

# CITY OF DENTON CITY COUNCIL MINUTES

June 16, 2015

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, June 16, 2015 at 1:00 p.m. in the Council Work Session Room at City Hall.

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

ABSENT: None.

## 1. Citizen Comments on Consent Agenda Items

There were no citizen comments on Consent Agenda Items.

## 2. Requests for clarification of agenda items listed on the agenda for June 16, 2015.

Council Member Johnson requested to have Consent Agenda Items K and L pulled for separate consideration. He would like to know what had been spent to date on creating the gas well ordinance and what had been spent on the lawsuit.

Council Member Hawkins requested an explanation for Consent Agenda Item A.

Chuck Springer, Director of Finance, stated that the City had to approve the financing for this entity as there was a facility located here in Denton. The City was not under obligation in terms of financial responsibility but that federal tax laws required the resolution.

Council Member Hawkins stated that Consent Agenda Item F already had several change orders and requested an explanation in terms of a strategy to change orders.

Frank Payne, City Engineer, stated that typically a change order was done only if there was a change in field condition or a change in the job that had not been settled at the time of the bid. In this case, this was an end of job change order justifying all the items that went over or under the original bid. It was a cleanup at the end of the job.

Council Member Briggs asked about Consent Agenda Item D and questioned if these consulting contracts were activities that the City did not have the man power to perform.

Jon Fortune, Assistant City Manager, stated that the contracts were for the future and a new facility planning for the expansion.

## 3. Work Session Reports

Item 3B was considered.

B. ID 15-433 Receive a report, hold a discussion, and provide staff direction concerning proposed revisions to the City of Denton strategic plan.

Bryan Langley, Assistant City Manager, stated that the strategic plan was the foundation of the budget. He reviewed the Strategic Plan history which was started a number of years ago. He noted that for 2015-16 staff did not recommend any changes to the Strategic Plan. The purpose of the presentation was to solicit Council feedback on possible Strategic Plan changes and review specific action items to track the status of the Strategic Plan.

The five key focus areas consisted of organizational excellence, public infrastructure, economic development, safe, livable and family-friendly community and sustainable and environmental stewardship. Goals of the Strategic Plan were (1) provide a high level overview of key policy goals, (2) ensure policy and administrative decision-making based on a proactive approach, (3) create stability for the community and organization, (4) incorporate citizen feedback and communicate desired service level to citizens and employees, (5) link organizational direction to the City's established vision, mission and values. The Action Steps to implement the Plan were reviewed.

The Key Action Steps for 2015 were presented along with the current status of the action items.

Council Member Roden stated that the key performance indicators had specific metrics and questioned if in-house there was more specific information for those.

Langley stated that individual departments had more specifics in order to track the performance. He continued with the proposed 2015-16 Action Steps and presented selected key outcomes by Key Focus Area.

Next steps involved submitting a draft of the revised Strategic Plan to Council in late July as a part of the budget process; discuss the proposed budget and strategic plan in August/September and consider adoption of a new Strategic Plan for 2015-16 in September.

Council Member Hawkins questioned who on a staff level made sure the Plan was moving forward through the steps.

Lockley stated that staff discussed the Plan on a quarterly basis to make sure it was on track.

Council Member Wazny suggested including businesses in the parking discussion. There was a need for a plan and move forward with streets including sidewalks. In terms of the development review process, there was not a lot of money on this item but there were cities around that had better systems and she suggested using some of that same information. She felt that the fire station and the medic unit at Station 4 were a top priority. She also wanted to look at the cost of a bus bench program that the citizens had brought forward for several years. She wanted the Strategic Plan to focus on citizens.

Council Member Briggs noted that there was no mention of gas wells or maintenance of gas wells.

Langley stated that those items could be added but were currently included in the section on air quality.

Langley stated that the City would still have to go through the competitive process for dollars. They were looking at a capacity of about \$3 million including the fire station items. There were about \$11 million of requests.

Council Member Roden stated that at some point in the process staff would be asking Council to prioritize the items. He questioned how to add social issues to the Strategic Plan so as to be a part of the priorities.

Langley stated that a separate goal under KFA 4 could be added.

Council Member Johnson stated that last year when Council got down to data in the budget, it was determined that it was not possible to do what was expected. If there were items on the Strategic Plan that required additional time for people already maxed out, he suggested considering that in the process. He would rather have ten things that could be done rather than twenty four that were just trying to make everyone happy.

City Manager Campbell stated that it was important get the issues on the table and then start working on them. This process would involve priority processing.

Mayor Watts stated that he would like a discussion on what exactly the core services were that the City needed to provide to citizens. There never was enough money to do everything so he would like to know the core services to spend it on.

Mayor Pro Tem Gregory felt that Council had that conversation every year when doing the budget.

Mayor Watts stated that he had not heard that "x" was a top priority. There were limited resources compared to the needs and suggested this budget cycle related expenses to core needs.

Council Member Wazny suggesting starting with citizens to see what their priorities were and present them when starting the budget cycle.

Council Member Roden felt it would be helpful to be reminded of these and how they refer to a strategic goal such as in the backup materials or agenda items.

- A. ID 15-490 Receive a report, hold a discussion and give staff direction regarding a proposed convention center and hotel project by O'Reilly Hotel Partners Denton (OHPD) to be located in the Rayzor Ranch development project, including a discussion and possible recommendation on economic incentives.

Jon Fortune, Assistant City Manager, stated that the City had recently been approached by O'Reilly Hotel Partners Denton (OHPD) regarding a project at Rayzor Ranch. He reviewed the provisions of the hotel which would be located at Rayzor Ranch Town Center. This would be a development project with OHPD owning the hotel and convention center. The City was not being asked to issue debt for construction. OHPD was requesting a performance based economic incentive in terms of a rebate of the hotel occupancy tax and ad valorem and sales taxes generated by the project. They were also requesting a rebate on construction sales taxes. A Tax

Increment Reinvestment Zone was not necessary with OHPD requesting an incentive as it could be handled via a Chapter 380 agreement. The City would have a management role in the convention center via the CVB which would require amending RED Development's 380 agreement.

Council Member Roden asked about a requirement that would allow HOT funds to be used.

Fortune stated that in order to use the fund, the City would either have to own or manage the convention center in whole or in part.

Council Member Roden asked how the funds could be used.

Fortune stated that they could be used for a broader purpose than just advertising, etc.

Council Member Roden asked if there was space included for UNT.

Fortune stated not at this time.

Council Member Briggs asked about performance metrics and the incentives and how they would tie into the proposal.

Fortune stated that those would have to be established if Council wanted to go in that direction as they had not been done at this point in time.

Council Member Hawkins stated that the prior proposal had a complex timeline and this version was not that way. The City would not be responsible except for the performance based incentives.

Fortune stated that it would be similar to any other type of major economic development coming to the City.

Mayor Pro Tem Gregory asked about the rebate for construction sales tax and if the rebate would be for items purchased outside the City.

Fortune stated that the items would have to be identified but that the rebate would be equivalent to what would be paid in sales tax and not necessarily where the items were purchased.

Council Member Wazny stated that she would like to see a sales tax evaluation before moving forward. She would also need to see what "help manage" involved such as who paid for marketing and if that was the City how much, etc. She questioned if there would be a liability having the City manage the events and if any thoughts had been made of having the CVB center in this facility instead of on the Square.

Council Member Johnson stated that this would be a private project and City would only be involved in a performance based reimbursement. The risk to the City was minimal to zero and felt it was a good project.

Mayor Pro Tem Gregory stated that he would like to see the total possible impact on the HOT funds.

Tim O'Reilly, O'Reilly Hotel Partners Denton, reviewed the essence of the project and that development in the area was a positive venture. This type of project necessitated a private-public partnership and partnering with the CVB made sense to help market the project. In terms of UNT, they had continued some discussions with them for a partnership and would see a good working relationship with them. An Embassy Suites Hotel worked in conjunction with the convention center as it was a Hilton property and they reached nationally and internationally. The economic benefits would pay some of the debt for the convention center.

