

## CITY OF DENTON CITY COUNCIL MINUTES

June 21, 2016

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, June 21, 2016 at 1:00 p.m. in the Council Work Session Room at City Hall.

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

ABSENT: Council Member Gregory

### 1. Citizen Comments on Consent Agenda Items

There were no citizen comments on Consent Agenda items.

Council Member Gregory arrived at the meeting.

### 2. Requests for clarification of agenda items listed on the agenda for June 21, 2016.

Council Member Hawkins highlighted Consent Agenda Item D indicating that it was a local company that would be receiving the contract. He requested a clarification of Consent Agenda Items H and I which were change order to current contracts.

Brent Heath, Executive Manager of Electric Delivery, presented an update on Item H. He noted that it was a reduction of savings of \$1 million.

City Manager Campbell stated that DME had done a significant amount of work to get to the reduction.

Jim Maynard, Energy Product Division Manager, stated that a change order for Consent Agenda Item I was needed because while doing a sewer construction project, a leaking water line was discovered and it was decided to fix it at the same time as the sewer line project.

Mayor Pro Tem Roden asked about the Public Art Master Plan. He suggested that at some point there be a public discussion on the plan and how it would be integrated into public art. There were bond packages for public art and he questioned how that would work in the plan. He questioned what the plan did to help make those decisions.

John Cabrales, Assistant City Manager, stated that the master plan identified opportunities and parameters for the Public Art Committee going forward with public art. It did not address funding at that was already set in place with policy for future bond packages or budget appropriations. Currently what was lacking was a look at opportunities for recommendations for future funding of public art.

Mayor Pro Tem Roden asked if the Public Art Committee was tasked with those decisions.

Cabrales stated that it included the community at large, the Public Art Committee, or any organization that had access to the document and that could contact the Committee for suggestions.

Council Member Gregory asked if it would impede the consultant if the item were pulled from the Consent Agenda until after a work session on the report.

Cabrales stated that there would be no impact.

Council Member Gregory requested that the item be pulled from the Consent Agenda and have more discussion on the plan.

Council convened in a Closed Meeting at 1:12 p.m. to consider the following items:

- B. ID 16-761 Consultation with Attorneys - Under Texas Government Code, Section 551.071.

Consult with the City's attorneys regarding the present status of pending litigation entitled: The City of Denton, Texas v. NRG Power Marketing, LLC, et al, Cause No. 15-01404-16, now pending before the 16th Judicial District Court in and for Denton County, Texas; discuss, deliberate and provide the City's attorneys with direction and any recommendations regarding such legal matter. A public discussion of this legal matter would conflict with the duty of the City's Attorneys to the City of Denton, Texas under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.

- F. ID 16-784 Consultation with Attorneys - Under Texas Government Code Section 551.071.

Consultation with City's attorneys regarding ID 16-795 and ID 16-796 of the June 21, 2016 Agenda regarding associated legal issues where discussion of these legal matters in an open meeting 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.

Council reconvened in Open Session at 3:10 p.m. and continued with the Work Session Reports.

### 3. Work Session Reports

- A. ID 16-701 Receive a report, hold a discussion, and give staff direction regarding implementation of Roadway Impact Fees.

PS Arora, Wastewater Division Manager, presented updated information regarding roadway impact fees. The item on the main agenda was a continuation of the public hearing. Council had requested a comparison of the revenue generated with the roadway impact fees versus the existing roadway exactions. DDC road exactions were inconsistent from year to year when compared to the roadway impact fees, did not capture and charge the true traffic created by the development, and roadway impact fees were based on development type and intensity so similar developments were treated more equally.

Council discussed the comparison of road exactions per DDC versus road impact fees; the fact that impact fees would be added to the price of a new home; whether the impact fee concept took away some of the case by case analysis for related fees; the need to create a level playing field for the

various types of development so all paid an equitable amount; and area cities maximums versus collected fees.

Arora reviewed the impact on platted properties in terms of a grace period based on State law. He noted that preliminary plats did not create vesting per State law.

Council discussed the setting of the fee amount in the area of \$2000-\$2500. Council Members Gregory and Hawkins indicated that they were in favor of the impact fees at \$2000-\$2500 rather than the \$3000. Council Member Wazny indicated that she was comfortable with the \$2000 fee.

- B. ID 16-711 Receive a report, hold a discussion and provide staff direction regarding the DME Hickory Substation site, located at the intersection of West Hickory and South Bonnie Brae, City of Denton, Denton, Texas, and concerning the options related to the station's configuration and aesthetic treatment. [Hickory Substation]

Brian Daskam, DME, reviewed the background information on the Hickory Substation site. He displayed the recommendation of the Aesthetic Committee and the probable construction costs.

