

## CITY OF DENTON CITY COUNCIL MINUTES

February 5, 2013

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, February 5, 2013 at 3:00 p.m. in the Council Work Session Room at City Hall.

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

ABSENT: None

### 1. Citizen Comments on Consent Agenda Items

There were no citizen comment cards submitted for this item.

### 2. Requests for clarification of agenda items listed on the agenda for February 5, 2013.

Council Member Gregory questioned if Consent Agenda Items H and K had reimbursable costs through ERCOT.

Phil Williams, General Manager-DME, stated that Item H involved fees paid to communicate with ERCOT and was considered the cost of doing business. The cost of the service had increased significantly as back-up service was also included. Item K was a NERC requirement for a study for load flow.

Mayor Pro Tem Kamp requested that Consent Agenda Items C and D be pulled for separate consideration as she would have to recuse herself from those items.

Council Member Roden noted that there was a representative from History Maker Homes at the meeting for Consent Agenda Item FF and thanked him for resolution of the issue by the developer to get closure on the issue.

Mayor Burroughs acknowledged Commissioners Court for considering the TIRZ in Consent Agenda Item D and the assistance with the development of the industrial area near the Airport.

Council Member Engelbrecht commended staff for planning ahead with Consent Agenda Item R in seeing that the infrastructure at Hinkle and University was in place so that when warrants were sufficient to install a traffic signal, the infrastructure was already there.

### 3. Receive a report, hold a discussion, and give staff direction on an update to the Tree Trust mitigation option of Subchapter 35.13.7.A.7.f of the Denton Development Code.

Angie Kralik, Urban Forester, stated that her presentation would be an update to the presentation given to Council on October 16, 2012. She asked Council to think about their vision for Denton relative to trees. She reviewed tree canopy percentages as compared to other cities which showed Denton currently had 19% which was lower than area cities.

Council Member Roden asked if there was a way to get data on what the tree canopy was years ago.

Kralik stated that the percentages shown did not account for population and sprawl so that would be difficult to do. In presenting information on where the forests were located she noted that Denton did not have naturally occurring forests to the west.

Council Member Engelbrecht questioned that with the geological formations in the west, why would there be a desire to have trees there beyond the natural climate. It would take a lot of extra care to have trees there.

Kralik stated that even if the trees were not there originally, it was an important factor to have those there in the future.

Council Member Gregory felt that 55 years ago there were fewer trees in the city.

Kralik reviewed the proposal for Tree Trusts. Tree Trusts would be a mitigation option for protected and large secondary trees that were removed for construction purposes. It involved swapping trees/acreage on one property to mitigate for trees being removed on the developing property. Properties must be a minimum of one acre and have the characteristics of the Cross Timbers Forests. A permanent conservation easement was required. Properties that were considered flood plains could not be used towards tree trusts. Tree mitigation could involve replanting, deposits into the tree fund, Alternative Tree Preservation plan or tree trusts. It did not preclude the preservation ordinance or the landscape ordinance.

A Tree Trust was implemented one of two ways. The first involved the developer purchasing property and deeding it to the City for the mitigation. The second was a private landowner within Denton city limits would place a conservation easement on their property.

Tree Trust plan – next steps included completing the scope of work, securing a contract, setting up meetings with city departments and partnering organizations, the contractor developing a step-by-step process that outlined how developers would utilize tree trusts, developing an accounting system, staff reviewing the proposed process, presenting the process to Council, and making any necessary change.

Areas for clarification included: (1) from inches to acres - determining a value for tree credits; (2) proportionality research; (3) future credits/accounting system with a tree inventory process (4) process development/ defined steps; (5) regulatory and proprietary - keeping projects in compliance; (6) allowances for minimal maintenance; (7) charitable gifts/bequests and donations.

Mayor Burroughs questioned if there was a small development with a required amount of credit to procure that was less than an acre, as long as there was a conservation easement on greater than an acre, would the developer be able to purchase into that.

Aaron Leal, Deputy City Attorney, stated that one concern with the process was accounting for that. If a large tract of property was purchased and then allow for acreage, it would involve some kind of accounting system.

Mayor Burroughs suggested to not discounting that proposal as long as the conversion was the same.

Leal stated that another necessity was to have the conservation easement in place so that it could not be developed.

Council Member Gregory stated that he did not see how canopy fit into inches or acres. Canopy was important but not more than inches or acres. He requested information on how canopy interacted with inches and acres.

Kralik continued with the suggested formation of a Citizens Tree Fund Committee. She indicated that once the contractor had started developing the tree trust process, staff would come back to Council for recommendations on the committee. Dallas was only other city using citizen engagement for the process of urban forest planning.

Kralik stated that the consultant could cost between \$15-25,000 and asked where the funding would come from.

Mayor Burroughs stated that he was not in favor of depleting the tree fund to pay for the consultant.

Mayor Pro Tem Kamp stated that as this was a one-time expense she would suggest using the City Manager's contingency fund.

City Manager Campbell stated that staff would come back to Council with a recommendation on how to fund the consultant without using the tree fund.

4. Receive a report, hold a discussion and provide direction on the Hickory Grand Street concept plan options related to head-in versus back-in parking.

PS Arora, DRC Engineering Administrator, reviewed the existing Wells Fargo/Williams Trade Square parking lot. Currently the lot had five access points on Hickory and Mulberry with a total existing parking court of 177 parking spaces. Hickory Street had 57 on-street parking spaces which resulted in a total of 234 parking spaces in the area.

Input was received from the following departments for a proposed parking lot design development: Planning, Street Operations, Traffic Engineering, Downtown Liaison, City Arborist, Solid Waste, DME and the consultant.

The proposed parking lot would have only one access point on Hickory and one on Mulberry which would increase the parking spaces to 215 from 177. Staff would have to work with Solid Waste on where to place dumpsters, the compactor and DME facilities.

Council Member Roden stated that there were a lot of pedestrians in the area and he did not see a place to cross Hickory Street in the plans.

Arora stated that there would be build outs that would provide safe areas to cross. He stated that back-in parking was a good safety feature and provided better loading/wheel chair accessibility. Specific signage with instructions could be provided for drivers unfamiliar with back-in parking.

Advantages of back-in over head-in parking included: (1) drivers were able to pull out directly into the travel lane, rather than needing to back out into incoming traffic; (2) drivers were better able to see oncoming traffic and bicyclists, (3) car doors opened such that they blocked access to the street and guided pedestrians to the sidewalk which was particularly safer for children, (4) the trunk of the car was accessed from the sidewalk rather than the street for loading cargo, and (5) better accommodated on-street handicapped parking.

