

## CITY OF DENTON CITY COUNCIL MINUTES

April 10, 2018

After determining that a quorum was present, the City Council of the City of Denton, Texas convened in a Work Session on Tuesday, April 10, 2018 at 11:30 a.m. in the Council Work Session Room at City Hall.

PRESENT: Council Member Hudspeth, Council Member Briggs, Council Member Duff, Council Member Ryan, Council Member Gregory, Mayor Pro Tem Bagheri, 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 April 10, 2018.**

Mayor Watts stated that Closed Meeting item A would not be considered because the posting did not refer to a specific non-disclosure agreement.

Council Member Ryan asked if Consent Agenda item A should be pulled for individual consideration since it was a second reading.

City Attorney Aaron Leal said it should be considered under individual consideration.

### **3. Work Session Reports**

A. ID 18-150 Receive a report, hold a discussion, and give staff direction regarding the City's guidelines for public improvement districts.

Caroline Booth, Director of Economic Development, stated that PIDs were an economic development tool used to fund public improvements that benefited a defined area. Property owners within the PID boundary were assessed fees for the benefits they received. PIDs could be used for commercial or residential developments and for new construction or redevelopment projects. The primary benefit of PIDs for cities was the potential to increase quality of development through better amenities. The primary benefit of PIDs for developers was the use of tax-exempt debt to provide funding for public infrastructure that could reduce capital requirements and increase rate of return.

Booth stated that PIDs could be established on a pay-as-you-go or a debt basis, and many cities around the state used PIDs to encourage development. Denton has had PID guidelines in place since 2007 and has one PID in place – Rayzor Ranch PID Number 1, which was created in 2014. No assessments have been levied and no bonds have been issued under this PID.

Booth stated that staff was seeking direction on how to proceed with the PID guidelines: Option 1 – No residential PIDs; commercial PIDs considered with "demonstrable public benefit"; Option 2 – Both residential and commercial PIDs considered with "demonstrable public benefit"; or Option 3 – No PIDs for either residential or commercial.

Council discussion included residential PIDs; notification to homeowners of a PID, more defined demonstrable public benefit and more details on an assessment cap.

Booth summarized direction from Council that included more detail on what constituted demonstrable public benefit, include specifics on an assessment cap as well as a checklist as what would be the expectations for residential PID development and to bring those specific things back to the EDP Board, also include notification to homeowners that property was in a PID.

Council Member Gregory commented that if the EDP Board had a recommendation, they should make it.

- B. ID 18-299 Receive a report, hold a discussion, and give staff direction regarding the potential sale of City property on Highway 77 adjacent to North Lakes Park.

Gary Packan, Director of Parks and Recreation, stated that the property was purchased in 2008 from Rayzor Investments with a total land purchase of 20.5961 acres. 14.7189 acres were for general municipal purpose and 5.8774 acres were for a municipal park. The proposed uses at the time included an animal care and adoption center, expansion of the North Lakes Park, and a potential site for a dog park.

In 2012, a 4.393 acre lot was carved out of the 14.7189 acre General Municipal Purpose tract and was platted for the animal services facility. A mutual access easement was installed for future access to the remaining acreage of the property. No longer being considered as a location for the soccer complex, the remaining acreage was identified as the site for a second dog park. The proposed construction was in response to numerous requests from the public for a dog park on the north side of the City. A grant funded trail was recently installed on the General Municipal Purpose tract as part of the Northwest Trail Project that now connected Evers Park with the McKamy-Evers and North Pointe neighborhoods, the UNT Discovery Center, and North Lakes Park.

Packan presented different scenarios for Council to consider. Development Scenario #1 was use of full 10.3 acres – the potential use was multi-family residential. Development Scenario #2 was use of 6.5 acres – the potential use was mixed use. Development Scenario #3 was use of 5 acres – the potential use was retail.

Council discussion included if the property was sold and the trail needed to be moved, would the City have to refund the TxDOT grant and the current steps to move forward with construction of the North Lakes Dog Park.

Consensus of the Council was to figure out the status of the dog park project by North Lakes Park and the funding for it; and look into the details of the grant for the park trail.

- C. ID 18-552 Receive a report, hold a discussion, and give staff direction regarding the Tree Code policy.