Council discussed the differences in the types of walls for the various types of substations. Consensus was for the bottom right option as shown on the renderings.

- C. ID 16-727 Receive a report, hold a discussion and give staff direction regarding City Council committee nominations.

Jennifer Walters, City Secretary, reviewed with Council the current committee assignments, the vacancies from former Council Member Johnson and preferences that were provided by Council.

Council discussed the committees and chose which committee they would like to serve on.

Walters noted that the committee list would be updated for Council approval in the regular meeting.

- D. ID 16-737 Receive a report, hold a discussion and provide staff with direction concerning Road Diets and implementation of a Road Diet on Eagle Drive.

John Davis, Director of Engineering, presented the details of a road diet. The benefits of the road diet were reviewed along with conflict point advantages. Key points for the Eagle Drive road diet were presented in terms of advantages and disadvantages.

Council discussed safety for the intersection of Eagle and Carroll for cyclists; concern about congestion with the reduction of traffic lanes; and comments from the Police Chief regarding the proposal.

- E. ID 16-758 Receive a report, hold a discussion and give staff direction regarding the amendment of Chapter 18, Section 18-38, of the Code of Ordinances, Use of Wireless Communication Devices While Driving.

Lee Howell, Chief of Police, presented an update on the proposal including statistics concerning crash or near-crash involvement by a driver in the past year, by sex and age; Texas cities wireless crash data; adjusted scale of Texas cities wireless crash trends; and the National Highway Traffic Safety Administration blueprint to reduce distracted driving.

Council discussed enforcement of a ban; removal of the exception for I35; signage for the ban within the city limits and ones that TxDOT would approve; delaying implementation for a certain period of time; level of community conversation regarding the proposal and possible backlash until there was more community involvement. It was noted that the ordinance started with the most restrictive language instead of less restrictive such as education of youth.

Following the completion of the Work Session, the City Council convened in a Closed Meeting at 5:35 p.m. to consider specific items listed below under the Closed Meeting section of this agenda.

1. Closed Meeting:

- A. ID 16-738 Deliberations regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071.

Receive information from staff and discuss, deliberate, and provide staff with direction regarding the potential acquisition of real property interests located in the southwest area of the City of Denton, north of Farmer to Market Road 2449, east of John Paine Road, south of Springdale Drive (on Hickory Creek), west of Interstate 35W; discussions had, deliberation, and direction given, by the Denton City Council in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third party. Consultation with the City's attorneys regarding legal issues associated with the acquisition of the real property interests described above; discussion of these legal matters in an open meeting 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. [Underwood Substation]

- C. ID 16-770 Deliberations regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071.

Receive information from staff and discuss, deliberate, and provide staff with direction regarding the acquisition of real property interests located generally west of Mayhill Road from E. University Drive to Colorado Blvd., in the City of Denton, Denton County, Texas; where discussion had, deliberation, and direction given, by the Denton City Council in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third party. Consultation with the City's attorneys regarding legal issues associated with the acquisition of the real property interests described above; discussion of these legal matters in an open meeting 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 present or potential administrative proceeding or lawsuit.

This item was not considered.

- D. ID 16-771 Consultation with Attorneys - Under Texas Government Code Section 551.071.

Receive information from the City's attorneys and discuss costs, status, strategy, and potential resolution of the following eminent domain lawsuits related to the Mayhill Road Widening and Relocation Project (all currently pending in the Probate Court, Denton County, Texas): City of Denton v. RTS&M, LLC, et al.; and City of Denton v. 551 Mayhill Joint Venture, et al.

This item was not considered.

- E. ID 16-777 Deliberations regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071.

Receive information from staff, discuss, deliberate, and provide staff with direction regarding the potential acquisition of real property located at 301 E. McKinney, Denton, Texas where deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third party. Consultation with the City's attorneys regarding legal issues associated with the acquisition of the real property interests 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. [Denton County Courthouse Annex property tract(s) - no action item]

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

**1. PLEDGE OF ALLEGIANCE**

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

**2. PROCLAMATIONS/PRESENTATIONS**

- A. ID 16-757 Denton Lesbian, Gay, Bisexual, Transgender, Queer (LGBTQ) Pride Month

Mayor Watts presented the proclamation.

**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.

1. ID 16-775 Sharon Wilson presenting a video of a Wartsila natural gas power plant.

Ms. Wilson presented her video of a Wartsila natural gas power plant. She discussed the images shown in the video in terms of emissions displayed in particular hydrocarbons. The plants were shown to be air polluters.

2. ID 16-783 Eric Pruett regarding a technical assessment on gas detection videos.

Mr. Pruett stated that the emissions shown in the video were greater than what was allowed. He urged people to disagree to not miss out on good ideas.