Council Member Wazny asked if OHPD would pay for infrastructure or would RED.

O'Reilly stated that they would pay for infrastructure on their site but RED would pay for the other site improvements.

Council Member Hawkins asked if the economic incentives would be tied to the convention center or the hotel or be treated as one project.

O'Reilly stated that it was seen as one project and not two separate facilities. He hoped to have the incentives cover the majority of the debt service on the facility itself.

Council discussed with O'Reilly the size of the facilities, the total project costs, equity and debt factors and how much it appeared would be financed.

Fortune stated that based on this conversation, staff would move forward to get more specific details.

- C. ID 15-451 Receive a report, hold a discussion and give staff direction regarding a potential Economic Development Chapter 380 Grant Agreement for Project Ranger One (Denton-Tarrant PRW, LLC).

Aimee Bissett, Director of Economic Development, stated that this project was a multi-state distribution center which would be built in the Westpark Reinvestment zone. The project involved 800,000 square feet with \$130 million capital investment, and 165 new jobs with an annual wage of \$44,000. Phase 1 of the project would involve the infrastructure improvements which would benefit more than just this project. A target closing date was mid-June with preliminary and final plats under review. In order to facilitate this project, an incentive agreement needed to be approved prior to closing.

The Economic Development Partnership Board, the TIRZ 2 Board, and the City Council have, over a period of several months, negotiated a potential economic development grant agreement with Project Ranger One, which would accomplish two objectives: (1) full reimbursement of the cost of Phase 1 improvements using a combination of funding mechanisms; and (2) after full reimbursement, an economic development incentive of 60% of the City's ad valorem tax revenue for a period of four years following full reimbursement of Phase 1 improvements.

The first term of the grant agreement would end when full reimbursement had occurred, and included the following forms of reimbursement:

- (1) Up to \$1,000,000 in reimbursement for water lines, utilizing the City's Water Development Plan Line Fund, pursuant to the City's Infrastructure Financing Policy adopted by Resolution 91-008
- (2) Up to \$865,000 in reimbursement for the sewer lines, utilizing the City's Wastewater Development Plan Line Fund, pursuant to the City's Infrastructure Financing Policy,
- (3) 100% of the locally collected Sales and Use Tax for construction materials, furniture, fixtures, and equipment for the construction of the project,
- (4) 100% of the tax increment collected in the TIRZ 2 Fund associated directly with the Ranger One Project, until full reimbursement occurs. This includes the City and County's 40% contribution to the TIRZ 2 Fund annually.
- (5) The City's remaining 60% of ad valorem revenue, until full reimbursement occurs.

It was anticipated that full reimbursement would occur in approximately four years and would be an approximate amount of \$6.5 million. The first year after full reimbursement, the second term of the grant agreement would commence, and would include a 60% rebate of the City's ad valorem revenue for a period of four years, for an estimated total incentive of \$1.7 million.

Additionally, as a result of this proposed agreement, the Westray Reimbursement Agreement would be amended to exclude Phase 1 Improvements and to exclude the tax increment generated by Project Ranger One. This amendment was scheduled for the Council regular agenda at this meeting.

Council Member Hawkins asked about the TIRZ subfunds.

Bissett stated that the money in the TIRZ would remain.

Council Member Wazny asked about the total number on the infrastructure west of I35.

Bissett stated that the infrastructure itself was about \$126 million.

Mayor Watts felt that the sales tax rebate was similar to the proposal for the convention center.

Bissett stated that it was the same concept.

- D. ID 15-471 Receive a report; hold a discussion, and give staff direction regarding the preliminary FY 2015-16 Proposed Budget, Capital Improvement Program, and Five Year Financial Forecast.

Chuck Springer, Director of Finance, presented a budgetary overview and preliminary look at the upcoming budget. The General Fund involved neighborhood services, public safety, transportation, and administrative and community services. He reviewed the budgetary dates from June to September.

Council Member Roden noted that by the time Council received the budget it was August 6th which did not leave a lot of time to provide direction.

Mayor Watts questioned if Council Member Roden was asking to move the August 6th date sooner.

Council Member Roden replied move the date or give more information sooner such as supplemental requests so Council would have more time to address them.

City Manager Campbell stated that the process was very tight and it would be hard to move the August 6<sup>th</sup> meeting up but staff could send preliminary data such as supplemental packages as long as Council understood it was not a recommendation at that point in time.

Mayor Watts stated that he did not want to have different budgets due to different kinds of valuations.

City Manager Campbell stated that if the supplemental packages were looked at alone, it would be \$11 million but a final recommendation might only be \$2 million. His obligation was to give as clear an estimate on what the revenue would be and what could be funded with that amount. He was not inclined to base a budget on 4% if it was going to be a 6% growth.

Mayor Watts felt that took away some of Council's direction on the budget.

Council Member Roden stated that he would like to have options to prioritize rather than having to cut when receiving the budget for other programs.

City Manager Campbell stated that several years ago a budget was presented that assumed more revenue than what was needed but Council had a hard time deciding what additional programs to include. A bigger problem was the array of projects which were not funded and which one Council wanted to add into the budget.

Council Member Johnson stated that last year he was frustrated at having to take away from one department and give to another. He would like to have a base budget with reoccurring revenue.

Council Member Briggs felt that it was important to know what the citizens wanted included in the budget and suggested a survey with citizens for a wish list to bring to the table to consider.

Mayor Watts stated that the Council provided that information before the election but new members could provide it to the City Manager.

Budgetary themes consisted of (1) maintain competitive compensation plan, (2) continue street maintenance expansion, (3) expand EMS response capacity in southwest Denton, (4) utility infrastructure - replacement and expansion, (5) manage TMPA debt requirements in electric utility, (6) maintain conservative budgetary practices as outlined in rating agency upgrade and (7) funding for strategic plan initiatives/action steps.

Assumptions for General Fund Projections included assessed value increase, debt service portion of tax rate, maintenance and operation portion of tax rate, sales tax and franchise fees. The compensation and benefits assumptions and preliminary General Fund projections were presented.

Council discussed how to present the budget in terms of basic expenditures such as salaries, what would be included in the Strategic Plan, and how to see the numbers earlier in order to assist with determinations of supplemental packages.

Springer continued with Fund Balance increases, projections without Economic Development agreements expiring; and the process of budget development in the General Fund. He listed budget transparency items that were helpful to citizens to know about the city's budget process. Figures on other Metroplex communities in terms of General Fund Sales Tax per capita for FY 2014 were presented along with assessed values per capita for FY 2014 and figures in the Street Improvement fund.

Council discussed the street improvement fund, having a review of the OCI rating and the philosophy of the rating.

Street Maintenance Funding – it was noted that funding was underway with all growth in franchise fee revenues dedicated to street maintenance funding, general obligation bond funding and proposed street impact fees.

Springer continued with the preliminary budget funding for the Electric Utility fund, Water Utility fund, Wastewater Utility fund, Solid Waste and Recycling fund, Tourist and Convention fund, Debt Service Fund and General CIP.

Following the completion of the Work Session, the City Council convened in a Closed Meeting to consider the specific items listed below under the Closed Meeting section of this agenda.

1. Closed Meeting:

- A. D 15-069 Certain Public Power Utilities: Competitive Matters - Under Texas Government Code, Section 551.086. Consultation with Attorneys - Under Texas Government Code, Section 551.071.

Receive a presentation from Denton Municipal Electric ("DME") staff regarding public power competitive and financial matters pertaining to obtaining solar energy resources for the DME system; discuss, deliberate and provide staff with direction regarding the proposed "Power Purchase Agreement" by and between the City of Denton, Texas and Bluebell Solar, LLC. Consultation with the City's attorneys regarding legal issues associated with the proposed Purchase Power Agreement where a public discussion of this legal matter would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation. [ID 15-446]

- B. ID 15-496 Consultation with Attorney - Under Texas Government Code Section 551.071, Deliberations regarding Economic Development Negotiations - Under Texas Government Code Section 551.087.