Scott McDonald, Director of Development Services, reviewed the benefit of trees and the State of Denton's Urban Forest. Tree Code Policy priorities included tree preservation, tree fund, landscape standards and environmentally sensitive areas.

The Tree Code Policy included preservation of existing trees, planting/transplanting of trees, tree mitigation, use of tree funds, increase of parking lot canopy, and credit for existing canopy/green space. Landscape Standards included improved incorporation of tree canopy; appropriate tree placement; improved tree canopy with new parking areas (ratio of parking spaces to tree plantings); and streetscape and right-of-way enhancements. Tree Mitigation Options included tree donation, off-site tree replacement, conservation easement, transplanted trees, and payment in lieu of replacement.

McDonald stated that the existing Tree Code/Fund was originally adopted in 2004. Funds used supported the following: purchase, plant and maintain trees; preserve wooded property (that remained in a naturalistic state in perpetuity); perform and maintain a city-wide tree inventory; educate citizens and developers on the benefits and values of trees as approved by Council; support programs for the public purpose of increasing the tree canopy. Proceeds of the Tree Fund could not be used for preservation, mitigation, landscaping, buffering, or streetscaping.

McDonald stated that potential use of the Tree Fund included increased tree canopy on public rights-of-way; increased tree canopy on parkland or other City-owned property; purchase of property with existing tree stands; Tree Rebate program; maintenance of trees; administration of the Tree Fund; public education; and donation of trees (Arbor Day).

McDonald stated that staff needed to update the Tree Code, update the Landscape Standards, and recognized the need for the development of strategic tree planting initiatives, and to look at parking standards and landscape standards and needed direction from Council.

Council Member Gregory stated that one of the next steps would be to look at the work that was already done on the Tree Code by the Planning & Zoning Commission, maybe provide Council with a red-lined policy to review.

Bagheri asked if there were recommendations from P&Z.

McDonald stated that there were no P&Z recommendations at that time. He stated that staff was not prepared to bring it forward at that time because of the updates to the Development Code and where we were going with landscape standards and parking standards. There had been some revisions since then but staff could bring it forward now.

City Manager Hileman stated that he thought it would be helpful if the Committee on the Environment worked with the Planning and Zoning Commission to work through the ordinance and then bring it forward to Council.

McDonald stated that staff needed to understand the Council's policy priorities for the Tree Code and the Tree Fund before moving forward. The ESA regulations overlap with tree preservation regulations and this relationship must be kept in mind when discussing preservation goals and Tree Code policy. The landscaping and new tree planting requirements were separate standards

within the Development Code, but those requirements were very closely related in scope to tree preservation and mitigation. Staff would be working on updates to the Landscape Standards and would ensure that the Tree Code and Landscape Standards worked hand-in-hand moving forward.

- D. ID 18-554 Receive a report, hold a discussion, and give staff direction regarding goals and objectives of the Denton County Transportation Authority.

Mark Nelson, Director of Transportation, stated that Council had been asked to provide input on goals/objectives and requests for information and answers to that had been included in the backup. He introduced President Jim Cline, who would present goals and objectives for DCTA.

Cline stated that the DCTA was established in 2003 under Chapter 460 of the Texas Transportation Code. Bus service began in 2005 and train service in 2011. Services provided included 22 bus routes, A-train commuter rail, demand responsive services, paratransit services, commuter vanpool, and transportation network companies/taxis. He stated that the DCTA was supported by 1/2 cent sales tax in Denton, Highland Village, and Lewisville as well as federal funds and farebox revenue. The fourteen member Board of Directors was appointed. FY 2017 on-time performance for bus was 94% and rail was 98%. Both bus and rail continually met or exceeded industry standards. They had clean audits; positive train control - 100% installed, testing under way; integration of Transportation Network Companies into operations; continued success with UNT ridership; federal grant awards, 35W bus service; and Business Case for Transit results.

Cline stated that the A-train had helped create a development environment for Transit Oriented Development (TOD) that had added 1136 residential units and 68,000 sq. ft. in TODs, with another 1434 units in the pipeline and added new private investment of \$345 million, roughly equal to the \$347 million construction cost of the A-train.