3. ID 16-786 Pati Haworth regarding protecting City assets.

Ms. Haworth presented information on the Training Center and effects on the proposed Community Event Center near the site. She noted facts and figures on the amount of training that took place in the Training Center. The Community Event Center would cripple the Training Center due to a lack of parking in the area. She urged Council to insist on an in-depth report by the Training Center on how the Event Center would affect the training center.

C. Additional Citizen

1. Ken Gold - spoke on best practice for public debt.
2. Shula Armintor - spoke on the proposed gas plants and possible pollution caused by them.
3. Jonah Armintor - spoke on the DME proposed gas plants and the cost of the plants.

**4. CONSENT AGENDA**

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

Ordinance No. 2016-163

- A. ID 16-142 Consider adoption of an ordinance of the City of Denton, Texas providing authorization for and ratification of a Municipal Maintenance Agreement with the Texas Department of Transportation for the purpose of providing all required non-

roadway maintenance and established payment amounts to the City for certain rights-of-way of state highway routes; and, providing an effective date.

Ordinance No. 2016-164

- B. ID 16-292 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for credit card/debit card and check processing services for the City of Denton and providing an effective date (RFP 5955-awarded to Wells Fargo Merchant Services in the five (5) year not-to-exceed amount of \$3,800,000, Tempus Technologies, Inc. in the five (5) year not-to-exceed amount of \$300,000 and Telecheck Service, Inc. in the five (5) year not-to-exceed amount of \$50,000 for a total award of \$4,150,000). The Audit/Finance Committee recommends approval (3-0).

Ordinance No. 2016-165

- C. ID 16-563 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for Electric Substation Galvanized Steel Structures for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (RFP 6026-awarded to R&C Welding, Fabrication, Trucking and Crane in the three (3) year not-to-exceed amount of \$1,500,000). The Public Utilities Board recommends approval (5-0).

Ordinance No. 2016-166

- D. ID 16-566 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for Creative and Media Marketing Services for the City of Denton Economic Development Division; providing for the expenditure of funds therefor; and providing an effective date (RFP 6019-awarded to ECA Berthume, LLC dba Swash Labs in the three (3) year not-to-exceed amount of \$300,000).

This item was not considered.

- E. ID 16-659 Consider approval of a resolution adopting the City of Denton Public Art Master Plan for the City of Denton, TX; and providing an effective date. The Public Art Committee recommends approval (7-0).

Ordinance No. 2016-167

- F. ID 16-714 Consider adoption of an ordinance authorizing the City Manager to execute a Service Agreement with the University of North Texas on behalf of Denton Community Television-DCTV, Mayborn School of Journalism under section 791.001 of the State of Texas Government Code for the funding of capital equipment related to providing Public, Education, and Government cable television services within the City of Denton in accordance with Federal Communications Commission (FCC) regulations; authorizing the expenditure of funds therefor; and declaring an effective date (File 6149- in the amount of \$110,000).

Ordinance No. 2016-168

- G. ID 16-715 Consider adoption of an ordinance of the City of Denton, Texas, authorizing the City Manager to execute a Professional Services Agreement with

Parkhill, Smith, and Cooper for Professional Services related to the design, construction, and regulatory approval of the City of Denton Landfill Expansion, Phase 3B-D; and establishing an effective date (File 6145 in the not-to-exceed amount of \$197,250). The Public Utilities Board recommends approval (7-0).

Ordinance No. 2016-169

H. ID 16-716 Consider adoption of an ordinance authorizing the City Manager to execute a Change Order to the contract between the City of Denton and Chapman Construction Co., L.P. for transmission line removal for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (RFP 5578C-Change Order in the negative amount of (\$1,362,108.93) for a reduction in the total five (5) year contract award aggregating to \$51,337,891.07). The Public Utilities Board recommends approval (5-0).

Ordinance No. 2016-170

I. ID 16-717 Consider adoption of an ordinance authorizing the City Manager to execute Change Order #6 to the contract between the City of Denton and Circle C Construction Company for the Pecan Creek Interceptor III Wastewater project; providing for the expenditure of funds therefor; and providing an effective date (Bid 5767-Change Order #6 in the amount of \$68,070 for a total contract award aggregating to \$3,118,144.69). The Public Utilities Board recommends approval (5-0).

Ordinance No. 2016-171

J. ID 16-718 Consider adoption of an ordinance accepting competitive proposals and awarding a public works contract for the RD Wells Substation Drainage Improvements project; providing for the expenditure of funds therefor; and providing an effective date (RFP 6104-awarded to DDM Construction Corporation in the not-to-exceed amount of \$547,221.17). The Public Utilities Board recommends approval (5-0).