Receive a report and hold a discussion regarding legal and economic development issues regarding a proposed economic development incentive agreement for Project Ranger One (Denton-Tarrant PRW, LLC). This discussion shall include commercial and financial information the City Council has received from Project Ranger One which the City Council seeks to have locate, stay, or expand in or near the territory of the city, and with which the City Council is conducting economic development negotiations; including the offer of financial or other incentive where the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the provisions of the Texas Open Meetings Act, Chapter 551 of the Texas Government Code. [ID 15-455]

- C. ID 15-475 Deliberations regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071

Discuss, deliberate, and receive further information regarding the purchase of certain real property interest located in and being a part of Lot No. Three (3), Block Twenty (20) of the Original Town of Denton, an addition to the City of Denton, Denton County, Texas, located generally in the 100 block of Industrial Street. Consultation with the City's attorneys regarding legal issues associated with the potential acquisition and condemnation of the real property described above where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation. (Industrial Park Property Acquisition Project: Cook)

- D. ID 15-485 Consultation with Attorney - Under Texas Government Code, Section 551.071; Deliberations regarding Economic Development Negotiations - Under Texas Government Code, Section 551.087.

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

This item was not considered.

- E. ID 15-489 Consultation with Attorneys - Under Texas Government Code, Section 551.071.

Consult with and provide direction to City's attorneys regarding legal issues and strategies associated with the current Gas Well Ordinance, and proposed Gas Well Ordinance amendment, regulation of gas well drilling and production within the City Limits and the

extraterritorial jurisdiction, including: Constitutional limitations, statutory limitations upon municipal regulatory authority; statutory preemption and vested rights; impacts of federal and state law and regulations; impacts of gas well drilling upon protected uses and vice-versa; current and proposed extension to moratorium on drilling and production; other concerns about municipal regulatory authority or matters relating to enforcement of the Gas Well Ordinance, both current and proposed; settlement matters concerning gas well drilling in the City; surface development issues involving surface and mineral estates; and legal matters associated with a citizen's initiative ordinance and pending litigation styled *George P. Bush, Commissioner, Texas General Land Office v. City of Denton Texas*, Cause No. 15-02058-362 currently pending in the 362nd District Court of Denton County and *Texas Oil and Gas Association v. City of Denton*, Cause No. 14-08933-431 currently pending in the 431st District Court of Denton County regarding hydraulic fracturing where a public discussion of these legal matters would conflict with the duty of the City's attorneys under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.

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

**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. ID 15-350 Leadership Excellence and Enhancement Program

Mayor Watts presented the proclamation for the Leadership Excellence and Enhancement Program.

B. ID 15-480 Kiwanis Days

Mayor Watts presented the proclamation for Kiwanis Days.

C. ID 15-502 Water Environment Association of Texas Plant of the Year Award to the City of Denton Pecan Creek Water Reclamation Plant.

The award was presented to the Council from PS Arora, Wastewater Division Manager.

**3. CITIZEN REPORTS**

A. ID 15-491 Willie Hudspeth regarding Southeast Denton issues.

Mr. Hudspeth stated that he was continuing his discussion from a prior meeting. He felt he had been treated poorly from the City regarding a business he tried to start in the City. He felt rules

had been changed for him and not for other businesses in the City. He felt that city leaders did not come out to African-American events.

#### **4. CONSENT AGENDA**

Mayor Watts announced that Items K and L would be pulled for separate consideration.

Council Member Hawkins motioned, Council Member Roden seconded to adopt the Consent Agenda and accompanying ordinances and resolutions with the exception of Items K and L. On roll call vote, Mayor Pro Tem Gregory "aye", Council Member Johnson "aye", Mayor Watts "aye", Council Member Briggs "aye", Council Member Hawkins "aye", Council Member Wazny "aye", and Council Member Roden "aye". Motion carried unanimously.

##### Resolution No. R2015-017

- A. ID 15-426 Consider approval of a resolution approving the issuance of Revenue Bonds by the Colorado Health Facilities Authority on behalf of the Evangelical Lutheran Good Samaritan Society in an aggregate principal amount not to exceed \$4,200,000; recognizing that the City of Denton is not responsible for issuing the Revenue Bonds and has no financial obligation to pay any principal of or interest on the Revenue Bonds; making certain findings in connection therewith; and providing an effective date.

##### Ordinance No. 2015-171

- B. ID 15-477 Consider adoption of an ordinance of the City of Denton authorizing the City Manager or his designee to execute a contract through the Buy Board Cooperative Purchasing Network for the acquisition one (1) haul truck and two (2) dump trucks for the City of Denton Wastewater Collections Department; and providing an effective date (File 5843-awarded to Rush Truck Center, Crane in the amount of \$431,553). The Public Utilities Board recommends approval (7-0).

##### Ordinance No. 2015-172

- C. ID 15-478 Consider adoption of an ordinance of the City of Denton, Texas providing for, authorizing and approving the purchase of Microsoft Office 365 Software as a Service (SaaS) and additional licensing for Windows Data Center Edition and Enterprise SQL as approved by the State of Texas Department of Information Resources (DIR) Contract Number DIR-SDD-2503; providing for the expenditure of funds therefor; and providing an effective date (File 5842-awarded to SHI Government Solutions in the not-to-exceed amount of \$680,000).

##### Ordinance No. 2015-173

- D. ID 15-479 Consider adoption of an ordinance of the City of Denton, Texas authorizing the City Manager to execute a Professional Services Agreement for consulting services related to the development of a comprehensive master plan for the City of Denton Municipal Solid Waste Landfill Facility; providing for the expenditure of funds therefor; and providing an effective date (File 5837-awarded to Applied Ecological Services in the not-to-exceed amount of \$110,000). The Public Utilities Board recommends approval (4-0).

Ordinance No. 2015-174

- E. ID 15-481 Consider adoption of an ordinance of the City of Denton Texas, authorizing the City Manager to execute the "Second Amendment to Professional Services Agreement" for further design and engineering services related to Phase II of the multiple-use field improvements at North Lakes Park; authorizing the expenditure of additional funds therefor in an amount not-to-exceed \$122,500; providing an effective date (File 5273-awarded to Dunaway Associates, L.P. aggregating an amount not-to-exceed \$303,670).

Ordinance No. 2015-175

- F. ID 15-482 Consider adoption of an ordinance authorizing the City Manager to execute Change Order Number Three to the contract between the City of Denton and North Texas Contracting, Inc. for the US Hwy 380 Utility Relocations Project which consists of the installation of 9440 feet of water line and 6570 feet of sewer line paralleling US Hwy 380 from Bonnie Brae Street to Carroll Boulevard; providing for the expenditure of funds therefor; and providing an effective date (Bid 5190-US Hwy 380 Utility Relocations-Change Order Number Three in the amount of \$231,613.67 for a total contract award of \$3,749,989.25). The Public Utilities Board recommends approval (7-0).

Ordinance No. 2015-176

- G. ID 15-483 Consider adoption of an ordinance of the City of Denton, Texas amending the Fiscal Year 2014-2015 Budget and Annual Program of Services of the City of Denton to allow for adjustments to the Tourist and Convention Fund of three hundred twenty-five thousand dollars (\$325,000) for the purpose of funding startup costs for a Visitor Information Center in the Downtown Square; declaring a municipal purpose; providing a severability clause; providing an open meetings clause; and providing an effective date.

Ordinance No. 2015-177

- H. ID 15-484 Consider adoption of an ordinance adopting a Supplemental Agreement between the City of Denton and the Denton Chamber of Commerce (Convention & Visitors Bureau) (PY 2015) providing for the payment and use of Hotel Tax Revenue in support of a new Visitor Information Center.

