

**ANNUAL PLANNING SESSION MINUTES
CITY OF DENTON CITY COUNCIL
January 29, 2013**

After determining that a quorum was present, the City Council convened in an Annual Planning Session on Tuesday, January 29, 2013, at 8:30 a.m. in the Facilities Management Department Training Room at 869 S. Woodrow Lane, Denton.

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

ABSENT: None

ITEMS FOR DISCUSSION:

1. Receive a report, hold a discussion, and give staff direction regarding code enforcement programs and practices.

City Manager Campbell stated that this item was on the agenda to talk about the practices of Code Enforcement including the history of code enforcement projects and to receive direction from Council on where they wanted to go with the program.

Lancine Bentley, Zoning/Code Enforcement Division Manager, stated that in 2002 Council began focusing on neighborhood revitalization, community aesthetics, and sustainable development in conjunction with conversations about the enforcement of code. Since that time, the Property Maintenance Code had been reviewed and rewritten, additional officers had been hired, proactive programming had been established, and program funding had been increased.

Program description – the purpose of the Code Enforcement Division was to provide enforcement services to ensure the health, safety and general welfare of the citizens of Denton. Code Enforcement dealt with residential and commercial concerns, specific areas of concern, illegal land use issues, and prevalent property maintenance violations. She reviewed the history of the program since 2002.

NCTCOG Code Enforcement Benchmarking analysis – the analysis indicated that regional cities needed to look at sustainable neighborhoods and corridors. The analysis indicated that code enforcement should maintain and strengthen residential property values, influence the quality of life factor in economic development decisions, and support neighborhood revitalization that led to infill housing and income diversity. A suggestion for workload management from the participating cities was to increase the portion of inspector-generated violations to be more proactive in their code compliance efforts.

Leadership Denton conducted a survey regarding code enforcement and found that 72% of the respondents of the survey felt that the codes were not being adequately enforced. Recommendations of the survey were to establish an online system for reporting code violations; evaluate the existing property maintenance code for consistency; consider additional staffing for code enforcement; and provide new residents with a quick-reference guide to property maintenance codes in Denton.

Staff actions – as a result of the above two studies, staff rewrote the ordinances, developed standard operating procedures, instituted best practices enforcement approach, developed new programs in the area of dangerous buildings program, incorporated a complaint officer, developed a collaborative CO inspection program, and a minimum building standards program.

Bentley showed photos from the Leadership Denton Survey. 71% of the respondents were concerned with trash and debris, 64% were concerned with substandard housing, 64% were concerned with junk vehicles, 64% were concerned with signs, 61% were concerned with rental property issues, and 52% were concerned with grass and weeds. She also showed pictures of successes of voluntary compliance with code issues.

Council Member Engelbrecht asked if there was an organized system for non-profits to help revitalize properties.

Bentley stated that there was a resource guide to help residents with various issues. She presented a comparison of proactive versus reactive performance. Proactive performance increased violations addressed/abated, increased protection of property values, protected residents/businesses from complainant status, and decreased selective enforcement. Reactive performance decreased staff, decreased contractor funding, supported selective enforcement, and was counter to the COG findings, Leadership Denton recommendations and Council actions.

Council Member Roden noted that 25% of the code enforcement cases were from complaints and questioned if those complaints were from a certain type of neighborhood.

Bentley stated that some people in low/moderate income neighborhoods were not comfortable with turning complaints.

Staff Recommendation – staff's recommendation was to continue implementing a proactive Code Enforcement program in keeping with a national 'best practices' approach, the community expectations as reflected in the 2007 Leadership Denton Survey, and previous and recent actions by the Council.

Mayor Burroughs stated that an issue he had been hearing was that with so many cases and so many expectations there was pressure to continue production. Some people felt the officers were becoming more and more nitpicking with their violations. There was not a problem with safety issues but the problem was with the aesthetics issues. The numbers concerned him because if it was the expectation to generate high numbers it would become incumbent on the officers to find more and more smaller problems. He was also concerned about the warnings issued and problems with errors in the warnings.

Bentley stated that any mistake on a warning would be corrected by the officer and not counted against that homeowner.

Mayor Burroughs asked what the procedure was if there was a disagreement between the homeowner and the officer regarding the complaint.

Bentley stated that the homeowner could talk to the supervisor to get it resolved.

Council Member Gregory asked if a notice was then sent to the homeowner that it had been resolved.

Bentley stated not as a standard practice.

Council Member Gregory suggested that it be done as a way to make sure the homeowner knew that the error was corrected.

Bentley stated that was normally done over the phone but staff could send a follow-up letter.

Mayor Burroughs asked if the volume dropped, would that be an issue of concern in the department or a feeling of success.

Bentley stated that the goal was compliance, not citations.