Ordinance No. 2016-172

K. ID 16-719 Consider adoption of an Ordinance accepting competitive proposals and awarding a contract for the purchase of products and services for an on-site vehicle parts facility for the City of Denton to be located at the Fleet Services Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 5641-awarded to Genuine Auto Parts/NAPA Integrated Business Solutions in the annual amount not to exceed \$3,000,000 for a three (3) year not-to-exceed amount of \$9,000,000).

Ordinance No. 2016-173

L. ID 16-722 Consider adoption of an Ordinance accepting competitive proposals and awarding a contract for the rehabilitation and three (3) year maintenance of the Ozone Generation System located at the Lake Ray Roberts Water Treatment Plant to Xylem Water Solutions USA, Inc. in the not-to-exceed amount of \$480,000 and a contract for the cleaning and (3) year maintenance of the Ozone Generation System located at



the City of Denton Lake Lewisville Water Treatment Plant to Fin-Tek Corporation in the not-to-exceed amount of \$200,000; providing for the expenditure of funds therefor; and providing an effective date (RFP 6043). The Public Utilities Board recommends approval (7-0).

Ordinance No. 2016-174

M. ID 16-723 Consider adoption of an Ordinance accepting competitive proposals and awarding a contract for the purchase of a Caterpillar Model 826K refuse compactor for the City of Denton Landfill; providing for the expenditure of funds therefor; and providing an effective date (RFP 5825-awarded to Holt CAT in the amount of \$1,017,197.92). The Public Utilities Board recommends approval (5-0).

Ordinance No. 2016-175

N. ID 16-724 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for flooring services for the City of Denton; providing for the expenditure of funds therefor; and providing an effective date (RFP 6100-awarded to FloorsourceTx, in a three (3) year not-to-exceed amount of \$600,000).

Ordinance No. 2016-176

O. ID 16-725 Consider adoption of an Ordinance accepting competitive proposals and awarding a contract for Veterinary and Animal Health Supplies for the City of Denton's Animal Services Shelter; providing for the expenditure of funds therefor; and providing an effective date (RFP 6048-awarded to Midwest Veterinary Supply Inc., in a three (3) year not-to-exceed amount of \$225,000 and to Merck Animal Health in a three (3) year not-to-exceed amount of \$105,000 for a total award not-to-exceed \$330,000).

Ordinance No. 2016-177

P. ID 16-726 Consider adoption of an Ordinance accepting competitive proposals and awarding a contract for the purchase of one (1) articulating water truck and one (1) articulating dump truck for the City of Denton Landfill; providing for the expenditure of funds therefor; and providing an effective date (RFP 6102- awarded to Kirby-Smith Machinery, Inc. in the not-to-exceed amount of \$1,100,966). The Public Utilities Board recommends approval (5-0).

Ordinance No. 2016-178

Q. ID 16-728 Consider adoption of an ordinance of the City of Denton, Texas authorizing the approval of a First Amendment to a contract with Redi-Mix Concrete for the supply of ready mix concrete; providing for the expenditure of funds therefor; and providing an effective date (RFP 4732-providing for an additional expenditure amount of \$800,000 for a total contract award of \$1,250,000).

Ordinance No. 2016-179

R. ID 16-740 Consider adoption of an ordinance accepting competitive proposals and awarding a public works contract for the construction of upgrades to the clerestory windows at the City of Denton Civic Center; providing for the expenditure of funds

therefor; and providing an effective date (RFP 6129-awarded to CBS Roofing Services in the not-to-exceed amount of \$315,240).

Ordinance No. 2016-180

- S. ID 16-741 Consider adoption of an ordinance of the City Council of Denton, Texas authorizing the City Manager to execute an agreement among and between the City of Bryan, Texas, the City of Denton, Texas, the City of Garland, Texas and the City of Greenville, Texas regarding prepayment of fixed cost power purchase payments to be paid to the Texas Municipal Power agency; and providing an effective date. The Public Utilities Board recommends approval (6-0).

Ordinance No. 2016-181

- T. ID 16-748 Consider adoption of an ordinance of the City of Denton, Texas, authorizing the City Manager to execute a Professional Services Agreement with Freese and Nichols, Inc. for Engineering Services related to the Hickory Creek Interceptor Phases I and II project; and establishing an effective date (File 6137 in the not-to-exceed amount of \$654,135). The Public Utilities Board recommends approval (5-0).

