for an area of land to be annexed to the City of Denton, Texas, pursuant to an annexation plan, generally identified as DH-7 consisting of approximately 143 acres located on the east and north sides of Teasley Lane, south of Teasley Harbor subdivision and west of Southlake Drive, and more specifically identified and depicted in Exhibit "A" attached hereto, which area is adjacent to and abuts the existing city limits of the City of Denton, Texas; providing a savings clause; and providing an effective date.

Jon Fortune, Assistant City Manager, indicated that he would present information for Items 5 A, B and C. In 2009 staff recommended the annexation of 18 areas of land in the City's extraterritorial jurisdiction. Of the 18 areas identified, all but three areas were exempted from the 3-year annexation plan requirement under Section 43.025 of the Texas Local Government Code. These three areas were placed in a 3-year Annexation plan and were identified as DH-7, DH-9 and DH-12.

The three year annexation processes started in April 2010 with three public hearings and one Planning and Zoning Commission work session. The next step was negotiation for services which included city and property owners required to negotiate. The Denton County Commissioners appointed five representatives for each DH to negotiate. Negotiation meetings were held between July 11th and August 15th. He reviewed the negotiation process for each of the areas and the provisions that were necessary to be included.

The DH-7 Service Plan negotiated items included (1) offering non-annexation agreements to eligible property owners for a term of seven years; (2) offering one property to maintain private solid waste provider contract through July 2016; and (3) offering one property owner to receive one residential water and wastewater tap and to pay associated fees. DH-9 Service Plan negotiated items included (1) non-annexation agreements to eligible property owners for a term of seven years; (2) construction of a sidewalk along portions of Swisher Road; (3) installation of temporary traffic calming devices on Swisher near the school; (4) allow private water service taps with conditions for one property owners; (5) wastewater line extensions along Shiloh and Swisher Roads based on a shared cost approach between property owners and City; (6) parking restrictions along Edwards Road; and (7) future access to water and wastewater service and water service to the Green Tree Estates sub-division. Signed agreements had been received from DH-7 and DH-9.

In regards to DH-12, the Committee did not accept the service plan including the City's original plan and including a plan with additional services offered by the City. In addition, the DH-12 Committee sought a level of services not acceptable to the City. Staff was recommending approval of the original service plan and the DH-12 Committee was willing to continue discussion of the service plan. Staff was recommending adoption the DH-12 service plan with consideration of future dialog on the plan which could be amended in the future. A motion by Council should include a substitute ordinance for Item 5B.

Council Member Gregory motioned, Council Member King seconded to adopt the ordinance for Item 5A, the substitute ordinance for Item 5B and the ordinance for Item 5C. On roll call vote, Council Member King "aye", Council Member Gregory "aye", Council Member Engelbrecht "aye", Council Member Roden "aye", Mayor Pro Tem Kamp "aye", and Mayor Burroughs "aye". Motion carried unanimously.

Ordinance No. 2011-136

- B. Consider adoption of an ordinance adopting a Service Plan for an area of land to be annexed to the City of Denton, Texas, pursuant to an annexation plan, generally identified as DH-9 consisting of approximately 298 acres located north of Pockrus Page Road, and north, south and northeast of Edwards Road, and more specifically identified and depicted in Exhibit "A" attached hereto, which area is



adjacent to and abuts the existing city limits of the City of Denton, Texas; providing a savings clause; and providing an effective date.

Discussion and vote of this item was done under Item 5A.

- C. Consider adoption of an ordinance adopting a Service Plan for an area of land to be annexed to the City of Denton, Texas, pursuant to an annexation plan, generally identified as DH-12 consisting of approximately 1,167 acres located south of east University Drive, east of north Mayhill Road, north and south of Blagg Road, north and south of Mills Road and east and west of south Trinity Road, and more specifically identified and depicted in Exhibit "A" attached hereto, which area is adjacent to and abuts the existing city limits of the City of Denton, Texas; providing a savings clause; and providing an effective date.

Discussion and vote of this item was done under Item 5A.

- D. Consider nominations/appointments to the City's boards and commissions.
  - 1. Animal Shelter Advisory Committee
  - 2. Community Development Advisory Committee
  - 3. Health & Building Standards Commission
  - 4. Historic Landmark Commission
  - 5. Public Art Committee
  - 6. Zoning Board of Adjustment

Mayor Burroughs nominated Sally Cavness for the Animal Shelter Advisory Committee, Mayor Pro Tem Kamp nominated Patti Haworth to the Historic Landmark Commission, and Council Member Roden nominated John Murphy to the Traffic Safety Commission.

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

Ordinance No. 2011-138

- E. Consider adoption of an ordinance establishing a resident only parking program in a portion of the Denia Neighborhood to address hazardous conditions caused by adjacent uses and to protect the residents of this neighborhood from harmful conditions and promote the health, safety and welfare of the residents of this neighborhood; and establishing an effective date.