Cline stated that there were some challenges to maintaining ridership. He reviewed the DCTA service markets - disabled/elderly, transit dependent, choice riders, university students/staff/faculty, and the community at-large. He stated key initiatives included a focus on ridership, efficiency and industry change.

Cline stated that key considerations for service changes included public input; Title VI, Civil Rights Act Analysis; fare changes; available budget; and board approval. He stated that planning for the future included improving ridership now and in the future; addressing job access needs; embracing change; tailoring the solution to the specific problem; Transportation Network Companies (Lyft/Uber); taxi service; preparation for automated vehicles; and improvement to Demand Response Dispatch.

Council discussion included discounted bus fares for disabled or homeless, service to the south end of the UNT campus, areas along Eagle Drive not served, additional train stops, board members not associated with a member city, enhancing security elements to achieve extra ridership, establishing a route down FM 2499, update on commute to Denton versus commuting from Denton to Dallas, shuttle service for conventions, notify Council of changes in discounts to

non-profits, resolution determining specific monies to be spent on amenities, fixed amount of money to come back to riders in Denton, board composition and Denton's representation on the board, and how to maximize the programs Denton received for the funding DCTA received.

- E. ID 18-561 Receive a report, hold a discussion and give staff direction regarding an amendment to Section 2-29 (City Council Rules of Procedure) of the City of Denton Code of Ordinances related to Subsection (G)(4) (Recording of Votes) to include the recording of votes for each council member within all city ordinances and resolutions.

Victor Flores, Deputy City Attorney, stated that during Concluding Items of a previous Council meeting, staff was requested to draft an ordinance that established recording of council votes within all ordinances and resolutions. This was in addition to the current memorialization of all votes in meeting minutes. The new section would include the Council member making the motion; the Council Member that seconded the motion; and the roll call vote of Council. This would be an amendment to the Council Rules of Procedure, so was being introduced to City Council at this meeting and would be adopted at a subsequent meeting.

General consensus of Council was to bring the ordinance back to Council for approval.

- F. ID 18-605 Receive a report, hold a discussion and give staff direction regarding the creation of an Ad-Hoc Development Code Review Committee to consider and advise the City Council whether and in what manner to amend the current Denton Development Code.

Scott McDonald, Director of Development Services, stated that the previous Ad Hoc Development Code Review Committee did not have clear details such as number of members and the scope of review of the Committee. The proposed resolution established that the committee was composed of three Council Members and three Planning and Zoning Commission members. The Planning and Zoning Commission members would participate in the discussion regarding the Development Code but would not vote on anything. The structure of the Committee would be to specifically review the proposed 2018 Denton Development Code and provide recommendations to the full Council.

- G. ID 18-624 Receive a report, hold a discussion, and give staff direction regarding the development of an ethics policy for all City of Denton employees.

Cassandra Ogden, Director of Procurement and Compliance, reviewed the background of the ethics policy and ethics ordinance. She stated that there was a need for an employee ethics policy to reinforce commitment to ethical behavior, to fill gaps in the existing personnel policies and procurement manual, provide a resource for employees, protect employees and the City, and reflect core values. The major differences with the ethics policy and the ethics ordinance were that it was a more restrictive gifts policy, with limited exceptions; included social media use and political activity; harassment and discrimination prohibitions included in separate policies; complaints and reports of unethical conduct reviewed and processed by HR and CMO instead of an external Board of Ethics.

Ogden stated that a conflict of interest was a situation in which personal and/or financial considerations had the potential to influence or compromise professional judgment or actions.

Conflicts of interest were challenging organizational concerns because they were subject to sensitivities based on perception. It was the goal of the ethics policy to address conflicts of interest through disclosure and recusal. Employees should proactively report and submit a disclosure form for any relationship that presented a potential conflict of interest as soon as they were aware of the conflict.

Ogden stated that to ensure the procurement process operated in a fair and equitable manner, employees involved in a formal solicitation must submit a disclosure form before any solicitation material would be shared with them. The disclosure forms would be reviewed by Purchasing, Compliance, and Legal to determine if a conflict existed. If a conflict was identified, the employee would be recused from any decision-making influence or solicitations that involved the vendor or individual(s) identified in the conflict.