Ordinance No. 2016-182

- U. ID 16-750 Consider adoption of an ordinance of the City of Denton authorizing an agreement between the City of Denton, Texas and the Denton Festival Foundation; authorizing the expenditure of funds therefor; and providing for an effective date. (\$1,000)

Ordinance No. 2016-183

- V. ID 16-751 Consider adoption of an ordinance of the City of Denton authorizing an agreement between the City of Denton, Texas and Court Appointed Special Advocates (CASA); providing for the expenditure of funds therefor; and providing for an effective date. (\$700)

Ordinance No. 2016-184

- W. ID 16-790 Consider adoption of an ordinance of the City of Denton, Texas providing for, authorizing, and approving the purchase of the Phoenix G2 Fire Station Alerting System for the City of Denton Fire Department which is available from only one source and in accordance with Chapter 252.022 of the Texas Local Government Code such purchases are exempt from the requirements of competitive bidding; and providing an effective date (File 6172-awarded to US Digital Designs, Inc. in the five (5) year not-to-exceed amount of \$346,361).

Ordinance No. 2016-185

- X. ID 16-793 Consider adoption of an ordinance of the City Council of the City of Denton authorizing the City Manager, or his designee, to execute a "Drainage Improvement Works Agreement" between the City of Denton and Westpark Group, LLC, for the improvement of drainage in and around the area east of S. Western Blvd. and north of Peterbilt; and providing an effective date.

**5. ITEMS FOR INDIVIDUAL CONSIDERATION**

- A. ID 16-555 Consider adoption of an ordinance of the City of Denton, Texas, authorizing the City Manager to execute a Professional Services Agreement with Sawko and Burroughs, P.C., for Professional Services related to collection of delinquent taxes on behalf of the City of Denton; and establishing an effective date.

Bryan Langley, Assistant City Manager, stated that this ordinance was for the contract to collect delinquent taxes. All fees associated with the contract were paid by the delinquent tax payer and the City did not pay for the collection of the taxes. He reviewed the procedure for the request for professional services. Staff's recommendation was for the firm of Sawko and Burroughs.

Council discussed the guarantee of a collection rate.

The following individuals submitted Speaker Cards:

Richard Hays, 819 W Oak, Denton, 76201 presented information on why Council should hire his firm instead of the recommended firm by staff.

Council discussion after the presentation centered on the guarantee collection rate, office staff from the Hays firm in the Denton County Tax Office, and ways to contact his firm. They questioned if Council was allowed to hear from people who participated in the RFQ process.

Cindy Spoon, 2210Westwood, Denton, spoke in opposition

Mayor Watts noted that five Comment Cards were submitted in opposition.

Mayor Watts asked for the values associated with the various guaranteed percentages.

Langley indicated that he did not have those values for this meeting.

Mayor Pro Tem Roden questioned what would happen if a motion to approve failed and if so, would another process have to be done.

City Attorney Burgess stated that the item was posted just for the award to Sawko and Burroughs. Council could direct staff to repost the item on a different agenda or award the contract to a different firm.

Mayor Pro Tem Roden motioned to adopt the ordinance.

Council Member Wazny asked if the guarantee was part of the matrix and if not why not.

Langley stated that each firm was given specific directions on the minimum. This firm provided additional information but the two numbers were not comparable. If all of the firms could do the same as the Hays firm and exclude those accounts which were legally not collectable, the other firms might be over that number.

City Attorney Burgess stated that the Council could provide an opportunity for staff to look at the other three firms in terms of more analysis and do a clarification.

Mayor Pro Tem Roden withdrew his motion.

Mayor Pro Tem Roden motioned to continue the item to a date certain to get the information requested by the Mayor for a guarantee of 70%. He wanted the other firms that responded to have a chance to make the same kind of information available in terms of willing to guarantee 70% of the collectable taxes.

Mayor Pro Tem Roden motioned, Council Member Gregory seconded to continue the item to the June 28<sup>th</sup> Council meeting. On roll call vote, Council Member Wazny "aye", Mayor Watts "aye", Mayor Pro Tem Roden "aye", and Council Member Gregory "aye". Council Member Hawkins "nay", Council Member Briggs "nay", and Council Member Bagheri "nay". Motion carried with a 4-3 vote.

Ordinance No. 2016-166

- B. A15-0016f Conduct the second of two readings and take final action on an ordinance to annex an approximately 23.24 acre property generally located on the west side of Geesling Road, approximately 700 feet south of East University Drive (US 380), within the Moreau Forrest Survey, Abstract No. 417, in Denton County, Texas.

Aimee Bissett, Director of Development Services, presented the details of the proposed annexation. This was the second of two public readings of the annexation ordinance. She presented the background of the property's annexation agreement. The developer wished to build on the property which triggered the annexation. She read the caption of the ordinance into the record.

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

- C. ID 16-678 Consider adoption of an ordinance of the City of Denton, Texas amending section 18-38 of the Code of Ordinances relating to the use of wireless communication devices while driving; to prohibit the use of wireless communication devices while operating a motor vehicle; providing a repealer clause; providing for a penalty not to exceed \$200 for violations of this ordinance; and providing for an effective date. The Traffic Safety Commission recommends approval (5-0).