Council Member Roden asked if staff cross referenced data whether the complaints were for rental homes versus owner occupied homes.

Bentley stated that currently that information was not tracked but it had been done in 2006 and showed that there were more cases on rental properties.

Council Member Roden asked if there was a different approach in communication with rentals versus owner occupied properties.

Bentley stated that as a practice, if it was a rental property, notices were sent to the tenant and the property owner regarding the problem. In 2009 the citizens committee asked to codify that practice as it was not a requirement in the Denton maintenance code to send notice to both property owner and tenant.

Council Member Engelbrecht asked about the wording of the notice and whether it was sent in the same fashion as a citation. He also questioned how the notice was addressed.

Bentley read the wording of the notice indicating that it was addressed to the resident unless the issue was going to citation. Then they used the utility record for the name for the citation. It was good to send the notice to both the resident and owner in order to get voluntary compliance.

Council Member Gregory asked if there was a system in place so that if there were inconsistencies on how officers interpret the regulations or the Judge felt uncomfortable with the case, those could be corrected.

Bentley stated that staff made a list during the year in order to update the ordinance to meet those needs.

Council Member King expressed a concern that current practices might be too proactive. He questioned lengthening the time of notice and felt there were too many code enforcement officers.

Bentley stated that the notice was changed from 7 to 10 days.

Council Member King stated that he had heard of situations where the property owner did not know he could call in.

Bentley stated that if the notice was mailed and no response was received or abatement had to be done, the issue would go to citation.

Council Member King questioned lengthening the time to go to citation.

Bentley stated that it could not be cited before the 11th day but at times the officers could not get back to the locations until 14 days or more.

Council Member Gregory stated that there might be times when cases might have competing interests. On one hand, there was the desire to give a reasonable time to get the problem fixed but on the other hand, neighbors want it completed as soon as possible. There was a balancing needed on both sides.

Mayor Pro Tem Kamp stated that about 6% of the cases went to citation and asked how many of those went to court.

Bentley stated that about 50% of the citations issued were fixed voluntarily.

Council Member Watts stated that he was not in favor of going back to a complaint driven process. He was in favor of modifying the program and consider giving certain violations a different time frame. He felt there was a difference between owner and tenant violations.

Bentley stated that staff had a list of owner oriented versus tenant oriented violations. There seemed to be more tenant violations than owner violations.

Council Member Watts stated that although he was not in favor of a complaint driven system, he would be agreeable to items that were less of a health and safety issue to be provided more time or have a couple of violations instead of only one violation before going to citation.

Mayor Burroughs felt that it should not be one way or the other but rather a mix of proactive and reactive procedures. Safety related issues should be proactive. Aesthetics were important but were more subjective as to what the standards were that should be enforced. Another example were standards that had been the norm for many, many years and now had to changed such as gravel driveways.

Bentley stated that the driveway issue went into minimum standards. Staff worked with property owner to get those situations completed. It was incumbent on a property owner to work with Code Enforcement to get violations resolved.

Mayor Burroughs stated that he would be supportive of aesthetically related code violations to have an alternate dispute path instead of the next step being a citation. Incorporate some type of intervening step where details of the particular case would be presented. He felt that might be an approach to explore if Council agreed.

Council Member Gregory stated that he would be nervous with some issues such as tall grass and weeds. If there was too long of a process in those cases, they would keep getting taller and taller and keep presenting a problem for the neighborhood. Part of the issue came with the concern people had and he felt most people wanted to be good neighbors.

Mayor Pro Tem Kamp felt that a stop gap step would not be abating the problem but talking about the case and any extenuating circumstances. This would provide another step to go through rather than going to court. It would not lengthen the time in the case but might help it from going to court. She questioned what else could be done so the issue would not go to court.

Mayor Burroughs felt that some issues were subjective and questioned if those should be the object of repeated code violations. He felt there should be a procedure for aesthetic situations.

Council Member Roden stated that if the process was suggested to be outside code enforcement, have an opportunity to talk about a disagreement that is a violation, have Code Enforcement talk with the property owner and it could be resolved.

Bentley stated that property owners should start with Code Enforcement rather than going directly to Council with complaints. If there were extenuating circumstances, they could close the case and dismiss the citation. But Code Enforcement only knew of problems if people called and told them about it.

Mayor Burroughs encouraged staff to have a mechanism for the Code Enforcement officers to identify absurd results and identify them to Council.

Council Member Engelbrecht felt there were several areas to attack at once. One was orientation to the process. He felt the officers were customer friendly. He suggested looking more at communications to the citizens such as publishing photos of before and after situations. Then there was the process of time as the issues worked through the system. Another area was resources. In the past if someone cleaned up property, the City would haul it off at no cost. He felt there would always be some citations issued. If the City did not maintain residential and business districts, then it was letting everyone else down such as the DISD and other entities.

