

CITY OF DENTON CITY COUNCIL MINUTES

August 23, 2016

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, August 23, 2016 at 1:00 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, and Mayor Watts.

ABSENT: Council Member Bagheri

1. Citizen Comments on Consent Agenda Items

There were no citizen comments on Consent Agenda Items.

2. Requests for clarification of agenda items listed on the agenda for August 23, 2016.

Council Member Wazny requested that Consent Agenda Item A be moved to Individual Consideration.

Interim City Manager Martin stated that Consent Agenda Item 2D would not be considered and would be reposted to the September 13th meeting. Individual Item 3A would also be pulled and considered at the September 13th meeting.

Mayor Watts suggested considering the Closed Meeting on Creekside Ryan Ranch first so staff would have time to make any changes ready for consideration at the regular meeting. He noted that parts of the development had critical time parameters. After the presentation several weeks ago additional information had been requested.

Council Member Bagheri arrived at the meeting.

Mayor Watts continued that there were questions on the size of lot, etc. and some agreement on what the lots would look like. He was ok with the density if there was increased sizes of the homes to 2400' or above and the amenity center stay in place. If that could be done, then move forward with the project.

City Attorney Burgess stated that there was a working agreement drafted but that the developer had not seen the redlined version that was proposed.

Munal Mauladad, Deputy Director of Development Services, stated that the developer had not seen the redlined version of the document at this point in time. He was aware of the changes to Ryan Road and the associated costs.

Council Member Wazny stated that the time constraint was for the Good Samaritan portion of the expansion. She needed to hear from the developer up or down before a decision was made.

Council discussed clarifications on the AIS changes from the original agreement and engineering clarification in terms of language changes.

Mayor Watts suggested staff contact the developer to see if he wanted to resolve the proposal at this meeting. If so, he needed to meet with staff and work out any issues before the regular

meeting. If not, Council would have a normal discussion and move on as they normally would. Consensus of Council was to move forward with that suggestion.

3. Work Session Reports

- A. ID 16-1071 Receive a report, hold a discussion, and give direction to staff and Waters & Company on the City Manager recruitment process.

Carla Romine, Director of Human Resources, stated that the City had contracted with Waters and Company to do a search for a new City Manager. They had interviewed Council, employees and had completed a citizen survey. A draft brochure had been prepared for candidate distribution.

Miguel Ozuna, Waters & Company, reviewed the process for searching for a city manager, the timeline for the search and tasks associated with the search. He also reviewed the project overview that involved five different tasks that ended in the final interview process. He presented information on the brochure.

Council discussed how the compensation range for the position was determined; how the brochure was released; terms of retirement compensation; and consideration of widening the salary ranges to be more in line with area cities.

Ozuna presented information on key deliverables of the engagement.

Council discussed whether to have individual council involvement in the selection process.

Ozuna reviewed the timeline with completion of an employment offer made/accepted the week of November 14 or December 5. He also presented interview options and suggested actions.

- B. ID 16-983 Receive a report, hold a discussion, and give staff direction regarding the agreement between the City of Denton and the Denton Chamber of Commerce providing for a program to promote economic development through joint efforts.

Aimee Bissett, Director of Development Services, presented the background information on the Chamber contract and summarized the contract duties. Key potential changes included the City serving as the principal point of contact for prospect communications with the Chamber implementing a Denton Marketing Scorecard to measure effectiveness of marketing efforts.

Council discussed the meaning of "initial point of contact"; value of the interaction of the Chamber with private investors; how the recommendations assisted with the overall point of contact; the purpose of the Marketing Scorecard and effectiveness of the Scorecard.

Adam Gawarecki, Denton Chamber of Commerce, responded to questions regarding the private investment funds and what they were used for.

Council discussed the effectiveness of a marketing scorecard for the Chamber and that no budget changes would be needed for the City to take on the tasks.

Council direction was to proceed with the staff recommendation.

- C. ID 16-1049 Receive a report, hold a discussion, and provide staff with direction concerning audit activities and the City Auditor position.

Bryan Langley, Assistant City Manager, presented information on internal/external audits done in the City and requested direction on the city auditor options. He reviewed the current external audit functions and current internal audit functions.

Council discussed whether the same firms were used for all of the external/internal audits.

Langley continued with funding for the 2016-17 proposed budget and proposed services of an Internal Auditor.

Council discussed activities done by the prior auditor; what problems the Council was trying to solve in order to assist in the hiring of an internal auditor; election season comments regarding the need for an internal auditor were not accurate; and information presented on what internal auditors did in other cities. Council continued discussion on whether the scope of work for the internal auditor could be accomplished after the decision was made whether to hire someone for the position; opposing thought was that the scope of work needed to be completed before selecting a person in order to find someone that fit the needs; and giving staff direction to begin the process for selecting a city auditor based on the figures presented.