Council Member Wazny suggested continuing the item and delay the presentation to the August 16<sup>th</sup> Council meeting to provide more opportunity for clarification of the ordinance.

The following individuals submitted Speaker Cards:

Eric Pruett spoke in opposition.

Ron Seifert spoke in favor of delaying

Mayor Watts noted that there were nine Comment Cards submitted – two in support and seven in opposition.

Council Member Wazny motioned, Council Member Gregory seconded to postpone the item to the August 16<sup>th</sup> Council meeting. On roll call vote, Council Member Hawkins "aye", Council Member Briggs "aye", Council Member Wazny "aye", Mayor Watts "aye", Mayor Pro Tem Roden "aye", Council Member Bagheri "aye", and Council Member Gregory "aye". Motion carried unanimously.

D. ID 16-729 Consider appointments to Council Committees.

Mayor Pro Tem Roden motioned, Council Member Wazny seconded to approve the appointments to the Council committees as noted in the Work Session. On roll call vote, Council Member Hawkins "aye", Council Member Briggs "aye", Council Member Wazny "aye", Mayor Watts "aye", Mayor Pro Tem Roden "aye", Council Member Bagheri "aye", and Council Member Gregory "aye". Motion carried unanimously.

Resolution No. R2016-014

E. ID 16-759 Consider approval of a resolution of the City Council of the City of Denton, Texas regarding the Proposed "Renewable Denton Plan" Adopted as an Integral Part of Providing Electric Service to Ratepayers in the Denton Municipal Electric Service Territory.

Phil Williams, General Manager of DME, presented an update on the Renewable Denton Plan. The RDP met the City Council direction for rates, renewables and reliability. He presented the next steps involved in the process.

The following individuals submitted Speaker Cards:

Adam Dunstan – opposed  
Tiffany Hudspeth – support  
Ron Seifert – opposed  
Elida Tamez – opposed  
Eric Pruett – opposed  
Hugh Coleman – support  
David Wright – support  
Rita Beving – opposed  
Tod King – opposed  
Ashley Harisko - opposed  
Christiana Harris – opposed  
Sean Jacobson – support  
Jodi Ismert – opposed  
Michael Hennen- opposed  
Stephen Shade – opposed  
Linda Carrasco – opposed  
Brighton Caruthers – opposed  
Adam Gawarecki – support

Phyllis Minton – opposed  
Jane Piper Lunt – opposed  
Christopher Fuhrmann – opposed  
Carol Soph – opposed  
Ed Soph – opposed  
Arielle Harris – opposed  
Jesse Hamner – opposed  
Cindy Spoon – opposed  
Lee Allison – support  
Tara Hunter – opposed  
Gena Felker – opposed  
Deborah Armintor – opposed  
Greg Johnson – support  
John Ryan - support

Mayor Watts noted that there were 52 Comments Cards submitted against the item and 31 in support.

Mayor Pro Tem Roden noted that many of the public comments spoke about renewables and did not include gas plants. He asked for an explanation of renewables.

Williams stated that the plan was 70% renewables from physical sources of solar and wind farms in the future.

Council discussed the need for this plan to hedge against spikes in wind and solar when they were not available when needed and the citizen comments that this technology was soon to be outdated.

Dacen Ainser spoke in opposition.

Council Member Bagheri questioned how much life was left on the coal plant.

Williams stated that the mechanical life was approximately until the year 2030 but the real question was of the economic life due to the low gas prices. He noted that Gibbons Creek was one of cleaner plants of its age.

Council Member Bagheri questioned if gas prices had already hit bottom.

Williams stated that prices had increased some with projections indicating that they would moderately increase as made in the DME original projections.

Council Member Bagheri asked if the renewable prices had hit bottom as well.

Williams stated that solar was coming in somewhat lower but wind seemed to be at the bottom. Council Member Bagheri questioned if there would be a 2% increase every year for rate payers.

Williams replied that was a trend as each year the needs varied based on the weather. Over 20 years it was a 2% increase.

Council Member Gregory asked about the difference in the engines as noted in the video.

Williams stated that the others were built in an attainment area.

Council Member Gregory asked if the proposed engines were more efficient and quieter.

Williams stated yes.

Council Member Gregory asked about the consultant report regarding the number of units.

Williams stated that the proposal was for twelve units to take care of the next 20 years. The plan was for more wind power plants and solar contracts. Twelve units would come to the economies of scale and not have to come back at a later date with more costs. When the renewables were not available and cost on market was too high, the units would be used.