Mayor Pro Tem Kamp stated that she was in favor of a proactive approach but that some adjustments needed to be done. One area to adjust might be the notice itself to make it more reader friendly. The notice could explain that the City was trying to keep the neighborhood beautiful and what the purpose was for the community.

Council Member Roden stated that there were models where code enforcement had taken a neighborhood by neighborhood approach to take in distinct neighborhood characteristics. They then showed neighborhoods how the changes would make the neighborhoods better.

Bentley stated that would be a more comprehensive approach using Keep Denton Beautiful, Code Enforcement and Planning.

Council Member Roden suggested showing neighborhoods specific problems and providing a time line on how to fix those problems. He felt that would be a more beneficial building approach.

Council Member Engelbrecht stated that approach would work great with neighbors who wanted to work but what about those areas where the neighbors did not want to be involved.

Brian Lockley, Director of Planning and Development, stated that staff was working on just such type of a program. The thought was to identify streets with problems and partner with non-profits to get people to assist in correcting those problems.

Mayor Burroughs felt it would be good as long as it was shown as neighborhood betterment and something that the community wanted. The City was here to help the neighborhood and not to be a punishment.

Council Member Gregory stated that he was in favor of proactive approach.

Mayor Burroughs suggested changing the name of the department to Code Compliance instead of Code Enforcement and to not focus on the outcome in terms of volume of cases. He also suggested looking at the number of personnel and perhaps shift some to a neighborhood building program to help coordinate resources. He noted that Council had also recommended looking at the notices for more customer friendly wording and making a department goal to identify codes or ordinances that did not seem to make sense or needed to be looked at for unfair outcomes. Council also suggested better coordination of resources, looking at an additional way to approach pure aesthetic issues and looking at a neighborhood working together program.

2. Receive a report, hold a discussion, and give staff direction regarding the sign ordinance.

Lancine Bentley, Zoning/Code Enforcement Division Manager, presented an overview of some of the issues in the current ordinance. The objective of the review was to give staff direction regarding the sign ordinance. Items for review included off-premise signs, temporary signs, LED, Clarion Associates with scope of work and timeline, and recommendation.

Off-Premise signs – the definition, exemptions and prohibited sign definitions as listed in the Development Code were reviewed. One issue concerning off-premise signs dealt with the DCTA and the possibility of off-premise advertising at their bus stops. The question dealt with whether outside advertising at the DCTA bus stops would be third party signage or governmental signage.

Council Member Watts clarified that this issue dealt with signs advertising businesses with revenue for DCTA.

Bentley stated that was correct.

City Manager Campbell stated as opposed to signs advertising DCTA's own schedules.

Bentley stated that another issue was Frenchy's off-premise signs on his trucks. She showed other examples of off-premise sign issues which included portable billboards and examples of on-premise vehicular signs that were allowed.

Mayor Burroughs asked if it would be a violation to have a truck advertising a business that was parked at a location not owned by them but that had permission to be there.

Bentley stated that would still be a violation according to the definition.

Mayor Burroughs asked if it would be a violation if the space were leased where the truck was parked.

Bentley stated that it did not matter if the property were leased or owned. The principle business had to be there.

Council Member Roden asked how the use of the parking lot was a factor as in some of the examples the trucks were not parked in a designated parking space.

Bentley stated that Code Enforcement officers have gone to businesses and asked them to park in a parking spot rather than across parking spaces. There were also cases where vehicles became inoperable and had dilapidated signs. The North Texas State Fairgrounds was the site of another issue with their signage and whether it would be a third party signage and be designated as off-premise signs.

Options for off-premise signs were to (1) take no action, (2) modify the current ordinance to allow for off-premise signage with limitations, or (3) modify the current ordinance to allow off-premises signage with no limitations.

Temporary signs – the definitions for temporary signs were reviewed. Bentley pointed out that there was no definition for a single event and did not know what “temporary in nature” meant. There was nothing in the ordinance indicating how far in advance of an event a sign could be placed. The ordinance did indicate that a temporary sign would have to be removed within 10 days after an event which was the only time frame referenced in the ordinance. Examples of off-premise temporary signs were reviewed. It was noted that off-premise signs were regulated with one off-premise sign per any one premise but temporary signs were exempt from regulation.

LED signs – LED signs were permitted but were over-regulated. The goal was to recommend a change in the ordinance to allow full use of LED signs.

Mayor Pro Tem Kamp asked if there was an exception for non-profit signage.

Council Member King felt that if a regulation worked for a governmental entity, it should be able to work for private entity.