Ordinance No. 2015-169

- I. ID 15-506 Consider adoption of an ordinance of the City of Denton, Texas approving a First Amendment to a Reimbursement Agreement between the City of Denton, The Board of Directors of the Tax Increment Reinvestment Zone Number Two, City of Denton, Texas, and Westray Group, LP.; and providing an effective date.

Approved the minutes listed below.

- J. ID 15-507 Consider approval of the minutes of: April 21, 2015 April 28, 2015

Ordinance No. 2015-178

- K. ID 15-511 Consider adoption of an ordinance of the City of Denton, Texas, authorizing the approval of a professional legal services agreement by and between Terry Morgan & Associates, P.C. and the City of Denton, Texas; providing for expenditure of funds; and providing for an effective date.

Anita Burgess, City Attorney, presented the background for Items K and L. Item K was applied to work on issues relating to the gas well ordinance amendment. Item L was for litigation matters.

A Speaker Card was submitted by Will Wooten requesting that the Council table the items for a public hearing.

Council Member Roden stated that there was a distinction between the two ordinances as they involved separate procedures. It appeared that the most significant amount was over the course of the years on how to properly regulate oil and gas.

City Attorney Burgess stated that in four years \$930,000 was spent for the two items. The major portion was for the transaction issues. The City spent \$221,578 on litigation matters.

Council Member Johnson stated that he had asked for these items to be pulled as it was important for the public to know what had been spent so far. There was a distinction between the two ordinances. HB40 had negated much of the work already done.

Council Member Briggs stated that over \$1 million was spent on the legal team. Terry Morgan also did work on Eagleridge.

City Attorney Burgess stated that transitional work was included negotiations with Eagleridge and work on the ordinances to date. The money spent was not all for Terry Morgan but rather included consultants and other attorneys.

Council Member Johnson motioned, Council Member Roden seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Gregory "aye", Council Member Johnson "aye", Mayor Watts "aye", Council Member Hawkins "aye", Council Member Wazny "aye", and Council Member Roden "aye"; Council Member Briggs "nay". Motion carried with a 6-1 vote.

Ordinance No. 2015-179

- L. ID 15-512 Consider adoption of an ordinance of the City of Denton, Texas, authorizing the approval of a professional legal services agreement by and between Terry Morgan & Associates, P.C. and the City of Denton, Texas; providing for expenditure of funds; and providing for an effective date.

Mayor Pro Tem Gregory motioned, Council Member Roden seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Gregory "aye", Council Member Johnson "aye", Mayor Watts "aye", Council Member Hawkins "aye", Council Member Wazny "aye", and Council Member Roden "aye"; Council Member Briggs "nay". Motion carried with a 6-1 vote.

**5. ITEMS FOR INDIVIDUAL CONSIDERATION**

Ordinance No. 2015-180

- A. SI15-0011a Consider adoption of an ordinance of the City of Denton, Texas, on second reading, confirming and approving a Boundary Adjustment Agreement, with the City of Corinth, Texas, adjusting a mutual boundary of the cities not exceeding 1,000 feet; providing for severability; and providing an effective date.

Aimee Bissett, Interim Director of Planning and Development, stated that the ordinance would adopt a boundary adjustment with Corinth. It would bring in 0.29 acres into the city of Denton. She presented information on zoning, background information and location of the property. The next step would be to amend PD-12 to extend the PD boundary and proceed with the final replat.

Mayor Pro Tem Gregory motioned, Council Member Hawkins seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Gregory "aye", Council Member Johnson "aye", Mayor Watts "aye", Council Member Briggs "aye", Council Member Hawkins "aye", Council Member Wazny "aye", and Council Member Roden "aye". Motion carried unanimously.

Ordinance No. 2015-181

- B. ID 15-446 Consider adoption of an ordinance of the City Council of the City of Denton, Texas providing for, authorizing, and approving the execution by the City Manager of a Power Purchase Agreement for solar generated electrical energy, capacity and environmental attributes between the City of Denton, Texas and Bluebell Solar, LLC., a Delaware limited liability company; approving and authorizing the acceptance and approval by the City Manager and City Attorney, or their respective designees, of guaranties and letters of credit issued by Bluebell Solar, LLC and NextEra Energy Capital Holdings, Inc., a corporation further securing the obligations of Bluebell Solar, LLC. To the City for the benefit of the City; approving the execution of such other and further related documents, including, without limitation, interconnection agreements, certificates, assignments, licenses, directions, instruments, instructions, confirmations, statements, and any other document deemed necessary to effectuate this transaction by the City Manager or his designee, which are incident or related thereto, as shall be reasonably determined by the City Attorney or her designee; confirming and ratifying that the City of Denton, Texas, its Mayor, its City Council members, its City Manager, and its City Attorney and their collective delegated designees shall be authorized and empowered to perform such acts and obligations as are reasonably required to consummate this transaction; ratifying all prior actions taken by the City Council in furtherance of the foregoing transaction; and determining that several of said documents involved in this transaction pertain to a "competitive electric matter" as set forth under the provisions of §§551.086 and 552.133 of the Texas Government Code, as amended; finding and determining that Texas Government Code §252.022(a)(15) applies to said Purchase Power Agreement, exempting the procurement of electricity from the requirements of competitive bidding; adopting significant recitations, findings and conclusions, as are set forth in the preamble of this ordinance; that the purchase of capacity and energy made by the City under the terms of this Power Purchase Agreement are in the public welfare; authorizing the expenditure of funds therefore; providing an effective date.

Mike Grim, Executive Manager of DME, stated that the proposal was for a solar opportunity power purchase agreement. The City had received nine respondents to the request for proposal and Bluebell Solar was the top evaluated respondent. This agreement would increase the City's renewable portfolio from 41% to 46% without being a driver for a rate increase. The agreement would begin on or before December 31, 2018. Staff recommended approval of the long-term solar power purchase agreement with Bluebell Solar.

Council Member Roden motioned, Council Member Johnson seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Gregory "aye", Council Member Johnson "aye", Mayor Watts "aye", Council Member Briggs "aye", Council Member Hawkins "aye", Council Member Wazny "aye", and Council Member Roden "aye". Motion carried unanimously.

Ordinance No. 2015-170

- C. ID 15-455 Consider adoption of an ordinance of the City of Denton, Texas approving an Economic Development Program Grant Agreement between the City of Denton, the Board of Directors of Tax Increment Reinvestment Zone Number Two of Denton, Texas, and Denton-Tarrant PRW, LLC; and providing an effective date (Project Ranger One). The Economic Development Partnership Board recommends approval.

Aimee Bissett, Director of Economic Development, stated that this project impact would include a \$130 million capital investment and more than 800,000 square feet of space. It would be one of the largest economic development projects in Texas this year for a single end user based on square footage on the ground.

Scott Cooperman, representing Ranger One, presented the details of the project. He reviewed the project description to be located on the west side of Western Blvd. The current status of the project was that it was in the final stages of due diligence and title review. They were working through pre-closing contingencies of obtaining final plat approval, and pending approval of incentives and the final plat, the property would close. He presented information on the community benefit and the various components included in the project. The proposal would involve the initial hiring of approximately 165 new jobs with an average wage of \$21.00 per hour. The end user would pay for the infrastructure with a reimbursement through a variety of economic development agreements.

Council Member Roden asked Cooperman what made Denton attractive to this developer.

Cooperman stated it was the mix of interstate access, an area that allowed service to a multistate area, other distribution facilities in the area, a like for this piece of property, the labor pool was favorable and they liked the community.

Bissett noted that the Economic Development Partnership Board, the TIRZ 2 Board, and the City Council have, over a period of several months, negotiated a potential economic development grant agreement with Project Ranger One, which would accomplish two objectives: (1) full reimbursement of the cost of Phase 1 improvements using a combination of funding mechanisms; and (2) after full reimbursement, an economic development incentive of

60% of the City's ad valorem tax revenue for a period of four years following full reimbursement of Phase 1 improvements.