Disadvantages of back-in parking included (1) uncommonness and unfamiliar format to drivers, (2) confused drivers u-turning and pulling front-first into spaces from the opposite travel lane, (3) cars hanging over and exhaust fouling the sidewalk particularly where there was outdoor seating, and (4) difficulty in backing up into a space if the car behind followed too closely and blocked the path into the space.

The total proposed parking court with head in parking included 287 spaces compared to the existing 234 spaces. Back-in angle parking would produce 320 total spaces compared to 234 existing and 287 with head-in parking.

Staff was requesting direction from Council on the type of parking for the area and whether feedback was needed from other boards and commissions.

Mayor Burroughs asked if the Traffic Safety Commission and the Downtown Task Force would be good committees for feedback.

Arora stated that those two boards could be consulted but cautioned that it would slow down the process.

Council Member Gregory felt that back-in parking was a good idea and suggested that it might also be a good idea for Industrial Street. He had seen this work in other cities.

Mayor Burroughs stated that if it didn't impact the time line, he would suggest taking the proposal to the other boards but because it would impact the time line, it was a different scenario. He felt the proposal was safer and did not have a problem with it.

Consensus of the Council was to proceed with the back-in parking.

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

1. Closed Meeting:

- A. Deliberations regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071.

- 1. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the potential purchase of certain real property interests located in the T. Toby Survey, Abstract No. 1288, City of

Denton, Denton County, Texas, and located at the south east corner of Loop 288 and Locust 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.

2. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the potential purchase of certain real property interests located in the Hiram Sisco Survey, Abstract No. 1184, City of Denton, Denton County, Texas, and located generally along the 700 block of East McKinney 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.
3. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the potential purchase of certain real property interests located (1) in the M.E.P. & P.R.R. Co. Survey, Abstract Number 1469, Denton County, Texas (located generally in the 1500 block of North Mayhill Road); (2) in the M.E.P. & P.R.R. Co. Survey, Abstract Number 927, Denton County, Texas (located generally in the 500 block of North Mayhill Road); and (3) in the David Hough Survey, Abstract Number 646 (located generally in the 3900 block of Quailcreek Road), all within the City of Denton, Texas. Consultation with the City's attorney's regarding legal issues associated with the acquisition or condemnation of the real property interests referenced above where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and 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 proceedings or potential litigation. (Mayhill Widening and Improvements project)
4. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the acquisition of real property interests located (1) in the A.N.B. Tompkins Survey, Abstract Number 1246, Denton County, Texas (located generally in the 2400 block of South Bonnie Brae Street); (2) in the James Edmonson Survey, Abstract Number 400, Denton County, Texas (located generally on Roselawn Drive, 600 feet east of South Bonnie Brae Street); and (3) in the William Roark

Survey, Abstract Number 1087, Denton County, Texas (located generally in the 4600 block of South Bonnie Brae Street), all in the City of Denton, Denton County, Texas. Consultation with the City's attorneys regarding legal issues associated with the acquisition or condemnation of the real property interests referenced above where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and 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 proceedings or potential litigation. (Bonnie Brae Widening and Improvements project)

5. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the value of certain real property interests located in the E. Puchalski Survey, Abstract No. 996, City of Denton, Denton County, Texas, and located at the northeast corner of intersection of West Hickory Street and North Texas Boulevard. Consultation with the City's attorneys regarding legal issues associated with the potential sale 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.
6. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the potential purchase of certain real property interests located in the T.M. Downing Survey, Abstract No. 346, City of Denton, Denton County, Texas, and located generally along the south side of East McKinney Street, approximately 0.3 miles east of Woodrow Lane. 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. (CODELLA LLC - 69kV DME)

B. Deliberation regarding Personnel Matters - Under Texas Government Code Section 551.074.

1. Deliberate and discuss the evaluation, duties, discipline, procedures, and contracts of the Municipal Court Judge, City Attorney, City Manager, and Internal Auditor.

This item was not considered.

- C. Consultation with Attorneys - Under the Texas Government Code Section 551.071.

- 1. Consult with and provide direction to City's attorneys regarding the encroachment of a structure in a floodplain as impacting a proposed development at or near the crossroads of Teasley Road and El Paseo Drive.

### **1. PLEDGE OF ALLEGIANCE**

The Council and members of the audience recited the Pledge of allegiance to the U. S. and Texas flags.

### **2. PROCLAMATIONS/PRESENTATIONS**

- A. Proclamations/Awards

- 1. Proclamation in recognition of Animal Services staff members

Mayor Burroughs and Mayor Pro Tem Kamp presented the proclamation for the Animal Services staff members.

### **3. CITIZEN REPORTS**

There were no citizen reports for this meeting.

### **4. CONSENT AGENDA**

Mayor Burroughs indicated that Items C and D would be pulled for separate consideration.

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

#### Ordinance No. 2013-015

- A. Consider approval of the Second Amendment to the Meet and Confer Agreement between the City of Denton and Denton Fire Fighters Association, IAFF Local 1291 and authorize the City Manager to sign the amendment.

#### Ordinance No. 2013-016

- B. Consider adoption of an ordinance of the City of Denton, Texas, amending Ordinance No. 2012-268 to prescribe updated titles and number of positions for certain classifications of Fire Department personnel; providing repealer, cumulative and severability clauses; and declaring an effective date.

Ordinance No. 2013-017

- E. Consider adoption of an ordinance rejecting any and all competitive bids for the construction of the US 380 Utility Relocations project for the City of Denton; and providing an effective date. (Bid 5122-US 380 Utility Relocations). The Public Utilities Board recommends approval (5-0).

Ordinance No. 2013-018

- F. Consider adoption of an ordinance rejecting any and all competitive bids for construction of the Cooper Creek Interceptor III project; and providing an effective date. (Bid 5125-Cooper Creek Interceptor III). The Public Utilities Board recommends approval (5-0).

Ordinance No. 2013-019

- G. Consider adoption of an ordinance awarding a contract for the purchase and installation of an excavation, construction, and landfill compaction control software with Global Positioning System (GPS) hardware and associated equipment for one City of Denton Landfill Compactor as awarded by the State of Texas Department of Information Resources (DIR) through the Go DIRect Program, Contract Number DIR-SDD-1797; providing for the expenditure of funds therefor; and providing an effective date (File 5165-Purchase of Global Positioning System Software and Hardware for Landfill Compactor awarded to GeoShack North America, Inc. in the amount of \$115,872.34). The Public Utilities Board recommends approval (7-0).