Mayor Burroughs suggested addressing the issue of “donated by” for signage to make provisions for that type of situation. He felt that some type of third party signage was expected at certain types of places such as ball fields and other event facilities. However, the current ordinance did not allow for that. Then there was the area of being neighborhood sensitive to signage. He suggested the possibility of an extended permit done by a specific use permit process to allow neighborhood input and a ten- year ability for outdoor advertising.

Brian Lockley, Director of Planning and Development, stated that staff would suggest a policy direction in the comprehensive sign policy and with direction to allow those types of signs until the sign issues were resolved.

City Attorney Burgess stated that currently athletic fields were allowed to have advertising on the field side of the fences and the Fairgrounds might be included as an athletic field.

Mayor Burroughs suggested a temporary fix to allow for those types of signs but if that were not possible, then include them in the sign study.

Clarion Associates – Denton Development Code Review and Revisions - Lockley reviewed the provisions of the Clarion contract for a comprehensive review of the Development Code. The project schedule included code assessment, code amendments, code reorganization, DTIP/Infill development and re-development, and development review process. Additional tasks would include training and education and signage/off-premise signs review and recommendations.

Recommendation – prior to receiving Clarion Associates' review of the signs and advertising devices ordinance, staff was recommending that some modification be made in the interim to provide clear direction to staff and the citizenry for some sign types, such as temporary, real estate, and LED signs.

Mayor Burroughs felt that signs should not have a higher status than the infill/redevelopment process as the sign issues were not urgent.

Council Member King agreed but felt that there were easy fixes for some of the issues in the interim to make them work.

Mayor Pro Tem Kamp stated that she did not want to wait a long time for any changes to be made.

Mayor Burroughs noted that there was the possibility to go into Closed Session to discuss this issue if Council wanted. However, he did not see the need to do so as Council was discussing the limited possibility of interim solutions.

3. Receive a report, hold a discussion, and give staff direction regarding future facility planning and space needs.

Jon Fortune, Assistant City Manager, stated that the purpose of the briefing was to provide a general overview of the main city public facilities, review current challenges and space needs, and seek Council direction and feedback on short-term and long-term facility planning needs.

Key issues – key issues to consider included (1) continued population growth projected for the city, (2) demand for public meeting space strained the existing capacity of main public facilities, (3) limited and inefficient office space, (4) decentralized service delivery, (5) increased maintenance cost with aging facilities, and (6) the current Facilities Master Plan was over 10 years old.

City Hall – a facility overview was presented. Challenges for the building were the high cost to renovate due to architectural integrity, space limitations, public meeting space constraints, parking limitations, flood plain restrictions, community concerns regarding the history of the structure, and ADA compliant but not ADA friendly.

Council Member Gregory asked if the original design of the building was to accommodate two stories.

Fortune stated that he had heard that and had been told of an artist rendition of a three story structure. However, that was not found in the O'Neill Ford specifications. While the structure might accommodate it, the parking would still be limited.

City Hall East – a facility overview was presented. Challenges for this building included parking limitations, the Railroad parking lot needed reconstruction, meaningful expansion only for the Police Department and Municipal Court, ADA compliant but not ADA friendly, public meeting space constraints, mobility in terms of traffic congestion for a one-stop shop, and Railroad activity could separate the facility from other parts of the city.

City Hall West – a facility overview was presented. Challenges of City Hall West included heating and cooling issues due to the split levels, city designated historic building, parking limitations, ADA compliant but not ADA friendly, and inefficient use of space due to the split level layout.

Council Member Gregory stated that he had asked staff to do research on what the impact a historical designation would have on the building for city use and any modifications and asked when Council would be getting that information.

Fortune stated that the city had designated the building as a historical structure. It appeared that if a state designation were added the same type of standards would apply but it would be an additional body to go through for any changes. Council might want to consider a national historic landmark designation as it would be easier to change if needed but still have the designation.

Service Center – a facility overview was presented. Challenges included poor accessibility to the general public, parking limitations for the general public, incompatible zoning for optimal expansion, existing operations had additional space needs, the Railroad activity could separate the facility from other parts of the city, and expansion could require realignment of surrounding streets.

Key discussion points – (1) Did existing facilities provide adequate space and opportunity to facilitate future growth in the community, (2) was the City providing the best service possible by utilizing decentralized facilities, (3) how long were the structures able to sustain municipal operations in their current condition and (4) was it necessary to conduct a more detailed space needs assessment based on the current usage and demand.

Recommendations – Perform a space needs study to evaluate main city hall structures, identify options and strategies for short-term and long-term space needs, evaluate City Hall West and the old Fire Central for long-term status, and develop a property acquisition policy. Another consideration included the consolidation of core city services through a signature city hall and justice center.