Bissett noted that there were two components of the agreement. The first term of the grant agreement would end when full reimbursement had occurred, and included the following forms of reimbursement:

- (2) Up to \$1,000,000 in reimbursement for water lines, utilizing the City's Water Development Plan Line Fund, pursuant to the City's Infrastructure Financing Policy adopted by Resolution 91-008
- (2) Up to \$865,000 in reimbursement for the sewer lines, utilizing the City's Wastewater Development Plan Line Fund, pursuant to the City's Infrastructure Financing Policy,
- (3) 100% of the locally collected Sales and Use Tax for construction materials, furniture, fixtures, and equipment for the construction of the project,
- (4) 100% of the tax increment collected in the TIRZ 2 Fund associated directly with the Ranger One Project, until full reimbursement occurs. This includes the City and County's 40% contribution to the TIRZ 2 Fund annually.
- (5) The City's remaining 60% of ad valorem revenue, until full reimbursement occurs.

It was anticipated that full reimbursement would occur in approximately four years and would be an approximate amount of \$6.5 million. The first year after full reimbursement, the second term of the grant agreement would commence, and would include a 60% rebate of the City's ad valorem revenue for a period of four years, for an estimated total incentive of \$1.7 million.

Mayor Watts asked about the TIRZ contributions from the City and County that would be used to pay for infrastructure.

Bissett stated that the TIRZ was created in 2012 to create a fund to get public infrastructure in that area. The reimbursement funding would be out of that fund.

Mayor Watts noted that the area would be getting the infrastructure faster than it would have without the proposal. It would also help open other areas for development.

Council Member Hawkins motioned, Mayor Pro Tem Gregory seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Gregory "aye", Council Member Johnson "aye", Mayor Watts "aye", Council Member Briggs "aye", Council Member Hawkins "aye", Council Member Wazny "aye", and Council Member Roden "aye". Motion carried unanimously.

Council moved Item D to the end of the agenda and considered the other items as listed.

Ordinance No. 2015-190

- E. ID 15-486 Consider adoption of an ordinance of the City of Denton, Texas prohibiting parking on the east side of North Locust Street from its intersection with Parkway Street to its intersection with East University Drive; providing a repealer clause; providing a savings clause; providing for a penalty not to exceed \$500 for violations of this ordinance; providing that violations of this ordinance shall be governed by Chapter 18 of the Code of Ordinances of the City of Denton; and



providing for an effective date. The Traffic Safety Commission recommends approval (3-2).

Mark Nelson, Director of Transportation, stated that at one time, the segment of North Locust from Oakland to University had “no parking” signs posted on the east side, however, the signs were removed in November 2013 as part of a city-wide maintenance effort to improve signage in Denton. Because there was not an ordinance in place to restrict and enforce on- street parking, the no parking signs were not replaced resulting in vehicles parking in the wide outside urban shoulder on the east side of North Locust. The Traffic Safety Commission had reviewed the proposal and recommended to restrict parking from Parkway to University. This would reduce the number of parking spaces in the area by 6 and would shift the demand for parking to other neighborhoods. The change would not impact the Greenhouse and Ragsdale parking on-street stalls. It was felt that the change would improve safety in the area.

Council Member Hawkins questioned how many door hangers were put out.

Nelson stated that staff worked with Community Improvement Services to put about 170 door hangers.

Council Member Roden stated that previously the area signed as no parking was only from Oakland to University and going back to that no parking in that area would just be going back to the status quo. Going from Parkway to Oakland was more controversial. He questioned how many parking spaces would be lost from Parkway to Oakland.

Nelson stated that about 27 spaces would be removed.

Council Member Wazny felt that parking was needed there. Parking in Denton was an issue and this proposal would remove parking. There were no options provided on other places to park; the proposal was just taking away parking. She asked if it would be possible to re-measure the street and give some thought to duplicate what was on Oak and Hickory. Make the lanes just a bit smaller and continue to allow parking.

Nelson stated that as this was a TxDOT street, the City would have to follow their guidelines. The current TxDOT standard was 11 feet.

Council Member Johnson stated that the challenge was that if the lanes were narrowed and a variance obtained from TxDOT there still was not enough room to park. His sense was that it was mostly TWU students who were parking in the area. It was the City’s responsibility to provide a safe environment for citizens and he did not feel it was safe to have parking there.

Mayor Watts noted that there were Speaker Cards for this item.

Kate Lynass, 1120 N. Locust, Denton, 76201 – opposed

Council Member Hawkins felt that there was very little feedback received from the doorhanger notifications.

Lynass replied that she did not know she could give feedback.

Council Member Wazny questioned about doing the public notification again and perhaps get more response to the proposal. Get the public involved in the decision.

Lynass stated that she did not know if information went to any of the cars parked on the streets.

Mike Cochran, Oak Street, Denton, 76201 – opposed.

Council Member Roden stated that the street probably would be redone in the next five years but questioned what could be done now. It appeared to be the value of on-street parking versus a bike thoroughfare.

Cochran felt that it would be difficult to get two lanes of traffic, on-street parking and a bike lane all in that one street. This was primarily a residential area and he would hate to see the residential quality eroded due to removal of parking.

Mayor Watts stated that there were other segments of streets that had a similar problem. He was opposed to doing piecemeal fixes without doing the entire lengths of streets. He questioned if there was a possibility of implementing any kind of calming activities other than a reduction in speed limit or construct a crosswalk in the area.

Nelson stated that a crosswalk with pedestrian bumpouts could be installed but they would probably be done with the reconstruction of Locust and would need agreements with TxDOT.

Mayor Watts questioned what started this issue.

Nelson stated that comments had been made to the Traffic Engineer and last summer the Traffic Safety Commission started to discuss the problem. It had also been to the Council Mobility Committee.

Council Member Johnson questioned if the businesses there were required to provide parking based on the use of the property or did they have a variance on Locust or Elm to not have to provide parking.

Bissett stated that this area was part of the Central Business District and was exempt from the parking requirements.

Council Member Johnson questioned that if the full width of the street were measured and based on that width would it be possible to fit two safe travel lanes and a parking lane that met TxDOT requirements.

Nelson stated that the parking width would be ten feet which would not work at Sawyer.

Council Member Johnson felt that a consideration was what TxDOT would allow. He did not want to continue to allow parking just because it had always been done as this was a safety conversation. If there could safely be two lanes and parking that TxDOT would allow, then it should be done.

Council Member Roden questioned the timing of getting the ordinance in place.

Nelson stated that it would have to be published in the newspaper and there would be a 7-10 day time frame to get the signs posted.

Council Member Roden stated that new students to the area would have to be educated about no parking on the street.

Council Member Gregory stated that he was surprised by the responses from the businesses in favor of the proposal and felt that crosswalks in select areas would be appropriate.

Council discussed the safety of the area and the number of traffic accidents reported in the last several years and that TWU was performing a parking study in the area. There was also a concern expressed that there was only one person from the area who attended the public meeting and that the Traffic Safety Commission had voted 3-2 in favor of the proposal.

Mayor Pro Tem Gregory motioned, Council Member Roden seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Gregory "aye", Council Member Johnson "aye", Mayor Watts "aye", Council Member Hawkins "aye", and Council Member Roden "aye"; Council Member Briggs "nay", and Council Member Wazny "nay". Motion carried with a 5-2 vote.

Ordinance No. 2015-191

- F. ID 15-505 Consider adoption of an ordinance of the City of Denton, Texas prohibiting parking on both sides of West Mulberry Street from 8:00 a.m. until 6:00 p.m. on Monday through Friday from its intersection with Cedar Street to its intersection with Carroll Boulevard; providing a repealer clause; providing a savings clause; providing a penalty not to exceed \$500 for violations of this ordinance; providing that violations of this ordinance shall be governed by Chapter 18 of the Code of Ordinances of the City of Denton; and providing for an effective date. The Traffic Safety Commission recommends approval (5-0).

