

## CITY OF DENTON CITY COUNCIL MINUTES

May 2, 2017

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, May 2, 2017 at 2:00 p.m. in the Council Work Session Room at City Hall.

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

ABSENT: None.

### 1. Citizen Comments on Consent Agenda Items

Willie Hudspeth requested that Consent Agenda items C, E and F be pulled and whether minority contractors were considered. He spoke off topic regarding Work Session C in opposition to the prior practice of not allowing African Americans to be buried in IOOF Cemetery.

### 2. Requests for clarification of agenda items listed on the agenda for May 2, 2017.

Staff responded to Council's requests for clarification of the following items:

Council Member Briggs requested that Consent Items A, F, and H be pulled for separate consideration.

Council Member Bagheri requested that Consent Items C and E be pulled for separate consideration.

Council Member Gregory requested staff presentations for C, E, F and H.

City Manager Hileman noted that Executive Session 1A and Consent Agenda 4A would not be considered. An alternative ordinance was presented for 5C.

### 3. Work Session Reports

A. ID 17-517 Receive a report, hold a discussion and provide staff direction regarding the creation of a small area plan and implementation strategy.

Munal Mauladad, Director of Development Services, stated that the Council adopted the Denton Plan 2030 in 2015. The Denton Plan 2030 provided policy direction for land use and development patterns. There was a need to revisit the entire concept of small area planning and when staff started researching the plan, it was determined that the boundaries of the small area plan needed to be updated.

The proposed project scope included public education and participation; existing conditions assessments and analyses; small area plan included an evaluation of existing land uses, including commercial uses, development standards that would provide appropriate transitions in scale, use, character and intensity between the established neighborhoods and UNT, development standards and strategies to buffer and enhance the Historic Districts, an evaluation of the street network and

street design standards that would improve mobility for all users, recommendations for a parking solution for the residential and commercial areas that helped meet demand while maintaining the property values and character of the neighborhoods; and an evaluation of the type of housing that should be promoted and design standards pertinent to the conversion of single family dwellings to rental properties. Next steps included City Council consideration of staff's recommendation for a consultant to develop the small area plan.

Council discussed whether the State of Texas was obligated to respect a city's master plan; what was the City's path for developing overlay districts; whether any current applications in the process would be delayed due to proposal; and whether the size of the initial study area was too large.

Consensus of the Council was to move forward with the project.

- B. ID 17-537 Receive a report, hold a discussion, and give staff direction regarding the digital divide and impact to city of Denton residents.

Melissa Kraft, Director of Technology Services, provided a definition of the digital divide and other factors such as socioeconomic status, age, gender, educational achievement and geographic location that played into a digital divide. Statistics dealing with home broadband users in terms of income, age and other Texas broadband statistics were presented along with the Denton ISD survey of student internet availability. Barriers to adopting broadband included the cost, technology cost for the devices and technology literacy.

The City of Denton was attempting to bridge the digital divide gap by offering free Wi-Fi and internet access to all of its residents at all the libraries, public facilities and downtown by the courthouse square. Additionally, Denton Libraries provided over 16 programs related to technology which included: Microsoft Office training, computers with special software, online training and tutorials, laptops and iPads at each library location. The goal was to give all economic groups equal access to the opportunities of the digital age.

Possible solutions included increased funding from state resources, national resources, and seek investments from private sector, nonprofit and community-based organizations; create a resource guide that highlighted area of free Wi-Fi; consider integrating into development incentive policies; continue to work with service providers on right-of-way agreements in an effort to enhance broadband access; and continue to create community awareness of the issues with educational technology.

Mayor Pro Tem Roden stated that he would like to see an asset map of internet access throughout Denton.

- C. ID 17-538 Receive a report, hold a discussion, and give staff direction regarding maintenance and improvements to the IOOF and Oakwood Cemeteries.

Emerson Vorel, Director of Parks and Recreation, stated that at a prior meeting, Council had requested additional information on the cemeteries. One question was whether the City owned the cemeteries and the answer was yes. He presented documentation showing City ownership of the properties. Another question was a comparison of cemetery costs and maintenance costs. He

presented information on the plot costs and maintenance costs for the two cemeteries for FY 2014-15 and 2015-16. The funding information for fence replacement was noted.