Council Member Watts felt that given the status of the current buildings, there would be a problem with expansion. He felt it would be worth looking at a study that identified the

buildings. The challenge with a consolidated services building would be where to put it. Another consideration would be the price of redoing buildings. A careful analysis would be necessary of the options as space was under short supply and maintenance costs could be very costly in the older buildings.

Fortune agreed that would be a good starting place.

Mayor Pro Tem Kamp agreed that a study was necessary. She indicated that there had been some interest for a private purchase of City Hall West to redo the building. She questioned what the study would look like, who would do it, the cost and how long it would take.

Fortune stated that at this point those answers were not known. Staff was needing direction from Council to proceed with such a study.

Council Member King stated that other institutions had moved towards virtual employees who would work from home to help reduce the stress on the number of employees in buildings.

Fortune stated that currently the City had telecommuting with limited use.

Council Member King stated that thinking long term, that might be feasible.

Council Member Roden stated that in 20 years people might not be shuffling paperwork like they were doing now and that should also be considered in terms of space. Another topic was the issuance of bonds which needed to be part of the conversation. He questioned when Council might have that financial conversation.

Fortune stated that once staff moved forward with the study there would be a basis for considering the bond needs for the future.

Council Member Engelbrecht stated that there was information in the backup materials regarding other cities that had a signature city hall. Part of the process needed to consider the fact that Denton did not have such a facility. He felt comfortable in the current City Hall as opposed to a cold impersonal facility.

Mayor Burroughs felt that City Hall West was a forced use and it had gone past its time. He felt the need was to look at the relocation of which was the most urgent of the issues. He liked the uniqueness of City Hall due to the historic nature and how it reflected Denton. He questioned if there was a realistic possibility of expanding the building to use the current Council Chambers as a Work Session Room and add on somewhere a new Council Chamber. He would have a hard time changing the major use of the current City Hall but could see expanding the current facility or using the County facility across the street. He felt the City should move out of City Hall West.

Council Member Gregory questioned if the City moved out of City Hall West, did it have enough historical value to preserve it.

Fortune stated that staff would move ahead with a study for spacing options.

4. Receive a briefing on the City Ethics Policy and updates on State and Federal statutes.

City Attorney Burgess stated that the Ethics Committee met in October to consider whether the policy was current and whether any changes were warranted. The Committee also considered whether it would be appropriate to institute an ethics training session at the Council retreat. In December the Council Ethics Committee reported to Council that the policy was still current but that ethics training would be appropriate at the annual retreat to insure all members remained familiar with the ethics rules.

The current policy stated that Council would be ethical; act with integrity; have moral courage and be truthful; service oriented and respectful to all; fiscally responsible; communicative; cooperative; progressive and receptive to new ideas; and timely in paying monies owed the City. The controlling statutes for the policy included the Open Meetings Act, the Public Information Act, Conflicts of Interest, Competitive Bidding and Procurement, nepotism, bribery, coercion of a public servant or voter, and improper influence.

Mayor Burroughs asked what was the primary weakness of current policy.

Burgess stated that the current policy was good and had a procedure for anyone to make a complaint regarding ethics complaints. There were no major weaknesses.

Council Member Gregory stated that the Committee would meet at least once a year to review the policy.

Mayor Burroughs asked about ways to have citizens know about the ethics policy.

Burgess stated that the Human Resources Department was very open to listen to complaints.

Council Member Roden stated that there was a general suspicion of politicians. He suggested posting it to the website under the Council site.

Council Member Gregory suggested also posting directions on procedures if someone had a concern.

Council discussed whether the policy would be more powerful for it to be an ordinance rather than a resolution.

Burgess stated that a resolution was a declaration of policy. An ordinance would have the impact of law. If Council wanted the policy to be more stringent than state law it could be amended. It was the choice of Council whether to be an ordinance or a resolution.

Mayor Pro Tem Kamp stated that when the policy was drafted as a resolution, there was a citizens committee that worked on it and the advice of the legal staff at that time was to do a resolution.

Council Member Roden stated that some of the values in the resolution would be hard to put in an ordinance and to enforce.

5. Receive a report, hold a discussion, and give staff direction regarding future capital improvement bond programs.

Bryan Langley, Assistant City Manager, stated that the overview and purpose of the discussion would include (1) presenting key elements of planned bond issuances in 2012-13 and beyond, (2) discussing a proposed process to develop future voter approved bond programs, (3) reviewing potential issues with the Public Art policy, and (4) presenting future bond program options.