Ogden stated that employees should neither solicit nor accept gifts, meals, or entertainment offered from an individual, business, or organization due to their position with the City, regardless of the amount. She reviewed the guidelines for employees related to gifts, meals, and entertainment. She stated that employees serving as members of boards, commissions, or associations that had business with the City through contract or financial support would require disclosure and approval. She reviewed guidelines when using social media. She stated that no employee could engage in political activity while on duty. She stated that nepotism was previously a separate personnel policy, but was now included as part of the ethics policy and was applicable for persons applying for employment, re-employment, and transferring within the City.

Ogden stated that the City of Denton should be the primary employer for all employees for which benefits were being supplied (excluded temporary and seasonal employees). An employee could be employed in any capacity in any other business, trade, occupation or profession while employed by the City, so long as it did not conflict with their employment or performance as a City employee. Annual approval through the immediate supervisor was required.

Ogden stated that adoption of a resolution approving the Employee Ethics Policy was scheduled for the April 17 Council meeting. Informational sessions would be held for all employees and ethics training classes would be facilitated by the Compliance and HR staff. The procurement manual revisions and personnel policy revisions would be brought to Council for consideration at a future date.

Following the completion of the Work Session, the City Council convened in a Closed Meeting at 4:46 p.m. to consider the following items.

**1. Closed Meeting:**

- A. ID 18-603 Consultation with Attorneys – Under Texas Government Code Section 551.071. Consultation with the City’s attorneys about legal issues related to the use of non-disclosure agreements and/or confidentiality agreements for economic development or electric utility

projects. A public discussion of these legal issues would conflict with the duty of the City's attorneys to the City of Denton and its City Council under the Texas Disciplinary Rules of Professional Conduct.

This item was not considered.

- B. ID 18-623 Deliberations regarding a Personnel Matter - Under Texas Government Code Section 551.074.

Deliberate and discuss the evaluation, duties, discipline, procedures, and contracts of the City Manager and City Attorney.

Following the completion of the Closed Meeting, the City Council convened in a Special Called Meeting at 7:58 p.m. to consider the following items.

**1. CONSENT AGENDA**

Council Member Ryan motioned, Council Member Gregory seconded to approve the Consent Agenda and accompanying ordinances with the exception of Item A. On roll call vote, Council Member Hudspeth "aye", Council Member Briggs "aye", Council Member Duff "aye", Council Member Ryan "aye", Council Member Gregory "aye", Mayor Pro Tem Bagheri "aye", and Mayor Watts "aye". Motion carried unanimously.

Ordinance No. 18-627

- B. ID 18-627 Consider adoption of an ordinance of the City of Denton, Texas, approving amendment no. 1 to an interlocal cooperation agreement between the City of Denton and Denton County, Texas, regarding the construction of certain bicycle roadway accommodations within the streets or roadways, located within the municipal limits of the City and Denton County Commissioner's Precinct #1; terminating the agreement; and providing an effective date.

Ordinance No. 18-339

- C. ID 18-339 Consider adoption of an ordinance of the City of Denton, Texas, authorizing the City Manager, or his designee, to execute an interlocal cooperation agreement with Denton County, Texas for bicycle roadway accommodations on Hercules Lane from Sherman Drive to Stuart Road in an amount not to exceed fifty thousand dollars and no/100 (\$50,000.00); authorizing the expenditure of funds thereof; and providing an effective date.

Item A was considered.

Ordinance No. A17-0006d

- A. A17-0006d Conduct the second of two readings and consider adoption of an ordinance of the City of Denton for a voluntary annexation of approximately 0.30 acres of land generally located on the east side of Old Alton Road, south of the intersection of Old Alton Road and Teasley Lane by the City of Denton, Texas.

Cindy Jackson, Senior Planner, stated that this was a voluntary annexation and the property was recently rezoned from NRMU to CM-G for the purpose of developing a vehicle repair facility. This site and the adjacent parcel were both part of the same lot. Once this site was annexed and zoned, it would become part of the planned vehicle repair facility.

Jackson conducted the second reading of the ordinance.