Vorel displayed the proposed design of the fence which had been approved by the Historic Landmark Commission. He presented the fencing options for the two cemeteries in terms of location and costs. He noted that the staff recommendation for 2016-17 supplemental funding was to move forward with a proposal for GPS and GIS mapping of both cemeteries as well as evaluation of all headstones. Staff would adopt a practice of repairing only those headstones that posed a public safety hazard. Staff would move forward with using the remaining CIP funds to fence the only section of Oakwood Cemetery that had never been fenced (south section) at a cost of \$86,280.

Council discussed staff researching what other cities were charging for plots at cemeteries and consider increasing what Denton charged; present a new fee schedule with the new budget; consider something other than chain link fence for IOOF; and keeping the plots affordable.

Council Member Gregory felt that the damage and deterioration on the headstones could not be ignored.

Council Member Hawkins suggested setting aside a certain number of plots for discounted rates. He was in favor of moving forward with Oakwood and also felt that IOOF needed to be more than just a chain link fence.

Council Member Wazny was in favor of moving forward to map the cemeteries as well as evaluate the headstones. She supported everything on the two bullets staff presented.

Council Member Briggs noted that the Texas Historical Preservation had a program for restoring cemeteries.

Mayor Watts felt that the question was how to spend the \$150,000. He could not support paying \$150,000 for a report and felt that staff could evaluate the headstones. If IOOF was considered a gateway to the City, take the funding out of the fund balance for it.

Consensus of Council was that Oakwood Cemetery was the first priority with \$82,000 to be used for an ornamental steel fence with stone pillars.

Vorel stated that a budget amendment would be considered at the next meeting. The IOOF cemetery would have an upgraded fence along Eagle and Carroll with the remaining fence as chain link.

D. ID 17-590 Receive a report, hold a discussion and give staff direction regarding a requests for resolutions of no objection for two 4% tax credit housing developments, in partnership with the Denton Housing Authority.

John Cabrales, Director of Community Affairs, stated that the Denton Housing Authority (DHA) had been working with a private developer, Ojala Holdings, on two 4% tax credit housing developments. One of the developments (The Standard at Medpark Station) was proposed to be a

263 unit multi-family development consisting of one, two, and three bedrooms. The other (The Hudson at Medpark Station) was a 160 unit Senior Development consisting of one and two bedrooms. Both of these development projects had gone through the development review and planning and zoning process and had all approvals needed. The developer planned to partner with the DHA on these developments, which meant the developments would be exempt from property taxes.

The City must approve a resolution of "no objection" for the applications to be considered. The Denton Housing Authority had entered into a Memorandum of Understanding (MOU) with Ojala Holdings to share in the developer fees and other cash flow that would be derived from the sale of low income housing tax credits (if awarded) and bond revenues. These developer fees were usually deferred over a 15-17 year period. DHA had partnered with private developers on three of the eleven tax credit developments in the City. Currently DHA had Pecan Place (1993), Renaissance Courts (2004) and The Veranda (2015).

Mayor Watts stated he had questions for the Denton Housing Authority noting that part of the reason for the partnership was because the DHA needed the revenue stream.

Sherri McDade, Chief Executive Officer for the Denton Housing Authority, stated that they had been notified by the Federal Government that funding for their program would be decreased with administration costs lowered to 77% and the 1536 vouchers in the program would have to be lowered to about 1360 vouchers.

Mayor Watts stated that he did not see an allocation plan for the funds DHA would receive from these projects.

McDade stated that it would be about \$600,000 per year. She noted that there were over 3000 families waiting for housing assistance.

Council Member Bagheri noted that there was no letter from the DISD regarding these projects and adding more Title 1 students to the schools.

Council Member Gregory responded that he had asked a couple school board members about the projects and they had no opinion on it.

Council Member Bagheri wanted more clarification on the partnership with DHA. She was not in favor of moving forward at this time.

Council Member Wazny expressed concern that developer's numbers were not true market numbers and noted that she was not prepared to move forward.

Council discussed whether the project could be separated; whether the projects would not work with a DHA partnership; and if some units could be used for a homeless initiative or veteran's assistance.

Council Member Hawkins stated that there were some procedures that were supposed to happen before Council voted on any additional projects of this nature and felt that they had not been done.