Ordinance No. 2013-020

- H. Consider adoption of an ordinance authorizing the expenditure of funds for payments by the City of Denton to the Electric Reliability Council of Texas (ERCOT) for Wide Area Network (WAN) interconnection of the City of Denton data network with the ERCOT data network and to maintain operational security regarding the transfer of data between ERCOT and the City; and providing an effective date (File 5057-ERCOT Wide Area Network Interconnection Fee in the estimated amount of \$340,000). The Public Utilities Board recommends approval (7-0).

Ordinance No. 2013-021

- I. Consider adoption of an ordinance of the City of Denton authorizing the City Manager or his designee to execute a contract through the State of Texas Smart Buy Program for the purchase of a Bucket Truck for the Electric Distribution Department as awarded by the State of Texas Contract 985D; and providing an effective date (File 5162-Purchase of Bucket Truck awarded to Fort Worth Freightliner-Western Star in the amount of \$192,972.49). The Public Utilities Board recommends approval (7-0).

Ordinance No. 2013-022

- J. 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 of one vacuum excavator for Electric Operations, one backhoe for Water Distribution and one backhoe for Wastewater



Collections; and providing an effective date (File 5138-Purchase of Vacuum Excavator awarded to Vermeer Texas-Louisiana in the amount of \$52,887.30 and Two Backhoes awarded to DARR Equipment Company in the amount of \$127,408.20 for a total award of \$180,295.50). The Public Utilities Board recommends approval (7-0).

Ordinance No. 2013-023

K. Consider adoption of an ordinance of the City of Denton, Texas authorizing the City Manager to execute a Professional Services Agreement by and between the City of Denton, Texas and PWR Solutions, Inc. for the preparation of the analyses respecting the annual Federal Energy Regulatory Commission (FERC) 715 Report; for preparation and submission of the annual Electric Reliability Council of Texas (ERCOT) Steady State Working Group Data Sets A and B; for preparation and submission of the annual ERCOT System Protection Working Group present and future year short circuit cases; representation of Denton Municipal Electric in ERCOT and other transmission service provider meetings; for engineering support and consultation in other electric service planning and system study issues; such services being rendered in support of Denton Municipal Electric; finding and determining that the document entitled "Proposal for Five Year Transmission Planning and TP Compliance Support Services" ("proposal") which defines the scope of services to be performed by PWR Solutions, Inc. is a document that pertains to a competitive electric utility matter as set forth under the provisions of Texas Government Code, Sections 551.086 and 552.133; authorizing the sealing of said proposal by the City Secretary; authorizing the expenditure of funds therefor; providing an effective date (File No.5148 in the amount not-to-exceed \$857,469.06). The Public Utilities Board recommends approval (7-0).

Ordinance No. 2013-024

L. Consider adoption of an ordinance accepting proposals and awarding a public works contract for the procurement of services and materials to prepare substation sites and transmission line easements for construction; providing for the expenditure of funds therefor; and providing an effective date (RFP 5086-awarded to Mann Robinson and Sons, Inc. in the not to exceed amount of \$2,380,000). The Public Utilities Board recommends approval (7-0).

Ordinance No. 2013-025

M. Consider adoption of an ordinance accepting competitive bids and awarding a public works contract for the Cast in Place Concrete Portions of the Airport North Entry Road project for construction of an airport entry and truck/bus turnaround; providing for the expenditure of funds therefor; and providing an effective date (Bid 3516-awarded to the lowest responsible bidder meeting specification, Floyd Smith Concrete, Inc. in the amount of \$159,820.87).

Ordinance No. 2013-026

N. Consider adoption of an ordinance accepting competitive bids and awarding a public works contract for the asphalt pavement section of the Airport South Entry Road project for construction of an airport entry and truck/bus turnaround;

providing for the expenditure of funds therefor; and providing an effective date (Bid 4974-awarded to the lowest responsible bidder meeting specification, Jagoe-Public Company in the amount of \$126,143.85).

Ordinance No. 2013-027

- O. Consider adoption of an ordinance accepting sealed proposals and awarding a contract to provide Software and Related Services with SHI Government Solutions, Inc., a Microsoft Certified Large Account Reseller with the City of Denton; and providing an effective date (RFP 5121-Microsoft Software Reseller and Related Services awarded to SHI Government Solutions, Inc. in the annual estimated amount of \$95,000 for City of Denton expenditures, and a three year estimated expenditure of \$285,000).

Ordinance No. 2013-028

- P. Consider adoption of an ordinance accepting sealed proposals and awarding a contract for the purchase of Commander 1 Police Motorcycles for the City of Denton Police Department; and providing an effective date (RFP 5119-Police Motorcycles awarded to Victory Police Motorcycles in the estimated amount of \$210,000 for the replacement of six motorcycles over a five (5) year period).

Ordinance No. 2013-029

- Q. Consider adoption of an ordinance accepting competitive proposals and awarding a contract for the purchase of tapered, tubular, and galvanized steel structures for Denton Municipal Electric substations from Falcon Steel Company in an amount not to exceed \$1,660,000 and a contract for the purchase of substation structures fabricated from standard shaped steel products from R and C Welding in an amount not to exceed \$2,140,000; providing for the expenditure of funds therefor; and providing an effective date (RFP 5115-Galvanized Steel Structures). The Public Utilities Board recommends approval (7-0).

Ordinance No. 2013-030

- R. Consider adoption of an ordinance of the City Council of Denton, Texas authorizing the City Manager to execute and deliver a "Local Project Advanced Funding Agreement for Voluntary Local Government Contributions to Transportation Improvement Projects with No Required Match" between the City of Denton and the Texas Department of Transportation (TxDOT) regarding the City's funding that portion of the agreement consisting of conduits and ground boxes along the route of U.S. Highway 380, from Bonnie Brae Road to U.S. Highway 377, in the City of Denton, Texas; authorizing the expenditure of funds therefor; providing an effective date (Project-U.S. Highway 380 from Bonnie Brae Road to U.S. Highway 377 in the amount of \$129,082.59).