Council Member Gregory motioned, Council Member Ryan seconded to adopt the ordinance. On roll call vote, Council Member Hudspeth "aye", Council Member Briggs "aye", Council Member Duff "aye", Council Member Ryan "aye", Council Member Gregory "aye", Mayor Pro Tem Bagheri "aye", and Mayor Watts "aye". Motion carried unanimously

## **2. ITEMS FOR INDIVIDUAL CONSIDERATION**

### Ordinance No. 18-607

- A. ID 18-607 Consider adoption of an ordinance authorizing the settlement of litigation styled City of Denton, Texas v. RTS&M, LLC, et al., Cause No. PR-2014-00492, currently pending in the Probate Court of Denton County, Texas, regarding the acquisition of fee and easement interests required for the widening of Mayhill Road in the settlement amount of Two Million Five Hundred Thousand Dollars and no/cents (\$2,500,000.00); authorizing the City Manager and City Attorney to effectuate the settlement; authorizing the expenditure of funds therefor; providing a savings clause; and providing an effective date.

Trey Lansford, Deputy City Attorney, stated that this was a pending condemnation lawsuit for property interests related to the Mayhill Road Widening and Improvement Project. The property was located at the southwest corner of Spencer Road and Mayhill Road. The City and landowners had agreed on a compensation amount of \$2,500,000 which was incorporated into the Agreed Final Judgment attached to the ordinance for consideration.

Council Member Gregory motioned, Council Member Duff seconded to adopt the ordinance. On roll call vote, Council Member Hudspeth "nay", Council Member Briggs "nay", Council Member Duff "aye", Council Member Ryan "aye", Council Member Gregory "aye", Mayor Pro Tem Bagheri "aye", and Mayor Watts "aye". Motion carried (5-2).

### Resolution No. 18-637

- B. ID 18-637 Consider approval of a resolution of the City Council of the City of Denton, Texas creating the Ad-Hoc Development Code Review Committee to consider and advise the City Council whether and in what manner to revise the current Denton Development Code; ratifying all actions taken by the Denton Development Code Review Ad-Hoc Committee preceding the passage and approval of this resolution; providing for an effective date and providing a sunset date.

Scott McDonald, Director of Development Services, stated that an amended resolution had been provided to the Council. The difference in the resolution that was proposed and the current was that Section 3 stated that the committee would be composed of three City Council Members. Three Planning and Zoning Commissioners would participate in committee discussions as non-

voting ex-officio members. The City Council Members would serve in the role of Chair and Vice Chair of the committee. Section 4 was deleted which made reference to subcommittees. Section 8 had the sunset provision in that the committee would dissolve on December 31, 2018.

Council Member Ryan motioned, Council Member Gregory seconded to approve the resolution. On roll call vote, Council Member Hudspeth "aye", Council Member Briggs "aye", Council Member Duff "aye", Council Member Ryan "aye", Council Member Gregory "aye", Mayor Pro Tem Bagheri "aye", and Mayor Watts "aye". Motion carried unanimously (7-0).

C. ID 18-625 Consider and appoint a member to replace Mayor Pro Tem Sara Bagheri on the Development Code Review Committee.

Scott McDonald, Director of Development Services, stated that Mayor Pro Tem Bagheri's council term would end in May 2018 and she had requested to have her place filled by another Council Member as she would no longer be eligible to serve on the Development Code Review Committee. The next meeting of the committee would be April 18.

Council Member Briggs motioned, Council Member Gregory seconded to approve the Mayor for the position. On roll call vote, Council Member Hudspeth "aye", Council Member Briggs "aye", Council Member Duff "aye", Council Member Ryan "aye", Council Member Gregory "aye", Mayor Pro Tem Bagheri "aye", and Mayor Watts "aye". Motion carried unanimously (7-0).

### **3. 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. B. Possible Continuation of Closed Meeting topics, above posted.

Council Member Briggs stated that she was holding a District 2 conversation on human trafficking on Sunday from 2-4 p.m.

Council Member Hudspeth stated that April 12th was Betty Myers College Professional Day.

Council Member Hudspeth stated that former Council Member Mark Chew had passed away and asked if there was something the City could do to honor him.

Council Member Hudspeth expressed his condolences to the family of the TWU student that was killed last week.

With no further business, the meeting was adjourned at 8:10 p.m.

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CHRIS WATTS  
MAYOR  
CITY OF DENTON, TEXAS

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JANE RICHARDSON  
ASSISTANT CITY SECRETARY  
CITY OF DENTON, TEXAS