Mark Nelson, Director of Transportation, stated that West Mulberry was previously marked with no parking but that the signs had been taken down. Denton Area Credit Union (DATCU) approached the City of Denton requesting the City re-establish the no parking zone to improve pedestrian safety and mobility in the area. Because this street segment had previously been posted as a No Parking Zone, staff initiated contact with adjacent property owners, including the County to advise them of the proposal. Representatives from the adjacent property owners provided verbal consent, via telephone conversations, to re-establish the no parking zone.

The item was considered by the Traffic Safety Commission on June 8, 2015, and the Commission recommended an option to restrict on-street parking on both sides of West Mulberry from Cedar Street to Carroll Boulevard between 8:00 a.m. and 6:00 p.m., Monday through Friday. The Commission believed this was the best approach to restoring the previous no parking zone while also maintaining parking capacity for the Downtown area on the weekends and after normal business hours.

Council Member Wazny expressed a concern with taking parking away from the downtown area with no plan in place to replace it. Until there was a parking plan for the area she would not be in favor.

Council Member Johnson motioned, Council Member Hawkins seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Gregory "aye", Council Member Johnson "aye", Mayor Watts "aye", Council Member Hawkins "aye", and Council Member Roden "aye"; Council Member Briggs "nay", and Council Member Wazny "nay". Motion carried with a 5-2 vote.

Ordinance No. 2015-192

- G. ID 15-513 Consider adoption of an ordinance amending Initiative Ordinance No. 2014-01, "Prohibition of Hydraulic Fracturing"; to declare the City's non-enforcement of same; or consider adoption of an ordinance declaring the City's non-enforcement of Initiative Ordinance No. 2014-01; and providing for an immediate effective date.

City Attorney Burgess stated that the item posted would address Initiative Ordinance No. 2014-01. It could address adoption of a potential amendment to the initiative ordinance, the adoption of a standalone ordinance declaring non-enforcement of the initiative ordinance or amend the current ordinance.

Council Member Roden stated that the issue involved several entities, including the City, the State and two lawsuits. In the spirit of full disclosure he requested the City Attorney provide an update as to the pleading by the Texas Oil and Gas Association.

City Attorney Burgess stated that the Texas Oil and Gas Association and the General Land Office had amended the pleadings to add claims and both filed motions for Partial Summary Judgment.

Mayor Pro Tem Gregory asked how many times the pleading could be amended.

City Attorney Burgess stated that there were some limitations on amending but Texas was generous on the number of times to amend.

The following individuals submitted Speaker Cards:

- Sharon Spiess, 7501 Stallion Street, Denton 76208 – opposed  
Adam Briggles, 1315 Dartmouth, Denton, 76201 in favor to repeal the ban  
Sandy Mattox, 4008 Vinyard, Denton, 76226 - not present; Mayor Watts read her comments in opposition.  
Rodney Love, 700 N. Austin, Denton, 76201 – in support  
Brandon Finley, 806 Denton Street, Denton, 76201 – opposed  
Larry Beck, 915 Sherman Drive, Denton, 76209 – in support  
John Betten, 515 Robertson, Denton, 76205 – in support and opposed  
Michael Hennen, 724 Thomas, Denton, 76201 – in support  
Christopher Klabunde, 511 Robertson, Denton, 76205 – in support  
Will Wooten, address not legible - supported amendment

Tara Linn Hunter, 2210 Westwood, Denton, 76205 - in support and opposed  
Ed Soph, 1620 Victoria, Denton, 76209 – opposed  
Cindy Spoon, 2210 Westwood, Denton, 76205 - not support repeal  
Eric Moll, 2210 Westwood, Denton, 76205 – in favor of sleeping beauty resolution  
Ron Seifert, no address given – opposed  
Rebekah Hinojosa, 621 Schmitz, Denton, 76209 – in support  
Rosemary Candelario, 602 Woodland, Denton, 76209 - urged City to file to dismiss  
Kelli Barr, 701 W. Sycamore, Denton, 76201 – in support  
Maile Bush, 4501 Lacewood, Denton, 76227 -in favor of repeal  
Deborah Amminter, 2003 Mistywood, Denton, 76209 – in support  
Dylan Reeves, Spring and Nail Hill road, Krum, 76249 in support  
Michael Briggs, 2311 Houston, Denton – in support  
Gene Price, 725 Chisholm Trail, Denton, 76206 - in support  
Jonathan Adams, 2210 Westwood, Denton, 76205 – in support  
Sandra Swan, 1413 Cambridge Road, Denton, 76201 – question regarding moratorium

Council Member Roden asked if Council could go into closed session if necessary.

City Attorney Burgess stated that the agenda was posted to allow that procedure.

Council Member Roden questioned that if there was a plea for Summary Judgment and a particular option was tried and failed, would the defendant have another option or was there only one option available.

City Attorney Burgess stated that it would depend on how the ruling was issued. In this case it would be against the City and would move forward. There was the possibility that Council could come back later and repeal.

Council Member Roden asked what would be the legal effect of a repeal as opposed to the legal effect of a sleeping beauty option.

City Attorney Burgess stated that if the ordinance were repealed the entire issue would be out of the litigation. In that case, it would be mute which was the basis for repealing rather than the sleeping beauty option.

Council Member Roden stated that repealing the ordinance produced a high level of certainty to mute the lawsuits whereas an ordinance of non-enforcement would not do that.

Mayor Watt stated that amended pleadings might include the moratorium and issue a motion for Summary Judgment on two fronts; fracking and the moratorium. The sleeping beauty proposal was to keep the ordinance on the books but not enforce until such time in the future that HB 40 went away. A repeal of the fracking ban would allow the moratorium to still be in effect and provide time to develop an action.

Council discussed the legal process of the Summary Judgment and scenarios regarding the fracking ban and moratorium and how a judge might consider them.

Mayor Watts agreed with the notion of three legal actions that could be taken at this meeting. However, if Council was going to repeal he suggested putting it on another meeting schedule in order to allow for additional discussion. However, from a time perspective it would be hard to get it scheduled due to council members being absent from two future meetings.

Council Member Briggs asked about other cities with bans and lawsuits at those cities.

City Attorney Burgess stated that Denton had the only ban currently in the state of Texas.

Mayor Pro Tem Gregory stated that he was in favor of delaying the vote for more time to consider all options. He was hearing from citizens who were looking for a way to move forward to negate the effect of HB40 and to figure out the best way to fight for Denton and other cities to work with in the battle.

Council Member Roden stated that in reality the other side changed the situation on short notice. Council was attempting to be responsive within what the law allowed. He did not have any great discomfort to repeal at this meeting and did not think additional time would give any different information.

Council Member Hawkins asked what would happen if Council took no action.

City Attorney Burgess stated that the ordinance would die.

Council Member Wazny stated that HB40 was a fact; the lawsuits were a fact and questioned about waiting two weeks to ask the Court for an extension of 21 days.

City Attorney Burgess stated that additional time could be asked for from the lawsuits.

Council Member Wazny stated she would like to explore an extension of 21 days for additional time to determine a decision.

Council Member Briggs questioned if it would be possible to replace the word "repeal" but not use "not enforce". Instead use softer language for the ordinance.

Council Member Johnson stated that there was a variety of ways to attack the issue. He took exception to the accusation that if Council was not protesting or getting arrested they were not defending the issue. There were a number of people who said they would replace the Council or didn't trust the Council or the Council was not standing with them just because Council was not acting the same as what they did. He still believed in the City and disagreed with HB40.

Mayor Watts stated that this was quite a struggle for him to decide what the right thing to do was; what was the long term goal or objective. There was not a stampede of other cities to go against HB40 and no support from other municipalities to Denton to help with the issue.