Ordinance No. 2013-031

- S. Consider adoption of an ordinance of the City Council of Denton, Texas authorizing the City Manager to execute and deliver a "Termination of the Advance Funding Agreement for Bridge Replacement or Rehabilitation Off the State System" between the City of Denton and the Texas Department of Transportation (TxDOT) regarding the local government bridge project located at Mayhill Road at Cooper Creek in the City of Denton, Texas and termination of Advanced Funding Agreement Amendment No. 1, dated January 28, 2004; providing an effective date.

Ordinance No. 2013-032

- T. Consider adoption of an ordinance of the City Council of Denton, Texas authorizing the City Manager to execute and deliver a "Surface Transportation Program - Metropolitan Mobility Agreement for State-Constructed Traffic Signal Construction (with a Municipality Providing Limited Materials or Labor)" between the City of Denton and the Texas Department of Transportation (TxDOT) regarding the City's request for reimbursement of the federal allowable percentage of the cost of installing traffic signals and other items directly related to the operation of six intersections on U.S. Highway 380 within the City that are specified in said agreement; providing the City Manager with authority to carry out the rights and duties of the City regarding said agreement; providing the City Manager with authority to expend funds therefor; providing an effective date.

Approved the minutes listed below.

- U. Consider approval of the minutes of:  
December 3, 2012  
December 4, 2012  
December 11, 2012  
December 18, 2012

Ordinance No. 2013-033

- V. Consider adoption of an ordinance accepting an Agreement with Denton County to participate in Tax Increment Reinvestment Zone, Number Two; authorizing the City Manager to execute the Agreement and take other actions necessary to administer the Tax Increment Reinvestment Zone; making certain findings and other matters related thereto; and providing an effective date.

Ordinance No. 2013-034

- W. Consider adoption of an ordinance finding that a public use and necessity exists to acquire fee simple to a 2.486 acre tract situated in the T.M. Downing Survey, Abstract No. 346, located in the City of Denton, Denton County, Texas, as more particularly described on Exhibit "A", attached to the ordinance and made a part thereof, located generally along the south side of East McKinney Street, approximately 0.3 miles east of Woodrow Lane (the "Property Interests"), for the public use of expanding and improving the Denton Municipal Electric distribution and transmission system; authorizing the City Manager or his designee to make an offer to (1) CODELA, LLC (the "Owner"); (2) successors in interest to the Owner to the Property Interests; or (3) any other owners of the Property Interests, as may be applicable, to purchase the Property Interests for the purchase price of Two Hundred Eighty Six Thousand Four Hundred Eighty Nine Dollars and No Cents (\$286,489.00), and other consideration, as prescribed in the Contract of Sale (the "Agreement"), as attached to the ordinance and made a part thereof as Exhibit "B"; authorizing the expenditure of funds therefor; and providing an effective date. (69kV Transmission Line Re-build Project)

Ordinance No. 2013-035

- X. Consider adoption of an ordinance of the City of Denton, Texas, authorizing the City Manager, or his designee, to execute a Purchase Agreement (herein so called), as attached to the ordinance and made a part thereof as Exhibit "A" by and between the City

of Denton (the "City"), and Robert Earl Edwards, Donald Eugene Edwards, Myrtle Elizabeth (Edwards) McSween and William Warren Edwards, (collectively, the "Seller"), contemplating the sale by Seller and purchase by City of a 0.289 acre tract of land, more or less, being generally located in the 1500 block of North Mayhill Road in the M.E.P. & P.R.R. Company Survey, Abstract No. 1469 in the City of Denton, Denton County, Texas (the "Property Interests"); for the Purchase Price of Thirty Four Thousand Dollars and No Cents (\$34,000.00); authorizing the City Manager, or his designee, to execute and deliver any and all other documents necessary to accomplish the closing of the transaction contemplated by the Purchase Agreement; authorizing the expenditure of funds therefor; and providing an effective date. (Mayhill Road Widening and Improvements Project - Parcel M025)

Ordinance No. 2013-036

Y. Consider adoption of an ordinance finding that a public use and necessity exists to acquire (I) fee simple to a 2.115 acre tract; and (II) a Slope Easement, encumbering a 0.202 acre tract, each located in the M.E.P. and P.R.R. Company Survey, Abstract Number 927, City of Denton, Denton County, Texas, as more particularly described on Exhibit "A", attached to the ordinance and made a part thereof, located generally in the 500 Block of North Mayhill Road (the "Property Interests"), for the public use of expanding and improving Mayhill Road, a municipal street and roadway; authorizing the City Manager or his designee to make an offer to (1) 551 Mayhill Joint Venture (the "Owner"); (2) successors in interest to the Owner to the Property Interests; or (3) any other owners of the property interests, as may be applicable to purchase the property interests for the purchase price of One Hundred Sixteen Thousand Eight Hundred Fifty Four Dollars and No Cents (\$116,854.00) and other consideration, as prescribed in the Purchase Agreement (the "Agreement"), as attached to the ordinance and made a part thereof as Exhibit "B"; authorizing the expenditure of funds therefor; and providing an effective date. (Mayhill Road Widening and Improvements Project- Parcel M070)

Ordinance No. 2013-037

Z. Consider adoption of an ordinance of the City of Denton, Texas, authorizing the City Manager, or his designee, to execute a Purchase Agreement (herein so called), as attached to the ordinance and made a part thereof as Exhibit "A", by and between the City of Denton (the "City"), as Buyer, and Joyce A. Brearley and Lucy I. Barber, Co-Trustees of the Leroy Barber and Lucy I. Barber Family Trust, dated May 18, 1994 (the "Owner"), as Seller, contemplating the sale by Owner and purchase by City of a 0.398 acre tract of land, more or less, being generally located in the 1100 block of South Mayhill Road, in the M.E.P. & P.R.R. Company Survey, Abstract No. 927, in the City of Denton, Denton County, Texas (The "Property Interests") for the Purchase Price of Seventy five Thousand Dollars and No Cents (\$75,000.00); authorizing the City Manager, or his designee, to execute and deliver any and all other documents necessary to accomplish closing of the transaction contemplated by the Purchase Agreement; authorizing the expenditure of funds therefor; authorizing relocation expenditures; and providing an effective date (Mayhill Road Widening and Improvements Project - Parcel M115)

Ordinance No. 2013-038

AA. Consider adoption of an ordinance finding that a public use and necessity exists to acquire fee simple to a 0.295 acre tract located in the David Hough Survey, Abstract