Council commented that the plan was to backup renewables; on compressed air energy storage; on negative pricing of renewables; on the situation if the plants were not built; and on buying times on the market.

Mayor Watts stated that he was ok with nine units but not comfortable with twelve units; was in favor of two sites; and struggled with the 20 year financing of debt but pay off as quickly as possible.

Council discussed the options of one or two sites.

Council Member Gregory motioned to approve the resolution with one amendment in Section 3. His proposed wording was "nothing expressed herein shall be deemed to limit the City's use of renewable energy in the future, to the amount of seventy percent (70%) of its load, and the City Council specifically endorses and sets a goal of achieving one hundred percent (100%) renewable by 2035, while continuing to offer competitive electric rates and electric reliability to its customers.

Mayor Pro Tem Roden asked if the Council went in this direction would this be getting the policy direction first, then follow staff to complete the details. In the absence of anything in the resolution relating to number of sites or units or where put them, what would be the direction moving forward.

City Attorney Burgess stated that if the language was omitted, staff would read as close to what policy direction was provided in Council discussion and leave implementation open for staff to do. Council could clarify the details if they wanted.

Mayor Pro Roden suggested that an amendment should be added understating that there were going to be opportunities for purchasing property, purchasing of units and the number of those. Council should decide on policy direction. His suggestion would be to amend the resolution to include the number of units as opposed by staff understanding the wide latitude by Council to scale up or down as seen fit.

Council Member Gregory felt that the details could be worked out moving forward. There was a need clarify policy at this point.

Council Member Wazny wanted to clarify the number of sites and number of units. She did not want to leave that blank as such a decision would determine the cost. She was in favor of one site.

Council Member Bagheri felt that twelve units on one site would be the worst possible option.

Council Member Gregory motioned, Mayor Pro Tem Roden seconded to approve the resolution with twelve units on one site with 10% renewable by 2019. On roll call vote, Council Member Hawkins "aye", Council Member Wazny "aye", Mayor Watts "aye", Mayor Pro Tem Roden "aye", and Council Member Gregory "aye". Council Member Briggs "nay", and Council Member Bagheri "nay". Motion carried with a 5-2 vote.

Mayor Watts noted that his vote was incorrectly cast.

On second roll call vote, Council Member Hawkins "aye", Council Member Wazny "aye", Mayor Pro Tem Roden "aye", and Council Member Gregory "aye". Council Member Briggs "nay", Mayor Watts "nay", and Council Member Bagheri "nay". Motion carried a 4-3 vote.

Ordinance No. 2016-187

F. ID 16-773 Consider adoption of an ordinance considering all matters incident and related to the issuance, sale and delivery of up to \$265,000,000 in principal amount of "City of Denton Revenue Bonds, Series 2016" authorizing the issuance of the Bonds; delegating the authority to certain City officials to execute certain documents relating to the sale of the Bonds; approving and authorizing instruments and procedures relating to said Bonds; and enacting other provisions relating to the subject.

Chuck Springer, Director of Finance, stated that this was a parameters ordinance for \$256 million in Revenue Bonds. He detailed the provisions of the bonds.

Council discussed the term length of the bonds.

The following individuals submitted Speaker Cards:

Ron Seifert – opposed  
Jodi Ismert – opposed  
James Ramos – opposed  
Deborah Armintor - opposed  
Melissa Stevens – opposed  
Kimberly Null – opposed  
Cindy Spoon – opposed

Mayor Watts noted that 22 comment cards were submitted in support and 45 in opposition.

Additional speakers included Willie Hudspeth in opposition and David Wright in favor.

Council Member Bagheri felt that a debt of this nature should go to the voters for approval.



Council Member Hawkins asked about the renewable contracts.

Williams stated that they were able to verify the cost in the plan. In terms of the Request for Proposal for the wind farms, one was already not available. The concern was as the time got closer to the elimination of the production credits, the number of wind farms would go away and drive cost up.

Mayor Pro Tem Roden motioned, Council Member Gregory seconded to adopt the ordinance. On roll call vote, Council Member Hawkins "aye", Council Member Wazny "aye", Mayor Pro Tem Roden "aye", and Council Member Gregory "aye". Council Member Briggs "nay", Mayor Watts "nay", and Council Member Bagheri "nay". Motion carried with a 4-3 vote.

Resolution No. R2016-015

G. ID 16-795 A Resolution of the City Council of the City of Denton, Texas, authorizing the Mayor of the City of Denton to sign a Notice of Non-Renewal of a certain Employment Agreement with the City Manager, George Campbell, and to issue such notice to George Campbell; expressing appreciation for the nearly ten years of dedicated service and leadership of City Manager George Campbell to the City of Denton Organization and to the community; and providing an effective date.