Consensus of Council was to post a Closed Meeting item and action items on the next agenda for Council consideration.

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

1. Closed Meeting:

- A. ID 17-120 Deliberations Regarding Certain Public Power Utilities: Competitive Matters - Under Texas Government Code Section 551.086; Consultation with Attorneys - Under Texas Government Code, Section 551.071.

Receive a report involving public power competitive and financial matters, hold a discussion, and give staff direction regarding (i) the Energy Trading Risk Management (ETRM) software and support contract with ABB/Ventyx and an amendment to the same, (ii) the evaluation and selection of a new ETRM vendor in accordance with the City's competitive bidding process, and (iii) the execution of a contract with the new ETRM vendor. Consultation with the City's attorneys regarding legal issues associated with the above matters 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.

- B. ID 17-588 Consultation with Attorneys - Under Texas Government Code Section 551.071.

Consult with the City's Attorneys on the status, strategy, and underlying issues and merits of an appeal styled Rushing, et al. v. City of Denton, Cause No. 02-16-00330, currently pending in the Court of Appeals for the Second District of Texas.

Mayor Watts left the meeting.

Regular Meeting of the City of Denton City Council at 6:30 p.m. in the Council Chambers at City Hall, 215 E. McKinney Street, Denton, Texas.

**1. PLEDGE OF ALLEGIANCE**

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

**2. PROCLAMATIONS/PRESENTATIONS**

- A. ID 17-299 Mayor's Day of Concern for the Hungry

Council Member Briggs presented the proclamation for the Mayor's Day of Concern for the Hungry.

B. ID 17-541 Bike Month

Council Member Gregory presented the proclamation for Bike Month.

C. ID 17-544 Denton Children's Mental Health Awareness Day

Council Member Briggs presented the proclamation for Denton Children's Mental Health Awareness Day.

D. ID 17-545 National Day of Prayer

Council Member Wazny presented the proclamation for National Day of Prayer.

E. ID 17-546 Motorcycle Safety and Awareness Month

Council Member Bagheri presented the proclamation for Motorcycle safety and Awareness Month.

F. ID 17-563 National Small Business Week

Council Member Hawkins presented the proclamation for National Small Business Week.

**3. PRESENTATION FROM MEMBERS OF THE PUBLIC**

- A. Review of procedures for addressing the City Council.
- B. Receive Scheduled Citizen Reports from Members of the Public.
- C. Additional Citizen Reports
  - 1. Willie Hudspeth spoke regarding past Council Members and how they treated citizens; that there were no African American fire fighters employed by the City of Denton; and that the new City Manager appeared to be transparent.
  - 2. Kim McKibben thanked the Council for their service. She expressed concern regarding the change in the parking meter fees and how a proposed Fry Street overlay district would affect her business.

**4. CONSENT AGENDA**

Mayor Pro Tem Roden noted that Item A had been pulled from consideration.

Council Member Hawkins motioned, Council Member Gregory seconded to approve the Consent Agenda and accompanying ordinances and resolutions with the exception of Item A which was pulled from consideration and Items C, E, F and H which were pulled for separate consideration. On roll call vote, Mayor Pro Tem Roden "aye", Council Member Wazny "aye", Council Member

Briggs "aye", Council Member Hawkins "aye", Council Member Gregory "aye", and Council Member Bagheri "aye". Motion carried unanimously.

This item was not considered.

- A. ID 17-427 Consider adoption of an ordinance authorizing the City Manager, or his designee, to execute an amendment to the Energy Trading Risk Management Contract with ABB/Ventyx. The Public Utilities Board recommends approval (6-0).

Ordinance No. 2017-131

- B. ID 17-474 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for the purchase of refuse and recycling containers for the City of Denton Solid Waste Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 6379-awarded to Roll-Offs USA, Inc. in the three (3) year not-to-exceed amount of \$1,950,000). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2017-133

- D. ID 17-534 Consider adoption of an ordinance authorizing the City Manager to execute a Cooperative Purchasing Program Agreement with the City of Richardson, Texas under Section 271.102 of the Local Government Code, to authorize City of Denton contracts for the purchase of various goods and services; authorizing the expenditure of funds therefor; and declaring an effective date (File 6441-Cooperative Purchasing Program Agreement with the City of Richardson).