Council Member Briggs felt that a plan was needed as right now Denton was not frack free and questioned if that was what Denton wanted to be.

Council Member Johnson was concerned that the industry wanted Denton to go to court and felt that to fight was not best option. Leaving the ban in place and adopting another ordinance indicating that Denton was not going to enforce the original ordinance did not preserve the history.

Council Member Johnson motioned to amend the ordinance by repealing it. At that point the lawsuits were mute and there was no risk as to what a judge would do. He did not think the risk of exposing the City was worth keeping the ban on the books to preserve history.

Council Member Roden asked about having a work session on where to go from here.

Council Member Briggs asked if the City had 21 days to respond.

City Attorney Burgess stated that unless there was a signed agreement to an extension, the City would have to defend against Summary Judgment and have to apply assets to prepare against that motion. Staff would have to start as soon as possible to begin defending it.

Council Member Wazny stated that if the judge did not allow an extension and if staff did not get started on a reply, then the City would really have a problem being unprepared.

Mayor Watts stated that he was conflicted in the situation. He would like to find an alternate time for making a decision. He was in favor of repealing the ban and knew that the City was under a time line but he was not sure if he was ready to act at this meeting.

Mayor Pro Tem Gregory stated that there was not a lot of time to do a lot of considering as the clock was ticking and the City's hand was being forced on how to respond.

Council Member Johnson stated that next week three members were gone and the following week one member was gone. Staff had to begin preparations and that could not be done until Council took some kind of action. Given the advice from the Attorney and the conversation and comments from public, he did not know what other options would be found in 2-3 weeks. There was no assurance that it could be delayed. Council had all the options available and input and needed to make a call. Waiting three weeks to make that call could put the legal team in a bad position to do their job.

Council Member Briggs stated that she was not ready to vote at this meeting and felt Council should take the time to post the item correctly.

Council Member Roden agreed that a vote needed to be taken. Even if extended, a vote would be along the lines of the current motion. There were other difficult options to consider such as the proposed ordinance and it was time to move on. He seconded the motion.

Council Member Hawkins asked about not using the word "repeal".

City Attorney Burgess stated that moving forward in order to successfully argue the case to mute the lawsuits, the ordinance needed to be repealed and wordsmithing was not the right approach. The word "repeal" needed to be in the ordinance.

Mayor Watts questioned the reason for not delaying.

Council Member Johnson stated that Council had advice from counsel, had conversations and input from citizens and he had not heard anything different in the case as to the need to delay. Council needed to take action and get on to the ordinance. The legal team could not start until Council gave direction and felt that there would be no new ideas if delayed.

Council Member Watts stated that he would support the repeal if somewhere a statement could be inserted about the importance of the citizen vote, the commitment the Council had to the citizen vote and that HB40 nullified the vote of the community. Also include language that acknowledged the hard work and dedication of the citizens.

Council Member Johnson stated that he would not oppose a friendly amendment with that type of language in the ordinance but he did not want any statement that if HB40 were overturned the ordinance would be reenacted. Council Member Roden was not opposed to that friendly amendment to his second of the motion.

Council Member Johnson motioned, Council Member Roden seconded to adopt the ordinance inserting language that would note the importance of the citizen vote, the commitment the Council had to the citizen vote that HB40 nullified the vote of community and that acknowledged the hard work and dedication of the citizens. On roll call vote, Mayor Pro Tem Gregory "aye", Council Member Johnson "aye", Mayor Watts "aye", Council Member Hawkins "aye", Council Member Wazny "aye", and Council Member Roden "aye"; Council Member Briggs "nay". Motion carried with a 6-1 vote.

## **6. PUBLIC HEARINGS**

- A. DCA14-0009h Continue a public hearing and consider adoption of an ordinance amending Subchapters 5, 7, 16 and 22 of the Denton Development Code, relating to Gas Well Drilling and Production, Definitions and Procedures; amending Ordinance No. 2013-248, relating to planning and development fees and road damage remediation fees relating to gas well drilling and production activities; adding new Subchapter 22A to the Denton Development Code, relating to Oil and Gas Pipelines, Definitions, Procedures; providing a cumulative clause; providing a severability clause; providing for a penalty; and providing for an effective date (DCA14-0009h). The Planning and Zoning Commission recommends denial (4-3). A supermajority vote by City Council is required to adopt a motion to approve this ordinance.

City Attorney Burgess stated that in light of HB40 and its effect on the proposed ordinance, staff was recommending that the public hearing be reopened, that comments be taken and then close the public hearing and remand matter to the Planning and Zoning Commission for further deliberation. The Planning and Zoning Commission would take the ordinance under advisement and come forward with recommendations to the Council.

Mayor Watts noted that the public hearing was open.



The following individuals spoke during the public hearing:

Ed Soph, 1620 Victoria, Denton - take this opportunity to strengthen the ordinance in ways not able to do before

Michael Briggs, 2311 Houston, Denton - put wording on website tonight

Carol Soph, 1620 Victoria, Denton – consider a table top discussion on emergency situations

Eric Moll, 2210 Westwood, Denton – questioned the Zoning Board of Adjustment granting an exception of to a setback to Vantage

City Attorney Burgess stated that the ZBA had considered that exception and in their authority considered the matter and granted it.

Ron Seifert, no address given - frack with consent of those impacted by the procedure.

City Attorney Burgess noted that HB40 would not allow that type of approach.

Cindy Spoon, 2210 Westwood, Denton – asked about insurance policies

The Mayor closed the public hearing.

Council Member Hawkins motioned, Council Member Roden seconded to remand the ordinance back to the Planning and Zoning Commission. On roll call vote, Mayor Pro Tem Gregory "aye", Council Member Johnson "aye", Mayor Watts "aye", Council Member Hawkins "aye", Council Member Wazny "aye", and Council Member Roden "aye"; Council Member Briggs "nay". Motion carried with a 6-1 vote.

Council returned to Item 5D.

- D. A15-0012c Consider adoption of the ordinances of the City of Denton, Texas on second reading to involuntarily annex approximately 574.75 acres of land contained eight (8) of the fifteen (15) annexation areas. Four (4) of the annexation areas include approximately 440.19 acres of land and are primarily located within the northwestern quadrant of the City of Denton's Extraterritorial Jurisdiction (ETJ) Division 1, and are identified as PAA1, PAA2, PAA3, and PAA4. The remaining four (4) areas include approximately 134.56 acres of land and are considered unincorporated ETJ pockets located within the body of the City of Denton's corporate limits and are identified as DH2, DH3, DH4, and DH11; providing for a penalty in the maximum amount of \$2000.00 for violations thereof, severability and an effective date. (A15-0012c)

Aimee Bissett, Interim Director of Planning and Development, stated that this was the second reading of the annexation ordinances. She would be presenting each caption individually and Council would take action on each one individually. The annexations included eight different areas.

Bissett presented the location and size of PAA1 and read the following ordinance caption:

Ordinance No. 2015-186

An ordinance annexing an area of land to the city of Denton, Texas, generally identified as PAA1 of approximately 188.60 acres (less those parcels identified in Exhibit "C") located on the south side of Jim Christal Road, the north side of Tom Cole Road, west of Masch Branch Road, and more specifically identified in Exhibit "Z" attached hereto, which area is adjacent to and abuts the existing city limits of the city of Denton, Texas, and which contains fewer than 100 separate tracts of land on which one or more residential dwellings are located on each tract; providing for inclusion of a service plan in this ordinance; excluding properties within PAA1 subject to non-annexation agreements for agricultural, wildlife management or timberland use from the annexation; providing for correction of the city map to include this annexed area; providing a savings clause; and providing an effective date.

Council Member Hawkins motioned, Mayor Pro Tem Gregory seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Gregory "aye", Council Member Johnson "aye", Mayor Watts "aye", Council Member Briggs "aye", Council Member Hawkins "aye", Council Member Wazny "aye", and Council Member Roden "aye". Motion carried unanimously.