Number 646, and being a part of Lot 1R, Block F of Providence Place II, an Addition to the City of Denton, according to the Plat thereof recorded in Cabinet X, Page 905, Plat Records, Denton County, Texas, as more particularly described on Exhibit "A" attached to the ordinance and made a part thereof, located generally in the 3900 Block of Quailcreek Road (a private street) (the "Property Interests"), for the public use of expanding and improving Mayhill Road, a municipal street and roadway; authorizing the City Manager or his designee to make an offer to (1) Quail Creek South, LP (the "Owner"); (2) successors in interest to the Owner to the Property Interests; or (3) any other owners of the Property Interests, as may be applicable, to purchase the Property Interests for the purchase price of Thirty Eight Thousand Four Hundred Nineteen Dollars and No Cents (\$38,419.00), and other consideration, as prescribed in the Purchase Agreement (the "Agreement"), as attached to the ordinance and made a part thereof as Exhibit "B"; authorizing the expenditure of funds therefor; and providing an effective date. (Mayhill Road Widening and Improvements Project - Parcel M236)

Ordinance No. 2013-039

BB. Consider adoption of an ordinance finding that a public use and necessity exists to acquire (I) fee simple to a 4.69 acre tract; (II) a utility and slope easement encumbering 0.56 acre; and (III) a utility and drainage easement encumbering 0.02 acre, said tracts located in the A. Tompkins Survey, Abstract No. 1246 and located in the City of Denton, Denton County, Texas, as more particularly described on Exhibit "A", attached to the ordinance and made a part thereof, located generally in the 2400 block of South Bonnie Brae Street (the "Property Interests"), for the public use of expanding and improving Bonnie Brae Street, a municipal street and roadway; authorizing the City Manager or his designee to make an offer to (1) Harlan Properties, Inc. (the "Owner"); (2) successors in interest to the owner of the Property Interests; or (3) any other owners of the Property Interests, as may be applicable, to purchase the Property Interests for the purchase price of One Hundred Fifty Thousand One Hundred Sixty Three and No Cents (\$150,163.00), and other consideration, as prescribed in the Purchase Agreement (the "Agreement"), as attached to the ordinance and made a part thereof as Exhibit "B"; authorizing the expenditure of funds therefore; and providing an effective date. (Bonnie Brae Widening and Improvements Project - Parcel 25)

Ordinance No. 2013-040

CC. Consider adoption of an ordinance finding that a public use and necessity exists to acquire (I) fee simple to a 1.91 acre tract; (II) a utility and slope easement encumbering 0.57 acre; and (III) a drainage easement encumbering 0.02 acre; all tracts located in the James Edmonson Survey, Abstract Number 400, City of Denton, Denton County, Texas, as more particularly described on Exhibit "A", attached to the ordinance and made a part thereof, located generally on Roselawn Drive, 600 feet East of South Bonnie Brae Street ( the "Property Interests"), for the public use of expanding and improving Bonnie Brae Street, a municipal street and roadway; authorizing the City Manager or his designee to make an offer to (1) the Chamberlain Trust (the "Owner"); (2) successors in interest to the Owner to the Property Interests; or (3) any other owners of the Property Interests, as may be applicable, to purchase the Property Interests for the purchase price of Sixty Six Thousand Five Hundred and Nineteen Dollars and No Cents (\$66,519.00), and other consideration, as prescribed in the Purchase Agreement (the "Agreement"), as attached to the ordinance and made a part thereof as Exhibit "B"; authorizing the expenditure of funds therefore; and providing an effective. (Bonnie Brae Widening and Improvements Project -Parcel 34)

Ordinance No. 2013-041

DD. Consider adoption of an ordinance finding that a public use and necessity exists to acquire fee simple to a 0.04 acre tract located in the William Roark Survey, Abstract Number 1087, and being a part of Lot 7, Block A of Meadows of Hickory Creek, Phase One, an Addition to the City of Denton, according to the Plat thereof recorded in Cabinet X, Page 20, Plat Records, Denton County, Texas, as more particularly described on Exhibit "A", attached to the ordinance and made a part thereof, located generally in the 4600 Block of South Bonnie Brae Street ("the "Property Interests"), for the public use of expanding and improving Bonnie Brae Street, a municipal street and roadway; authorizing the City Manager or his designee to make an offer to (1) Linda J. Alexander and John M. Alexander (Collectively, the "Owner") (2) successors in interest to the Owner to the Property Interests; or (3) any other owners of the Property Interests, as may be applicable, to purchase the Property Interests for the purchase price of Thirteen Thousand Seven Hundred Fourteen Dollars and No Cents (\$13,714.00), and other consideration, as prescribed in the Purchase Agreement (the "Agreement"), as attached to the ordinance and made a part thereof, as Exhibit "B"; authorizing the expenditure of funds therefor; and providing an effective date. (Bonnie Brae Widening and Improvements Project - Parcel 46)

Ordinance No. 2013-042

EE. Consider adoption of an ordinance authorizing the execution of an easement purchase agreement ("Purchase Agreement"), as attached to the ordinance thereto and made a part thereof as Exhibit "A", by and between Mahogany Run Investments, L.P., a Texas limited partnership ("Owner"), as Seller, and the City of Denton, Texas ("City"), as Buyer, regarding the sale and purchase of (I) a sanitary sewer easement encumbering a 0.438 acre tract, and (II) a temporary construction, grading and access easement, encumbering a 0.134 acre tract, all tracts located in the Gideon Walker Survey, Abstract Number 1330, City of Denton, Denton County, Texas as more particularly described in the Purchase Agreement, located generally in the 3900 block of South Interstate Highway 35 East (collectively the "Property Interests"), for the public use of expanding and improving the municipal sanitary sewer system for the Purchase Price of Two Hundred Ninety One Thousand Three Hundred Forty Four Dollars and No Cents (\$291,344.00), and other consideration, as prescribed in the Purchase Agreement; authorizing the expenditure of funds therefor; and providing an effective date. (State School Sanitary Sewer Interceptor Project - Phase II - Parcel 4).

Ordinance No. 2013-043

FF. Consider adoption of an ordinance approving a development agreement with HMH Lifestyles, L.P., securing the costs to construct the unbuilt portions of the required perimeter wall for the Villages of Carmel, Phase III subdivision, pursuant to previously approved plans and permits, and authorizing permitting and construction of houses and infrastructure on the remaining unbuilt lots in that subdivision, in accordance with applicable building and development requirements; delegating authority to the City Manager to execute said Development Agreement on behalf of the City; and declaring an effective date.

Mayor Pro Tem Kamp left the meeting with a conflict of interest.

Approved the Noise Exception request below.