Resolution No. R2017-015

- G. ID 17-549 Consider approval of a resolution re-appointing a member to the Board of Directors of the Texas Municipal Power Agency, a Joint Powers Agency, representing the City of Denton, Texas; and declaring an effective date.

Resolution No. R2017-017

- I. ID 17-565 Consider approval of a resolution reappointing Timothy S. Fisher as the City's representative to serve as a member of the Board of Directors of the Upper Trinity Regional Water District. The Public Utilities Board recommends approval (6-0).

Approved the minutes listed below.

- J. ID 17-566 Consider approval of the minutes of April 18 and April 25, 2017.

Ordinance No. 2017-136

- K. ID 17-569 Consider adoption of an ordinance adopting a Schedule of Fees for use of certain park facilities; superseding all prior fees and discounts in conflict with such schedule; and providing for severability and an effective date.

Ordinance No. 2017-137

- L. ID 17-584 Consider adoption of an ordinance authorizing the City Manager to execute a water main cost participation agreement between the City of Denton, Texas and

Love's Travel Stops & Country Stores, Inc. for the City's participation in the oversizing of water mains and in accordance with the terms and conditions of this ordinance; authorizing the expenditure of funds therefore; and providing an effective date. (In the not-to-exceed amount of \$80,322.16)

The Consent Agenda items removed for separate consideration were considered.

Ordinance No. 2017-132

- C. ID 17-479 Consider adoption of an ordinance accepting competitive proposals and awarding a public works contract for the construction of the 9/11 Firefighter's Memorial Bell Tower project for the City of Denton; providing for the expenditure of funds therefor; and providing an effective date (RFP 6391C-awarded to Links Construction, LLC in the amount of \$165,043.60). The Public Art Committee recommends approval of the design concept (8-0).

Christine Taylor, Parks Business Manager, stated that in the 2014 CIP Bond Election voters approved \$325,000 for Public Art related to Public Safety Facilities. She presented the details of the proposed Bell Tower and noted that this project was appropriate for the designated bond funds.

Willie Hudspeth spoke in opposition.

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

Ordinance No. 2017-134

- E. ID 17-535 Consider adoption of an ordinance accepting competitive proposals and awarding a five (5) year contract for Tennis Instructor Services for the City of Denton Parks Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 6343-Tennis Instructor for City of Denton awarded to Gray Event Management LLC, dba Bad Dawg Tennis in the five (5) year not-to-exceed amount of \$750,000).

D'Lee Williams, Assistant Director of Parks and Recreation, stated that prior to 2009, tennis instruction was primarily provided by city staff. In 2009, Gray Event Management was awarded the initial contract. An RFP was sent to 136 vendors and only one vendor responded.

Willie Hudspeth spoke off topic regarding a football field that was never built.

Council Member Hawkins motioned, Council Member Gregory seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Roden "aye", Council Member Briggs "aye", Council Member Hawkins "aye", Council Member Gregory "aye", and Council Member Bagheri "aye". Council Member Wazny "nay". Motion carried with a 5-1 vote.

Ordinance No. 2017-135

- F. ID 17-543 Consider adoption of an ordinance of the City of Denton, Texas, authorizing a waiver for the Texas Municipal Power Agency's (TMPA) decommissioning plan deadline for the Gibbons Creek power plant, and authorizing TMPA to develop a decommissioning plan within a reasonable time if its efforts to sell the plant are abandoned; and providing an effective date. The Public Utilities Board recommends approval (6-0).

Phil Williams, General Manager of DME, presented the details on the proposed waiver for the TMPA decommissioning plan and associated deadline for the Gibbons Creek power plant. TMPA was in negotiations to sell generation and some transmission assets and had requested Member Cities to waive the requirements for the decommissioning plan.

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

Resolution No. R2017-016

- H. ID 17-558 Consider approval of a resolution specifying the intent of the City of Denton, Texas to designate a 25.630 acre tract out of a 340.469 acre tract previously purchased by the City of Denton in November 2016 for Denton Enterprise Airport use; and providing an effective date. (Denton Enterprise Airport: West Parallel Runway Project (Eagle Farms, Inc. and John Porter Auto Sales, Inc.)

Mark Nelson, Director of Transportation, stated that this resolution would designate a 25.6 acre tract to the Airport for the west parallel runway project which was part of a larger parcel.