Captain Roger White, Denton Police Department, presented the details of the proposal. The proposed ordinance would establish a resident only parking program for a portion of the Denia neighborhood. The new football stadium for UNT had caused concern among residents for parking on game days. The proposed ordinance included Laurelhills and would prevent non-residents from parking in the area on game days. Signs would be posted for resident parking only and towing would be in effect. There would be a \$5 fee for resident only parking permits for residents to park on the street with temporary passes available. The no parking signs were

temporary and would be put up and taken down by Denton police officers. Estimated costs were \$4300 for the signs, \$900 to design and purchase the parking permits and \$1500 for police staff.

Mayor Burroughs stated that the intent was to do everything to not haul away vehicles but to communicate to the owner of vehicle if no hang tag was visible.

White replied yes but to have an ordinance with teeth there was the necessity to be able to tow.

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

## 6. PUBLIC HEARINGS

- A. Hold a public hearing to receive comments from the public regarding proposed redistricting Illustrative Plans concerning proposed new boundaries for City of Denton councilmember districts and provide staff direction regarding such plans.

Mayor Burroughs indicated that this item was only to receive public input and that no Council action would be taken at this meeting.

City Attorney Burgess stated that there had been three Council work sessions, individual discussions with each individual council member, a published notice of hearing in the paper and redistricting materials available outside the Council Chambers as well as on the city's website and articles in the Denton newspaper.

Why Redistrict? Council had 4 single member districts and 3 members elected at-large. After the census, the city was required by law to determine whether its council member districts were within the legally required population balance; whether the population in each of the districts was relatively equal. The districts could not be out of population balance by more than 10% overall from the most populous to the least populous district. It had been determined, based on the census, that the districts were out of balance and the City must re-draw district lines in order to meet the required 10% population deviation limit.

Population Balance Requirements – the ideal district was determined by dividing the new total population reported in the 2010 census by the number of council districts. The ideal number was 28,445 persons per district. The deviation was calculated by comparing the actual population to the ideal population to determine how much each current district was over or under populated. Currently District 4 was over populated by 37.51% over the ideal size and District 3 was 22.14% under populated compared to the ideal size. Denton's total population deviation was 59.66% which exceed the 10% standard. Burgess presented information on the initial assessment and benchmark which was the starting point for the assessment.

Legal Requirements for Redistricting included (1) population balance, (2) Section 2 of the Voting Rights Act which indicated that any new redistricting plan could not unreasonably discriminate against minority voters by packing or cracking, (3) Section 5 of the Voting Rights Act which indicated that new redistricting plans must be cleared through the Department of

Justice to determine if the plan was retrogressive to minority voting strength plus the plan could not dilute the voting strength of minority voters to a greater degree than otherwise could be reasonably avoided in achieving population balance, (4) Shaw v Reno which limited the use of race as the predominant basis for redistricting decisions, except to satisfy Sections 2 and 5 of the Voting Rights Act and restricted race-based gerrymandering and the drawing of bizarrely shaped districts.

Redistricting Criteria - on April 19, 2011 Council adopted certain redistricting criteria to aid the City in developing redistricting plans and for setting standards for plans. These criteria included the standards of: (1) where possible, easily identifiable geographic boundaries should be followed, (2) communities of interest should be maintained in a single-district where possible and attempts should be made to avoid splitting neighborhoods, (3) to the extent possible, districts should be composed of whole voting precincts and where this was not possible or practicable, districts should be drawn in a way that permitted the creation of practical voting precincts and that ensured that adequate facilities for polling places existed in each voting precincts, (4) although it was recognized that existing districts would have to be altered to reflect new population distribution, any redistricting plan should, to the extent possible, be based on existing districts, (5) districts must be configured so that they were relatively equal in total population according to the 2010 Federal census and in no event should the total deviation between the largest and the smallest district exceed 10%, (6) districts should be compact and composed of contiguous territory and compactness may contain a functional, as well as a geographical dimension, (7) consideration may be given to the preservation of incumbent-constituency relations by recognition of the residence of incumbents and their history in representing certain areas, (8) the plan should be narrowly tailored to avoid retrogression as defined in the Voting Rights Act and (9) the plan should not fragment geographically compact minority community or pack minority voters.

Guidelines for Redistricting Proposals - on April 19, 2011 Council also adopted certain guidelines for persons submitting comments and proposals. Those included (1) plans should be in writing, (2) the plan should show total population and voting age population for Blacks, Hispanics, Asians, and Anglo/other for each proposed City Council district based on the 2010 Census data (3) plans should redistrict the entire city, (4) the plan should conform to the criteria as set by Council, (5) comments must be submitted in writing and be legible, even if the person makes comments orally at a public hearing, (6) persons providing comments and those submitting proposed plans must identify themselves by full name and home address and provide a phone number and, if available, an email address, and (7) all comments must be submitted to the Council by the close of the public hearing.