2012-13 Bond Program Highlights - in 2013 a total of approximately \$87 million in Certificates of Obligation (COs) and General Obligation bonds (GOs) were planned to be issued. Existing debt of approximately \$8 million may also be refunded (refinanced) to reduce interest costs. In addition, a \$15 million bond program was under consideration for the renovation of three fire stations. This was a proposed election in May 2013 and anticipated a tax rate increase of up to 1.8 cents. The COs would be issued in lieu of Utility System Revenue Bonds for water, wastewater, and electric system projects. The COs were recommended due to lower interest rate costs. While COs were backed by the full faith and credit of the City, debt service was provided by self-supporting revenues where appropriate.

In FY 2014-15 approximately \$9 million in COs were expected to be sold for the City's matching requirement associated with the Bonnie Brae and Mayhill projects. This was previously planned for FY 2013-14 and provided some flexibility for debt issuance next fiscal year. Each year, approximately \$4 million in COs was also expected to be sold for vehicle replacements and facility improvements. A potential debt issuance associated with the proposed Conference Center was also under consideration. COs were contemplated for this debt issuance as well, but would be supported by revenues from the project.

Council Member Watts stated that he would like to take another look at the vehicle replacement policy in terms of when the vehicles were replaced, at what age, at what mileage, etc.

Langley indicated that he would get Council that information but some of the issues looked at included mileage, replacement cost and cost of vehicle.

Development of Next Voter Approved Bond Program - on January 7th Council discussed the possibility of calling a city-wide bond election in November 2013 instead of 2014. A November 2013 bond election would need to be called in August of this year. A Bond Advisory Committee would need to be formed in March or April of this year. To allow the Committee to properly vet any proposals, staff would need to present recommendations almost immediately.

As a result, staff did not recommend that a multi-project bond program be considered by the voters in November 2013. Staff needed an opportunity to evaluate whether a bond program over a 6-8 year period was appropriate.

Mayor Burroughs noted that was the time period for the bond programs anyway due to when the bonds were issued.

Council Member Engelbrecht asked about the best way to do this in terms of the public.

Council Member Gregory stated that not as much would need to be borrowed which could result in a tax increase.

Langley stated that if it was to be a seven year program, the City would have to stick with that figure and not let it extend beyond that.

Public Art Policy – in 2006 Council approved a public art policy which stated that the City would include a base of 2% for the arts from all future Capital Improvement Programs, with the option and flexibility to increase that to a 4% maximum based on needs and economic conditions. After much discussion, the Citizens Bond Advisory Committee and Council recommended up to \$400,000 in public art improvements for the 2012 bond program. During a July 2012 Hotel Occupancy Tax Committee meeting, staff was asked to initiate a discussion with the Council regarding possible amendments to the Public Art Policy. The Committee had a concern regarding whether all debt issuances (COs, GOs Revenue Bonds, etc.) were subject to the policy.

As written, the policy did not provide Council with any flexibility to limit, increase or reduce public art funding based on the size of future bond programs. An option to the current policy may be the creation of a separate fund for public art projects. The fund would maintain a minimum balance of \$500,000 but not more than \$1 million for eligible projects. The source of the funds would be voter approved bonds or any other source deemed appropriate by the Council. This would provide more immediate ability to fund worthy projects and allowed funds to be replenished periodically based on need.

Mayor Burroughs felt that nothing other than GOs were considered in the policy. COs were not applicable.

Mayor Pro Tem Kamp stated that it was never the intention to have anything other than GOs.

Mayor Burroughs suggested directing staff to clarify the resolution to just be GOs.

Council Member Engelbrecht did not think the CO issue was addressed at the time of the policy. Discussion was for GOs as that was the funding mechanism.

Mayor Burroughs stated that he had no interest in using the policy for COs and asked what the rest of Council felt.

Council Member Roden agreed with not using COs. He questioned a legal distinction for a single issuance.

City Manager Campbell stated that even if just GOs were considered, the language stated capital improvement program.

Mayor Burroughs felt that the Council's direction was to clarify the intent to eliminate budget constraints and only use the policy for GOs. He felt the consensus of Council was to only apply the policy to GOs, then move to single purpose GOs.

Council Member Watts stated he wanted this methodology of funding through the public voting mechanism or create some other funding mechanism without the controversy of the single issue election. The Public Art Committee would like a consistent level of funding with direction. There was a work session scheduled in February on this item and felt it would be good to hear from the Public Art Committee on feedback on the policy. The street bond program was the first issuance with questions concerning a single proposition ballot or multi-proposition ballot. The Committee was looking for flexibility and consistency in funding.

Council Member Gregory suggested that between this meeting and the February meeting, to look at HOT funds for consistent funding.

Council Member Watts stated that if HOT funds were used, they would have to be spent within a year.

Council Member Roden felt that there was a need for a master plan on what was being suggested to know how much to fund.

Mayor Pro Tem Kamp stated that the policy came about due to the fact there was no funding for public art. However, she felt that the policy needed to be reviewed.