City Attorney Burgess stated that this item was a resolution to authorize a letter to the City Manager noting non-renewal of his contract and expressed appreciation for his years of service.

Mayor Watts noted that there were 4 Comment Cards in support.

Council Member Briggs motioned, Council Member Wazny seconded to approve the resolution. On roll call vote, Council Member Briggs "aye", Council Member Wazny "aye", Mayor Watts "aye", and Council Member Bagheri "aye". Council Member Hawkins "nay", Mayor Pro Tem Roden "nay", and Council Member Gregory "nay". Motion carried with a 4-3 vote.

Ordinance No. 2016-188

H. ID 16-796 An Ordinance approving a Professional Consulting Services Agreement, Waiver and Release concerning employment between the City of Denton and George Campbell; authorizing the Mayor to execute said Agreement; authorizing the expenditure of funds therefore; and providing an effective date.

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

**6. PUBLIC HEARINGS**

Ordinance No. 2016-189

A. ID 16-702 Continue a public hearing and consider adoption of an ordinance of the City of Denton, Texas, adopting Roadway Impact Fees per service unit; establishing procedures for the assessment, collection, computation, expenditure, refund and

general administration of roadway impact fees; providing for the establishment of accounts for roadway impact fees; providing construction, severability, and conflict clauses; and providing for an effective date.

Mayor Watts noted that this was a continuation of a prior public hearing.

PS Arora, Wastewater Division Manager, presented the information on the action that was needed for this item. The proposed ordinance would set the fee for amount of the impact fee.

Council Member Wazny stated that she would like the fee at the \$2000 amount.

Council Member Bagheri suggested a \$2000 fee and a one year waiting period before instituting the fee.

David Lehde spoke in favor of a lower fee amount.

The Mayor closed the public hearing

Mayor Pro Tem Roden motioned, Council Member Briggs seconded to adopt the ordinance at a \$2,000 fee level. On roll call vote, Council Member Hawkins "aye", Council Member Briggs "aye", Council Member Wazny "aye", Mayor Watts "aye", Mayor Pro Tem Roden "aye", Council Member Bagheri "aye", and Council Member Gregory "aye". Motion carried unanimously.

- B. A15-0016f Conduct the second of two readings and take final action on an ordinance to annex an approximately 23.24 acre property generally located on the west side of Geesling Road, approximately 700 feet south of East University Drive (US 380), within the Moreau Forrest Survey, Abstract No. 417, in Denton County, Texas.

This item was considered earlier under Items for Individual Consideration.

Ordinance No. 2016-190

- C. Z16-0006a Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, regarding a rezoning request from Downtown Residential 1 (DR-1) District to Downtown Residential 2 (DR-2) District on approximately 0.30 acres, located on the southeast corner of West Eagle Drive and McCormick Street.; 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 recommended approval of the request (6-0).

The Mayor opened the public hearing.

Aimee Bissett, Director of Development Services, presented the information on the rezoning request. She provided information on the surrounding area, current zoning, Denton 2030 Plan description of the area, consideration for rezoning, and public notification. The Planning and Zoning Commission as well as staff recommended approval.

No one spoke during the public hearing.

The Mayor closed the public hearing.

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

- D. HL15-0005b Hold a public hearing and consider an application for a Historic Landmark Designation for the property located at 1120 North Locust Street. The subject site is located on the east side of North Locust Street, approximately 20 feet south from the intersection of North Locust Street and Second Street. The Historic Landmark Commission recommends approval 7-0. The Planning and Zoning Commission recommends approval 7-0.

The Mayor opened the public hearing.

Aimee Bissett, Director of Development Services, presented information on the request for a historic designation for the property located at 1120 North Locust. She provided information on the location of the property and the designation criteria. The Planning and Zoning Commission as well as the staff recommended approval.

No one spoke during the public hearing.

The Mayor closed the public hearing.

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

## **7. 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.

1. ID 16-780 Willie Hudspeth regarding the lack of African American firefighters.

Mr. Hudspeth presented information on the lack of African American firefighters in the Fire Department. The firefighters union had written into the rules power to keep the Fire Department segregated. He would return with further details.

## **9. 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 Gregory requested a report on the fees collected from gas well operators for leaks following gas well drilling leak inspections by the third party consultant, how many inspections had been done in the past year, the results of the inspections and inspection charges.

Mayor Pro Tem Roden asked for a report regarding potential annexation of areas with proposed development outside the city limits.

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

There was no continuation of the Closed Meeting

With no further business, the meeting was adjourned at 12:38 a.m.

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CHRIS WATTS  
MAYOR  
CITY OF DENTON, TEXAS

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JENNIFER WALTERS  
CITY SECRETARY  
CITY OF DENTON, TEXAS