Burgess stated that two plans were being presented at this meeting. Both plans had been reviewed the Planning Department, the City Attorney's Office, and the outside consultant. The plans met all criteria noted. District 4 had been reduced, District 3 enlarged, District 1 had no retrogression and District 2 had changed some. Plan C was within the 10% allowed deviation and also protected more minority voters in District 1. After comments from the Denia neighborhood relative to the splitting of that neighborhood, the consultants drew Illustrative Plan 1 Revised which rejoined the Denia neighborhood. She reviewed the numbers of this revised plan that had a maximum deviation of 9.14%.

Future actions – After the public hearing this evening, staff would review the public comments and adapt the redistricting plan as necessary. The redistricting plan was scheduled to be adopted by Council on September 20, 2011. A Department of Justice submission would be prepared after that and the May 2010 city council candidate election would be the first election under the new council district plan assuming Justice agreed with the plan.

Mayor Pro Tem Kamp stated that on Map C, Tremont was also left out and asked if it was now included.

Burgess replied correct.

Council Member Gregory asked what was the west side boundary of District 2.

Burgess replied that it was Hinkle.

Council Member Roden felt that once the plan was finally adopted and Justice reviewed the plan, it would be worthwhile to identify the areas of the city that shifted direction and address that to citizens. It would be important to think ahead of that education process and how to do that in general for citizens on how to know where the districts were.

Burgess stated that staff would work on that process as well as the Denton Record-Chronicle and the City's website.

Council Member Roden indicated that he was worried that the redistricting was based on current population and the current census. Some areas of the city were growing and some were not growing. Two areas already ahead were Districts 3 and 4 which were projected to grow in the next five years.

Burgess indicated that Justice did not look at an anticipatory position. They looked at a snap shot in time and determined if it met the legal requirements. It was recognized that some growth would happen in the City such as the proposed annexations in the future. However, the annexation numbers were not substantial and did not unbalance the districts. Annexations were also submitted to the Department of Justice for clearance. The issue could be looked at again in two years at which time redistricting might have to be considered again.

The Mayor opened the public hearing.

The following individuals spoke during the public hearing:

Carolyn Phillips, 901 Baldwin, Denton, 76205 - expressed concern that the Downtown area was removed from District 1

Valorie Thorton, 2030 Golf Court, Denton, 76205- use the plan that keeps the Denia neighborhood in one district

Linnie McAdams, 1120 Kendolph, Denton, 76205–keep all of the Denia area in District 4

Gerry Veeder, 1721 Wisteria, Denton, 76205 - thanked Council about responding to concerns about keeping her neighborhood in the revised plan

Alice Gore, 2215 Westwood, Denton, 76205 - thanked Council for the revised plan

Charlye Heggins, 1606 East McKinney, Denton, 76209 – concerned about taking Downtown out of District 1.

Dana Zoltner, 610 Emery, Denton, 76201 - concerned about the finger going down out of District 2.

Roberto Calderon, 1620 Churchill, Denton, 76209 - urged serious consideration of a broader public process than what was allowed in this moment.

Hatice Salih, 300 Northridge, Denton, 76201 - concerns about the finger in District 2 and District 1 was completely landlocked by other districts.

Mayor Burroughs indicated that Comment Cards had been received from Sarah Bryant, Scooter Thornton and Christopher Walker.

Bob Clifton, 1800 Morse, Denton, 76201 - the map needed to be on display to determine the streets and had concerns about how the lines were drawn.

The Mayor closed the public hearing.

No action was taken by Council at this meeting.

## **7. 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.

Council Member Roden announced that Southeast Denton received 1000+ backpacks for its Back-to-School event.

Council Member Gregory requested an informal staff report regarding a notice that Oncor would be holding a discussion enlarging its transmission line through the north part of town through the Greenbelt. He suggested a staff report and discussion in a Work Session on how the line might impact neighborhoods and alternatives Oncor might take.

Council Member Watts requested an informal staff report for a future work session on a possible ordinance for bike lights and reflectors above State requirements.

Council Member Gregory suggested receiving citizen input on what to call people from Denton.

Mayor Burroughs asked staff to look into the possibility getting the redistricting program in order to help citizens manipulate streets for a different versions.

Council Member Gregory requested staff take one more look at the redistricting map in regards to the District 2 finger and not have such an odd looking shape without dividing neighborhoods.

Council Member Engelbrecht suggested having the consultant available to help the public with possible different redistricting lines.

- 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.

- C. Official Action on Closed Meeting Item(s) under Sections 551.071-551.086 of the Texas Open Meetings Act.

There was no official action taken on Closed Meeting items.

With no further business, the meeting was adjourned at 8:30 p.m.

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MARK A. BURROUGHS  
MAYOR  
CITY OF DENTON, TEXAS

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JENNIFER WALTERS  
CITY SECRETARY  
CITY OF DENTON, TEXAS