Mayor Burroughs suggested that the direction was to hone the current policy as this Council interpreted it as GOs only with a sub-question as to whether single purpose GOs would apply.

Council Member Watts stated that another issue of importance he discovered in his meeting with the Public Art Committee was a master plan study. He suggested bringing back the cost of such a study and a scope of study.

Council Member Engelbrecht stated that he would like more information on the inventory process the Committee was going to conduct.

Langley continued that the Public Art Committee currently served in an advisory capacity to the Parks, Recreation, and Beautification Board. Since potential public art projects may be at the Airport, Conference Center and other facilities, there was a question if this committee should advise the Council directly. Based on Council direction, staff would bring back more detailed recommendations on the public art policy in a February work session.

Consensus of Council was to have the Committee report directly to Council.

Bond program options - staff was proposing a bond election in May 2013 to renovate three fire stations. If this debt was issued in 2013 or 2014, a tax rate increase would likely be necessary. As a result of discussions with Council on January 7th, staff had prepared options for consideration.

Mayor Burroughs did not feel there should be a May 2013 election. The next best choice would be to wrap it into the next bond election so there would not be a tax increase. This did not rise to the level of having a major tax increase by doing it in May.

Langley stated that the four options for Council consideration were:

Option 1 – hold an election in May or November 2013 for fire station improvements. This included an anticipated tax rate increase of up to 1.8 cents. Also proceed with a separate 2014-15 bond program.

Option 2 – issue \$1 million in COs in 2013 for fire station land acquisition and design services; \$3 million in COs for 2014 for construction of the first station. The second and the third station renovations would be considered by the voters as part of the 2014-15 bond program. This required no tax rate increase.

Option 3 – hold a multi-purpose bond program election in November 2013. Include fire stations and other recommended projects. This would have an anticipated tax rate increase.

Option 4 – do not issue additional debt at this time, and include station renovations in the next voter approved bond program in 2014-15. Issue a minimal amount of COs for required design services.

Mayor Burroughs stated that he liked Option 2 as it was the most creative.

Council Member Gregory asked if staff had received feedback from the DISD regarding their schedule of upcoming bond elections. He felt it was important to coordinate those elections to insure success. With Option 2 he questioned if there would be questions that one station would be done with COs but not all of the stations done with COs.

Langley stated that Council had the discretion as to whether or not to bring that to the voters.

Council Member King stated that he liked Option 2. The stations were needed but he liked the idea of no tax increase.

Council Member Roden asked if the no tax rate increase applied to the 2014 bond program.

Langley replied yes.

City Manager Campbell stated that the second and third station renovations would have an impact on the 2014-15 bond programs. The funding would be carved out from the part of the funds from other projects.

Council Member Watts stated that he liked Option 2. All of the station needs were critical but he struggled with the 1.8 cent tax increase. Voters would decide on whether or not to have tax increase.

Council Member Roden stated that waiting until 2014-15 the citizens committee could say the fire stations would not be a critical need.

Mayor Burroughs stated that the Citizens Bond Committee was just a recommending committee. Council set the specific projects to be considered.

Council Member Roden stated that this Council would be setting that priority now but it might be a totally different Council in the future with a different direction.

Consensus of the Council was to proceed with Option 2.

6. Receive a report, hold a discussion, and give staff direction regarding a possible citizen election to allow for the sale of gas and the marketing plans associated with the approval of gas sales as it relates to the Combined Heat & Power Economic Development District (CHP-EDD).

City Attorney Burgess stated that this discussion would center on whether Council wanted to move forward with a potential election regarding the sale of gas and the combined heat and power economic development district. She reviewed the provisions of the Charter regarding utilities. The identified problem was that the Airport Industrial Park was gas starved. The Economic Development Department indicated that the City lost several prospects because gas was not readily available to this area.

SB 1230 provided support of Denton's combined heat and power project, authorized the City to sell gas in a limited area for industrial purposes, and required the City to establish a CHP district where the City could then sell gas within that district.

Council Member Roden asked if the City could legally sell gas without an election.

Burgess stated only for the CHP project and only in that designated area. She continued that after the passage of SB 1230 Council enacted an ordinance that established a CHP-EDD and designated the boundaries. The city could sell gas to industrial customers within the CHP-EDD boundaries.

Possible election – there were two options for an election. One was a Charter amendment calling for voters to delete the provision requiring an election for the City to own a utility. The second was an election under the Charter calling for voters to allow the City to operate a utility per Charter requirements.

A question to consider was where would gas be sold; whether in the CH-EDD or another limited area of the city or city wide. Another question would be the purpose of the gas sales whether non-residential or other.

Council Member Watts noted that when Atmos gave a blessing for the gas sales it was because the sales would be limited to that designated area. Also, part of the reason the city was able to get the legislation was that Atmos supported that it would be only sold in a limited area.