- C. Consider a request for an exception to the Noise Ordinance for the purpose of the 35 Denton Music Festival sponsored by 35 Denton LLP. The event will be held in Williams Trade Square and on Industrial Street and Hickory Street beginning on Friday, March 8 from 4 to 10 p.m., Saturday, March 9, from 2 to 10 p.m. and Sunday, March 10, from 2 to 10 p.m. The exception is specifically requested to increase sound levels from 70 to 75 decibels and for amplified sound on Sunday. Staff recommends approval of request.

Mayor Burroughs noted that Comment Cards were received from Wallace Campbell, James Mars, and Kyle LaValley in support.

Council Member Roden motioned, Council Member Engelbrecht seconded to approve Items C and D. On roll call vote: Council Member King, Council Member Watts, Council Member Gregory, Council Member Engelbrecht, Mayor Burroughs, Council Member Roden "aye". Motion carried unanimously.

Resolution No. R2013-003

- D. Consider approval of a resolution allowing Rooster's Roadhouse to be the sole participant allowed to sell alcoholic beverages at the 35 Denton event held on March 8 - March 10, 2013, upon certain conditions; authorizing the City Manager or his designee to execute an agreement in conformity with this resolution; and providing for an effective date. Staff recommends approval of 35 Denton's request to allow Rooster's Roadhouse to sell alcohol during the event.

This item was approved with the motion as noted in Item C.

**5. ITEMS FOR INDIVIDUAL CONSIDERATION**

Ordinance No. 2013-044

- A. Consider adoption of an ordinance of the City of Denton, Texas, authorizing the Mayor to execute an Interlocal Cooperation Agreement (the "Interlocal Agreement") between the Denton County Transportation Authority and the City of Denton, Texas, as attached hereto and made a part hereof as Exhibit "A", providing a license to Denton County Transportation Authority to construct, operate and maintain bus shelters and related bus passenger amenities in City Rights of Way in locations more particularly described in the Interlocal Agreement; and providing for an effective date.

Mark Nelson, Director of Transportation, presented the information concerning the operation and maintenance of bus shelters and related bus passenger amenities at designated sites in the city. The term of the contract was for 50 years. Route schedules and other DCTA events would be posted in the shelters but no third party advertising. He noted that Dee Leggett and Jim Cline from DCTA were present for questions.

Jim Cline, DCTA, stated that these shelters and amenities would provide a better experience for the riders of the system.

Council Member Gregory asked if all the shelters were the same size.

Leggett stated that one location warranted two shelters because of the demand.

Mayor Burroughs noted that the plans identified 16 locations with a potential 23 locations available. He questioned the timing for the new locations.

Leggett stated that some of the locations were in TxDOT right-of-way which would need to be resolved before placing shelters there. Others would depend on ridership.

Mayor Burroughs questioned if accessible meant sidewalk access.

Leggett stated that pedestrian accessibility was a key due to the American with Disabilities Act.

Mayor Burroughs suggested identifying those locations that merited a shelter but that did not have the availability of a sidewalk and give those locations to Council to consider for future CIP bond packages to address that type of barrier.

Leggett stated that they had already started those conversations with city staff.

Council Member Roden asked if the installation of a shelter would increase ridership.

Cline felt that it would be a positive step forward.

Council Member Engelbrecht stated that Rayzor Ranch had a stop but the location was not ADA accessible and was not on city property. He questioned how that would be worked out.

Cline stated that they would look at the specifics of the location to make it happen.

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

Amber Briggie, 1315 Dartmouth Place, Denton 76201 spoke in support.

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

Mayor Burroughs suggested that the Mobility Committee might look at sites not picked for a shelter and see how they could be prioritized with allocated resources.

## **6. PUBLIC HEARINGS**



Ordinance No. 2013-045

- A. Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, amending the Denton Development Code modifying the standard procedures for certificate of appropriateness review in Subchapter 35.7; and providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; providing a severability clause and an effective date. The Planning and Zoning Commission recommends approval (6-0). The Historic Landmark Commission recommends approval (5-0). (DCA12-0008, Procedures for Certificate of Appropriateness Review)

Bryan Lockley, Director of Planning and Development, presented the details of the proposal. He stated that this was an amendment to the Denton Development Code to clarify two provisions. The first was the time limit for consideration of a Certificate of Appropriateness (COA) but did not state what the consequences would be if the time line was not met. Another section of the Code stated that a COA had to be approved within 60 days of the receipt of the application or it would be considered approved. Due to these conflicting timelines, staff was proposing to amend the ordinance and revise the Code so that the timeline was extended from the current 35 day requirement to 45 days for staff to receive and adequately review for sufficiency, analyze the date, draft a staff report, and forward the application to the Historic Landmark Commission for consideration. The Historic Landmark Commission would then have 45 days from the posting of the application on the agenda to review and make a determination regarding the application. The Planning and Zoning Commission along with staff recommended approval.

Council Member Roden questioned if there would be two 45 day periods for a total of 90 days for consideration of the COA.

Lockley replied correct if the entire time provision was used but typically that amount of time was not needed.

Council Member Roden asked what was the typical time line.

Lockley stated that it was less than 30 days.

Council Member Roden stated that there was a potential to make the process longer than it currently was.

Lockley stated that staff discussed the process but the issue of time spent on the staff level was shorter and transferred to the Historic Landmark Commission.

Mayor Burroughs felt that the potential of 90 days could be devastating. He could understand the need for flexibility but felt there was wasted time for posting to an agenda if the staff review was already done within the first 45 days with an additional period needed for posting to the next meeting. He did not have a problem with the 45 days for the Historic Landmark Commission but felt there should be a shorter time for staff review. There would always be an overlap time for staff review. He suggested only having 30 days for staff review and 45 days for the Historic Landmark Commission.

Council Member Roden felt that three months seemed like a long period of time. Different projects could take a longer or shorter time to go through the process. He asked what the latest time was to submit an item before the next Historic Landmark Commission meeting.

Lockley stated that there was no date certain to submit an application. Staff did not hold an application. If it was completed in 10 days, it moved forward.

Council Member Roden suggested making a subcategory to fast track some types of applications that did not generate neighborhood concerns.

Council Member Engelbrecht stated that the agenda had to be posted 72 hours before the meeting. An application that was approved 48 hours before the meeting would have to wait until the next meeting which easily could turn into 75 days to the next review. He questioned if the Historic Landmark Commission was notified in advance of what items were coming to them and did they know what applications were submitted.