Bissett presented the location and size of PAA2 and read the following ordinance caption:

Ordinance No. 2015-187

An ordinance annexing an area of land to the city of Denton, Texas, generally identified as PAA2 south of approximately 88.45 acres (less those parcels identified in Exhibit "C") located on the south side of FM 1173, north of W. University Drive, west of I-35, and more specifically identified in Exhibit "A" attached hereto, which area is adjacent to and abuts the existing city limits of the city of Denton, Texas, and which contains fewer than 100 separate tracts of land on which one or more residential dwellings are located on each tract; providing for inclusion of a service plan in this ordinance; excluding properties within PAA2 south subject to non-annexation agreements for agricultural, wildlife management or timberland use from the annexation; providing for correction of the city map to include this annexed area; providing a savings clause; and providing an effective date.

Council Member Johnson motioned, Council Member Roden seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Gregory "aye", Council Member Johnson "aye", Mayor Watts "aye", Council Member Briggs "aye", Council Member Hawkins "aye", Council Member Wazny "aye", and Council Member Roden "aye". Motion carried unanimously.

Bissett presented the location and size of PAA3 and read the following ordinance caption:

Ordinance No. 2015-188

An ordinance annexing an area of land to the city of Denton, Texas, generally identified as PAA3 of approximately 219.96 acres (less those parcels identified in Exhibit "C") located on the south side of Ganzer Road; north and south of Barthold Road; north of FM 1173; west of I-35, and more specifically identified in Exhibit "A" attached hereto, which area is adjacent to and abuts the existing city limits of the city of Denton, Texas, and which contains fewer than 100 separate tracts of land on which one or more residential dwellings are located on each tract; providing for inclusion of a service plan in this

ordinance; excluding properties within PAA3 subject to non-annexation agreements for agricultural, wildlife management or timberland use from the annexation; providing for correction of the city map to include this annexed area; providing a savings clause; and providing an effective date.

Mayor Pro Tem Gregory motioned, Council Member Roden seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Gregory "aye", Council Member Johnson "aye", Mayor Watts "aye", Council Member Briggs "aye", Council Member Hawkins "aye", Council Member Wazny "aye", and Council Member Roden "aye". Motion carried unanimously.

Bissett presented the location and size of PAA4 and read the following ordinance caption:

Ordinance No. 2015-189

An ordinance annexing an area of land to the city of Denton, Texas, generally identified as PAA4 of approximately 11.78 acres (less those parcels identified in Exhibit "C") located on the south side of Milam Road; north of Loop 288; east of I-35, and more specifically identified in Exhibit "A" attached hereto, which area is adjacent to and abuts the existing city limits of the city of Denton, Texas, and which contains fewer than 100 separate tracts of land on which one or more residential dwellings are located on each tract; providing for inclusion of a service plan in this ordinance; excluding properties within PAA4 subject to non-annexation agreements for agricultural, wildlife management or timberland use from the annexation; providing for correction of the city map to include this annexed area; providing a savings clause; and providing an effective date.

Council Member Johnson motioned, Council Member Roden seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Gregory "aye", Council Member Johnson "aye", Mayor Watts "aye", Council Member Briggs "aye", Council Member Hawkins "aye", Council Member Wazny "aye", and Council Member Roden "aye". Motion carried unanimously.

Bissett presented the location and size of DH2 and read the following ordinance caption:

Ordinance No. 2015-182

An ordinance annexing an area of land to the city of Denton, Texas, generally identified as DH-2 of approximately 73.51 acres (less those parcels identified in Exhibit "C") located on the south side of University Drive; west and east sides of Thomas J. Egan Road; north of Jim Christal Road; west of Masch Branch Road, and more specifically identified in Exhibit "A" attached hereto, which area is adjacent to and abuts the existing city limits of the city of Denton, Texas, and which contains fewer than 100 separate tracts of land on which one or more residential dwellings are located on each tract; providing for inclusion of a service plan in this ordinance; excluding properties within DH-2 subject to non-annexation agreements for agricultural, wildlife management or timberland use from the annexation; providing for correction of the city map to include this annexed area; providing a savings clause; and providing an effective date.

Council Member Hawkins motioned, Mayor Pro Tem Gregory seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Gregory "aye", Council Member Johnson "aye", Mayor Watts "aye", Council Member Briggs "aye", Council Member Hawkins "aye", Council Member Wazny "aye", and Council Member Roden "aye". Motion carried unanimously.

Bissett presented the location and size of DH-3 and read the following ordinance caption:

Ordinance No. 2015-183

An ordinance annexing an area of land to the city of Denton, Texas, generally identified as DH-3 of approximately 24.47 acres (less those parcels identified in Exhibit "C") located on the south side of Spring Side Road; north, south and west of Corbin Road; west of I-35, and more specifically identified in Exhibit "A" attached hereto, which area is adjacent to and abuts the existing city limits of the city of Denton, Texas, and which contains fewer than 100 separate tracts of land on which one or more residential dwellings are located on each tract; providing for inclusion of a service plan in this ordinance; excluding properties within DH-3 subject to non-annexation agreements for agricultural, wildlife management or timberland use from the annexation; providing for correction of the city map to include this annexed area; providing a savings clause; and providing an effective date.

Council Member Hawkins motioned, Council Member Roden seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Gregory "aye", Council Member Johnson "aye", Mayor Watts "aye", Council Member Briggs "aye", Council Member Hawkins "aye", Council Member Wazny "aye", and Council Member Roden "aye". Motion carried unanimously.

Bissett presented the location and size of DH-4 and read the following ordinance caption:

Ordinance No. 2015-184

An ordinance annexing an area of land to the city of Denton, Texas, generally identified as DH-4 of approximately 347 acres (less those parcels identified in Exhibits "C") located on the east side of Bonnie Brae Street; west of Fort Worth Drive; east and west of Vintage Boulevard, and more specifically identified in Exhibit "A" attached hereto, which area is adjacent to and abuts the existing city limits of the city of Denton, Texas, and which contains fewer than 100 separate tracts of land on which one or more residential dwellings are located on each tract; providing for inclusion of a service plan in this ordinance; excluding properties within DH-4 subject to non-annexation agreements for agricultural, wildlife management or timberland use from the annexation; providing for correction of the city map to include this annexed area; providing a savings clause; and providing an effective date.

Council Member Johnson motioned, Council Member Hawkins seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Gregory "aye", Council Member Johnson "aye", Mayor Watts "aye", Council Member Briggs "aye", Council Member Hawkins "aye", Council Member Wazny "aye", and Council Member Roden "aye". Motion carried unanimously.

Bissett presented the location and size of DH-11 and read the following ordinance caption:

Ordinance No. 2015-185

An ordinance annexing an area of land to the city of Denton, Texas, generally identified as DH-11 of approximately 62.2 acres located southeast of the intersection of Mayhill Road and McKinney Street, and more specifically identified in Exhibit "A" attached hereto, which area is adjacent to and abuts the existing city limits of the city of Denton, Texas, and which contains fewer than 10 separate tracts of land on which one or more

residential dwellings are located on each tract; providing for inclusion of a service plan in this ordinance; providing for correction of the city map to include this annexed area; providing a savings clause; and providing an effective date.

Council Member Hawkins motioned, Mayor Pro Tem Gregory seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Gregory "aye", Council Member Johnson "aye", Mayor Watts "aye", Council Member Briggs "aye", Council Member Hawkins "aye", Council Member Wazny "aye", and Council Member Roden "aye". Motion carried unanimously.

## **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 did not have any items to present.

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

There was no continuation of the Closed Meeting.

With no further business, the meeting was adjourned at 1:00 a.m.

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CHRIS WATTS  
MAYOR  
CITY OF DENTON, TEXAS

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JENNIFER WALTERS  
CITY SECRETARY  
CITY OF DENTON, TEXAS