Council Member Briggs questioned if Airport funds would pay for this parcel.

Nelson replied that the FAA had provided an airspace study for part of the project.

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

**5. PUBLIC HEARINGS**

- A. ID 17-369 Hold a public hearing, and discuss, deliberate and provide staff with direction regarding the proposed site for construction, expansion, and use of an electric power transmission substation generally located in the northeast corner of East Sherman Drive and Hartlee Field Road; as part of Denton Municipal Electric's service territory. [Hartlee Field Substation]

The Mayor Pro Tem opened the public hearing.

Phil Williams, General Manager of DME, stated that this was the Hartlee Field Road substation project. The location for this project was the northeast part of town and was needed to meet growth. DME had proposed five optional sites and was recommending the yellow route. DME held a public open house at the Civic Center plus the Public Utilities Board had held a public hearing. The different options were presented. Based on the comments from the public, it was narrowed down to the blue option and the yellow option with the yellow option being owned by the City.

Julie Kuhlken stated that her family owned the property beside the proposed location and they were in support of the decision of PUB.

The Mayor Pro Tem closed the public hearing.

No action was needed on this item at this time.

Ordinance No. 2017-138

- B. Z16-0028a Hold a public hearing and consider adoption of an ordinance to rezone approximately 0.550 acres from a Downtown Residential 2 (DR-2) District to a Downtown Commercial General (DC-G) District. The property is generally located at 1604 West Hickory Street approximately 85 feet east of North Avenue C in the City of Denton, Denton County, Texas. The Planning and Zoning Commission recommends approval (4-2). (Z16-0028, Harris).

Munal Mauladad, Director of Development Services, stated that this request was to rezone property at 1604 W. Hickory Street from a Downtown Residential 2 District to a Downtown Commercial General District. The request would consolidate zoning for future redevelopment. Mauladad provided compatibility analysis of surrounding properties. Staff recommended approval based upon the land use analysis. The Planning and Zoning Commission recommended approval of the request. The applicant held a neighborhood meeting with one person attending.

The Mayor Pro Tem opened the public hearing.

Gary Chang, 3608 Lake Country Drive, the applicant, spoke in support.

The Mayor Pro Tem closed the public hearing.

Council Member Gregory motioned, Council Member Hawkins seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Roden "aye", Council Member Wazny "aye", Council Member Hawkins "aye", Council Member Gregory "aye", Council Member Bagheri "aye", and Council Member Briggs "nay". Motion carried with a 5-1 vote.

Ordinance No. 2017-139

- C. S17-0002a Hold a public hearing and consider adoption of an ordinance for a Specific Use Permit to allow for a high school use on approximately 13.73 acres. The property is generally located at the southwest corner of the East University Drive and Nottingham Drive intersection. The Planning and Zoning Commission recommends approval with conditions (6-0). (S17-0002, Denton Calvary Academy High School).

The Mayor Pro Tem opened the public hearing.

Munal Mauladad, Director of Development Services, stated that this request was for a Specific Use Permit to allow for a high school use on approximately 13.73 acres. The location was at the southwest corner of the East University Drive and Nottingham Drive intersection. She reviewed the compatibility analysis and public notification. Staff and the Planning and Zoning Commission recommended approval with conditions.

The Mayor Pro Tem closed the public hearing.

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

## **6. 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 Briggs requested a report on a Southeast Denton football field.

Council Member Briggs requested an update on the Teen Council.

Council Member Wazny requested an update on the proposed parking changes around Fry Street and a comparison to downtown parking as presented during the Citizen Reports.

Council Member Bagheri requested an update on the City's exotic animal ordinance.

Council Member Bagheri requested information on a scoring system for public housing projects.

Council Member Wazny requested a justification for the eight or nine city attorneys, specifically job descriptions and salaries.

Mayor Pro Tem Roden questioned if there would be any repercussions for the City concerning the Council Commissioners redrawing district lines.

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

There was no continuation of the Closed Meeting.

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

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CHRIS WATTS  
MAYOR  
CITY OF DENTON, TEXAS

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KEVIN RODEN  
MAYOR PRO TEM  
CITY OF DENTON, TEXAS

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JANE RICHARDSON  
ASSISTANT CITY SECRETARY  
CITY OF DENTON, TEXAS