Lockley replied not at that point.

Council Member Engelbrecht questioned if there were a way to notify an applicant if his/her application did not make an agenda.

Council Member Watts questioned what would be the resistance to having one time from the date when an application was submitted, such as 60 days, to make a determination for both staff and Historic Landmark Commission time. Why have the two time frames?

Lockley stated that some cases were simple and some required more time.

Council Member Watts asked about the option to table the application at the end of the time period instead of the current requirement to deny it and having to reapply.

Lockley stated that one section of the Code defined what the action would be in regards to the receipt of a completed application. The other section dealt with final action on the receipt of the application. A definition was needed as to whether the time line referred to the receipt of the application by staff or receipt for the Historic Landmark Commission.

Mayor Burroughs stated that this was a complex situation if staff took more than 30 days to review the application and then have inadequate time to make the next Historic Landmark Commission meeting. The Commission would then either have to hold a special called meeting or deny the application due to the time frame. He could see the Historic Landmark Commission needing the 45 days for a review. It was the staff portion that bothered him.

Lockley stated that there were no applications that lasted the entire time frame at the staff level. He stated staff could go back and check the current applications to determine a time line.

Council Member Roden asked if there was a way to increase notification of issues on the agenda. If there was a way to get the applications out into the public prior to the legal notification of 72 hours for the agenda posting.

Lockley stated that staff had committed to the Historic Landmark Commission to get the information out by the Wednesday prior to the meeting with the agenda posted on Friday before the meeting.

Council Member Roden asked if there was a way to create an administrative process to get this information out to the public.

Cindy Jackson, Staff Liaison for the Historic Landmark Commission, stated that at this time staff sent out notices to the neighborhood planner on what was proposed, the date it was going to the Historic Landmark Commission, etc. This information went out 10 days before the meeting. The neighborhood leader would then provide the information to the rest of the neighborhood.

The Mayor opened the public hearing.

No one spoke during the public hearing.

The Mayor closed the public hearing.

Mayor Burroughs felt that 45 days for the Historic Landmark Commission was appropriate but that staff time should be changed from 45 days changed to 21 or 30 days, keeping in mind that additional time would be realized.

Council Member Gregory asked how staff would feel about 21 days.

Lockley stated that it would be acceptable if the time frame was from the time the completed application was received to give staff 21 days to review it and send it to the Historic Landmark Commission.

Council Member King motioned, Mayor Pro Tem Kamp seconded to adopt the ordinance with an amendment to have the staff time at 21 days. On roll call vote: Council Member King, Council Member Watts, Council Member Gregory, Council Member Engelbrecht, Mayor Pro Tem Kamp, Mayor Burroughs, Council Member Roden "aye". Motion carried unanimously.

Ordinance No. 2013-046

- B. Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, approving an Alternative Environmentally Sensitive Area (ESA) Plan to deviate from Subchapter 35.17.8 (Riparian Buffer and Water Related Habitat Development Standards) of the Denton Development Code, on approximately 19.87 acres of land within a Neighborhood Residential Mixed Use (NRMU) zoning district classification and use designation, located at the southwest corner of Mingo Road and Nottingham Drive within the City of Denton, Denton County, Texas; providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; providing a severability clause and an effective date. (ESA12-0009) The Planning and Zoning Commission recommends approval, subject to conditions (6-0).

Mayor Burroughs announced that the staff presentation for Items B and C would be done together and indicated that the public hearings for these items would be held at the same time.

City Manager Campbell stated that Council would need to act on the items separately.

Brian Lockley, Director of Planning and Development, did a staff presentation for both B and C. He stated that the applicant was requesting approval of a specific use permit to construct a multi-family development. The applicant was also requesting approval of an Alternative Environmentally Sensitive Areas (ESA) Plan to remove an ESA stream buffer designation from an existing draining channel, generally located at the northeast corner of the site. Approximately 1,535 tree inches located along the western property boundary would be preserved to mitigate the 570 inches that the applicant proposed to remove within the riparian buffer. This move would provide a benefit to the current homes in the area as the trees would act as a buffer to that area. The Planning and Zoning Commission recommended approval subject to the following conditions: (1) 1,535 tree inches would be preserved along the western property boundary. This preservation included mitigation for the 570 inches proposed to be removed from the ESA riparian buffer and a ten foot type B Buffer; and (2) preserved trees within the Alternative ESA plan located on the western property line would be used toward the tree mitigation requirement (222 inches) for the Alternative Tree Plan, which was approved by the Planning and Zoning Commission on January 9, 2013.

Council Member Gregory asked for the total amount of buffer with the 10 feet and the tree area.

Lockley stated it would be 90 feet.

Council Member Engelbrecht asked how wide the gap in the green area would be for the emergency entrance.

PS Arora, DRC Administrator, stated that it would be a minimum of 20 feet based on the Fire Department's recommendation.

Council Member Engelbrecht stated that every time there was a break in the natural habitat there was damage to the ability of wildlife to move back and forth in the area. He questioned why there needed to be a 50 foot wide space for a 26 foot minimum requirement.

Lee Allison, representing the property owner, stated that the 20 feet would be for a fire ingress lane which would be in the second phase of the development. As the second phase was not planned yet, the green space was made wider in order to plan for future development. This would allow for planning flexibility.

Lockley stated that Item C would provide for a specific use permit to allow for a multi-family development within a neighborhood residential mixed-use development. The proposed multi-family development would be constructed in two phases. Phase I would include up to 148 units and Phase II would include up to 168 to 180 units.

The Planning and Zoning Commission recommended approval with the following conditions: (1) construction for Phase II shall begin within 24 months from the date of when the first Certificate of Occupancy was issued for Phase I. If construction had not started on Phase II in accordance with the Denton Development Code, the SUP for Phase II will expire; (2) the access point located on the west side of the property, if required, adjacent to the Mozingo subdivision shall be used for emergency access only and shall be gated; (3) any part of any building within 100 feet

of the north property line will be designed with reasonable sound attenuation construction methods within the building to address noise from the railroad; (4) the multi-family development was limited to 294 units, (5) thirty-five percent of the required parking shall be covered with carpools, (6) a minimum tree preservation of 30% shall be provided. Preserved trees within the Alternate ESA plan and the western tree buffer may be counted toward the preservation requirement; (7) a minimum tree preservation area of 2.75 acres, inclusive of the Alternate ESA Plan and the western buffer was required; (8) tree preservation and mitigation (222 inches) will be calculated and designed with the landscape plans for Phase II; and (9) buildings and parking spaces in Phase I may be reasonable adjusted, subject to the approval of the Director of Planning and Development or his designee, during construction of Phase I in an effort to save any notable trees identified in the immediate area of the feature to be adjusted. Any tree 6 inches and above properly identified, protected and saved in Phase I will count toward the total tree preservation requirement. The Alternative Tree Plan conditions and the Alternative ESA Plan conditions were reviewed as noted in the agenda backup materials. Lockley stated that this piece of property was heavily treed and the developer wanted to develop in multiple phases but not definite conditions in order to provide flexibility for development but also provide for the requirements of the DDC. The listed conditions captured anticipated development of the property.