Burgess stated that was correct.

City Manager Campbell stated that if there was an election under the Charter, the voters could give the City authority to sell beyond that.

Council Member Watts asked if Council could give direction for just the limited area.

City Manager Campbell stated that could be affected as to whether or not the plant was in the area needed.

Council Member Engelbrecht stated that part of the boundary would move because it would be outside city limits

Burgess stated that if the issue went to the voters, it would not be tied to the CHP project.

Council Member Gregory stated that he was completely satisfied that selling chilled water was not a utility by all of the definitions including that in the Charter.

Burgess stated that staff had done research and also consulted outside counsel and it was not an issue.

Council Member Engelbrecht asked if the City would get push back from Atmos with the new area.

Phil Williams, General Manager-DME, stated that the lines were moved in order to make it easier for voters to decide.

Mayor Burroughs stated that if the lines were not that much different there might not be an objection from Atmos. But if it was a lot different and Atmos objected, that might be a voter consideration.

Council Member Engelbrecht stated that if the boundaries were going to be changed, Atmos needed to know.

Burgess stated that the recommendation was to sell for non-residential purposes so as to include manufacturing and commercial operations.

Council Member Gregory stated that his first choice was to amend the Charter or hold an election to authorize the City to sell the gas. In either of those cases, the issue would most likely end up during candidate forums. He questioned if the current council members were restricted in making comments on the issue.

Burgess stated that the Council could give factual information. There were restrictions in the Ethics Code and Election Code related to limitations on the use of monies for political advertising. The limitation was the use of city funds including a cell phone or piece of paper for the promotion of the proposition.

Council Member Gregory stated that if a current council member was at a candidate forum and was asked a question if he/she supported this ballot whether by a change in the Charter or an election proposition, what would be the legal way to answer and the reasons why.

Burgess stated that the difficulty would be if a staff member was present, whether held on city property and if any tie at all to the city. She would proceed with a cautionary note on that restriction.

Mayor Burroughs presented a concept for the ballot proposition. Wording could be that if a commercial entity failed to establish adequate service in the CHP-EDD, can the city of Denton

provide for sale and distribution of natural gas within the CHP-EDD only. This would not compete with anyone.

Burgess stated that would be under the terms of the Charter and not a Charter amendment.

Council Member Gregory agreed with having an election and not a Charter election. He felt that the Mayor's proposed language opened the possibility that if the condition was met, the City put in a pipeline and was providing gas in the area that if another entity put in gas, what would happen. He felt the wording would have to be changed.

Mayor Burroughs stated that the proposed wording was for initiation of service only. Once initiated, the condition would change. This wording was for initiation of service only.

Burgess stated that her office would work on crafting the ballot proposition. There was merit to not having language for the limitation.

Mayor Burroughs stated that he would like to have a condition in the ballot language to make it clear that if adequate service had already been established or was underway, that condition would be referenced. It was not the intent of the City to compete with another entity.

Council Member Watts stated that he had a concern with the definition. Council had just passed a TIRZ in the area and in some discussion with the landowners, Atmos could build pipeline to service a certain amount of gas needs. Based on the Mayor's condition, the City would be precluded from selling gas to other people. Gas could be sold to the CHP but not to other entities.

Council Member Gregory stated that one could argue that an unintended consequence would be that there was adequate service that everyone there was getting the gas needed. He suggested the possibility of having a preamble above the ordinance with that type of language.

Burgess stated that language could be added to the ordinance but not on the ballot proposition. Staff would examine the proposal and bring it back to Council. If Council wanted a May election, it would have to be called on February 12th.

Mayor Burroughs stated that the election could be either May or November and asked if there was a difference for the dates.

Burgess stated that there was not a big difference.

Williams stated that the difference would be talking with potential customers.

Mayor Pro Tem Kamp stated that the City had a long history of turning down people in the area. Atmos and CoServ said no to the project and no to gas in the area. This was the solution the City devised.

Council Member Engelbrecht stated that he had no problem with May but given the issue with limitation on Council discussion, it would be important to get talking points out to provide for information such as how it would be paid for and what was out there now.

Council Member Roden stated that this was economic development and he was comfortable putting it on the ballot.

Council Member Gregory stated that he was comfortable doing a May election. He requested facts to make reference with in discussions.

1. Closed Meeting:

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

1. Receive a report and hold a discussion with the city's attorneys regarding the City of Denton sign ordinance.

Council did not meet in Closed Session.

With no further business, the meeting was adjourned at 3:55 p.m.

MARK A. BURROUGHS
MAYOR
CITY OF DENTON, TEXAS

JENNIFER WALTERS
CITY SECRETARY
CITY OF DENTON, TEXAS