Council Member Roden asked about requiring a more definite site plan as part of the SUP process.

Lockley stated that the ideal situation would be to have a site plan but in absence of that and to give the applicant a level of comfort to move forward, this procedure identified conditions to continue with development.

Mayor Pro Tem Kamp stated that she appreciated the staff and applicant working together to save as many trees as possible but still remain flexible. All of the conditions were in the ordinance and all were agreed to the applicant.

Lockley stated that was correct.

Council Member Watts asked about the alternative tree plan. Section Two of the conditions stated that the trees would not be used towards tree inches but Condition Two of the ESA plan stated that the trees on the western property line could be used for the Alternative Tree Plan.

Council Member Engelbrecht questioned if the cut through was part of Phase II and the western boundary of trees would not be disturbed. Phase II would decide the alignment of the road and width of the road. If the 50 foot break was used there would still be the 1500 inches.

Lockley stated that correct.

The Mayor opened the public hearings for Items B and C.

Lee Allison, representing the developer, spoke in favor. He stated that the tree preservation requirement stated that they must preserve 25% of the trees and they were proposing to preserve 30%. The emergency access road would probably only be 20 feet wide rather than 50 feet. Phase I was already set while Phase II was a concept to see how it might work. The Code did

not require acreage of tree preservation, it required inches. They were not taking down trees that they did not have to remove. They were asking for flexibility all through construction to allow for modifications if needed due to trees they might want to save.

Council Member Gregory asked if it were in the plans if the main entrance was moved, to have a way to make it clear to a motorist that continuing on Audra would take them into the complex.

Allison stated that in the future they were planning to have either signage or an arch in the area to separate it from the main street. There would be some type of architectural feature to separate it.

Council Member Gregory stated that a condition from the Planning and Zoning Commission indicated that the emergency access on the west side of the property would be gated and that instead of regular paving there would be pavers that would allow water to go through.

Allison stated that they would be using landscape pavers.

Council Member Engelbrecht stated that there were two ingress/egress to Phase I. One was off Nottingham and the one other was the fire emergency entrance for Phase II. He asked why there was an entrance required on the west side.

Allison stated that if the south development proceeded, there would not be a need for it. The fire code requirements required the road. The condition stated "if required".

Council Member Engelbrecht stated that the issue was with the habitats for animals which would be disturbed by a road going through the area. He would like to minimize the space have to cut the trees out and bring trees right up to the road with pavers.

Arora stated that the pavers would need to sustain the load of the fire trucks.

The Mayor closed both public hearings.

Council Member stated that he would support a motion with hesitation as he would like to see an absolute need for the fire lane on west side in the future

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

Ordinance No. 2013-047

- C. Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, approving a Specific Use Permit to allow a multi-family development on approximately 19.87 acres of land within a Neighborhood Residential Mixed Use (NRMU) zoning district classification and use designation, located at the southwest corner of Mingo Road and Nottingham Drive within the J. Lilly survey, in the City of Denton, Denton County, Texas; providing for a penalty in the maximum amount of \$2,000.00 for violations

thereof; providing a severability clause and an effective date. (S12-0004) The Planning and Zoning Commission recommends approval, subject to conditions (6-0).

The public hearing for this item was held with Item A.

Council Member King motioned, Council Member Gregory seconded to adopt the ordinance with the conditions listed in the backup materials plus the use of pavers able to withstand a fire truck if needed for the emergency access. On roll call vote: Council Member King, Council Member Watts, Council Member Gregory, Council Member Engelbrecht, Mayor Pro Tem Kamp, Mayor Burroughs, Council Member Roden “aye”. Motion carried unanimously.

## **7. CITIZEN REPORTS**

There were no citizen reports scheduled for this meeting.

## **8. CONCLUDING ITEMS**

- A. Under Section 551.042 of the Texas Open Meetings Act, respond to inquiries from the City Council or the public with specific factual information or recitation of policy, or accept a proposal to place the matter on the agenda for an upcoming meeting

AND

Under Section 551.0415 of the Texas Open Meetings Act, provide reports about items of community interest regarding which no action will be taken, to include: expressions of thanks, congratulations, or condolence; information regarding holiday schedules; an honorary or salutary recognition of a public official, public employee, or other citizen; a reminder about an upcoming event organized or sponsored by the governing body; information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the municipality; or an announcement involving an imminent threat to the public health and safety of people in the municipality that has arisen after the posting of the agenda.

Council Member Roden requested another discussion on payday lending and how to proceed with a potential ordinance based on recent news.

Council Member Gregory requested a report on the number of air quality testing stations, potential locations for monitoring, monitoring protocols, cost and cost recovery activities.

Mayor Burroughs requested a time on the joint meeting agenda for the DISD to provide a status report from their perspective on the school finance issue.

Council Member Engelbrecht mentioned the 35Denton and Thin Line Film Fest events that would be coming up this weekend.

- B. Possible Continuation of Closed Meeting under Sections 551.071-551.086 of the Texas Open Meetings Act.

Mayor Burroughs noted that there was a Closed Session item to still discuss and questioned if Council wanted to continue the Closed Session at this time or consider an alternative date.

Mayor Pro Tem Kamp stated that the item was a Council personnel matter and indicated that she would like to consider reposting it for next week.

Council Member King agreed that it would be better to do the item when Council was fresh.

Council Member Engelbrecht asked that the item be considered first on the agenda. He suggested scheduling an appropriate amount of time for the item or to consider two sessions; one for the appointee and one for general discussion.

Mayor Burroughs noted that Council would not be considering Closed Session Item B. 1. at this meeting.

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

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MARK A. BURROUGHS  
MAYOR  
CITY OF DENTON, TEXAS

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JENNIFER WALTERS  
CITY SECRETARY  
CITY OF DENTON, TEXAS