Consensus of the Council was to begin the process of hiring an auditor with the side issue of a risk assessment also being considered. A search firm would be used for the process.

- D. ID 16-1060 Receive a report; hold a discussion, and give staff direction regarding the FY 2016-17 City Manager's Proposed Budget, Capital Improvement Program, and Five-Year Financial Forecast.

Mayor Watts asked about the refunding of revenue bonds and using some of that money to replenish the water and wastewater development funds per current policy. He proposed to bump the amount to \$500,000 so it would be faster than four years.

Chuck Springer, Director of Finance, stated that the planned refunding would have restrictive funds that would be released for that use. The plan was for the funds to rebuild one-fourth of the plan development lines for Winco. The remainder would go into the fund balance and cash fund capital projects in the utilities to meet goals.

Springer reviewed the changes as noted thus far in the proposed budget.

Council Member Wazny suggested considering a new preservation plan for \$60,000-\$100,000 with possible grant money to help offset the cost along with funding from Planning to help with the cost.

Peggy Riddle, Historic Landmark Commission, presented background information on the necessity to have a preservation plan and possible matching grants and incentives to assist with the funding.

Roman McAllen, Historic Preservation Officer, presented background information on previous preservation plans. He noted what needed to be integrated into a preservation plan and key points that could be a part of a preservation plan.

Council discussed that the current preservation plan was dated back to 1986; assets already in the City should be explored to use towards this proposal; and a consensus to provide \$60,000 in the upcoming budget for the preservation plan.

Springer noted that this would be a one-time funding for this proposal.

Council Member Briggs expressed reservations regarding the proposed increased water park entrance fees and would like Council to not consider the proposed fee at \$14/adult and \$10/child.

D'Lee Covey, Assistant Director of Parks and Recreation, stated that would result in a deficit of \$153,000.

Council discussed the costs for the natatorium with the DISD and the water park costs.

Council Member Gregory stated that he would not agree to prices that would result in a debt at the water park and that it was confusing when talking about a loss at the natatorium as those costs were not recovered. There always had been a business plan to operate in a manner that would be cost effective. He was also not comfortable making a decision for additional costs for the taxpayers and to the DISD.

Council Member Briggs stated that families would not be able to attend the water park if the fees were increased as proposed.

After discussion regarding benchmarking the fees with other communities and forecasted attendance figures, Council Member Briggs withdrew her request to not consider the increased fees.

Council Member Bagheri suggested having a tax rate discussion to reduce the tax rate further than what was already proposed – a one cent reduction in the tax rate.

Council Member Briggs stated that she would be in favor of a one cent reduction.

Mayor Pro Tem Roden questioned what would be recommended to cut out of the budget recommended thus far.

Council Member Bagheri suggested cutting recurring expenses rather than one-time expenses.

Mayor Pro Tem Roden stated that he would need to know the ramifications of what would have to be cut if the tax rate were reduced another half cent. He would need more details before he could answer.

Council Member Hawkins stated that Council agreed to add items to the budget today and now wanted to cut \$400,000 out of the budget. He questioned what would be cut.

Council Member Bagheri stated that Council had not determined what the additional revenue would be spent on.

Council Member Hawkins felt that a consensus on the direction of the budget was provided at the last meeting.

Council Member Gregory stated that there was a proposal for revenues and expenditures and if revenues were going to be reduced, expenditures would have to be reduced as a match. He questioned what the proposed reductions would be to match the revenue reductions.

Council Member Bagheri stated that the recurring costs would be reduced.

Council discussed whether Council or staff should make the recommendation on what would be reduced if the tax rate went down another half cent. There was a feeling that Council had already been building a consensus for several meetings towards a goal for the budget and the proposed additional half cent reduction would go against that consensus.

Council Member Wazny stated that she would not be in favor of reducing anything dealing with the Police or Fire Departments.

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 16-1102 Consultation with Attorneys - Under Texas Government Code, Section 551.071

Consultation, discussion, deliberation, and receipt of information from the City's attorneys involving legal matters relating to the annexation, extension/renewal of non-annexation agreement, or pre-annexation development agreement for Creekside (Ryan Ranch) development, and to provide the City Attorneys with direction, where a public discussion of these legal matters would clearly 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.

B. ID 16-1009 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 presentation from staff regarding public power competitive and financial matters related to the City's participation in, and the overall operational and financial aspects of, the Texas Municipal Power Agency; discuss and deliberate strategies regarding same; discuss, deliberate and provide staff with direction. Consultation, discussion, deliberation, and receipt of information from the City's attorneys involving legal matters relating to public power competitive and financial matters related to the City's participation in, and the overall operational and financial aspects of, the Texas Municipal Power Agency, and to provide the City Attorneys with direction, where a public discussion of these legal matters would clearly 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.

- C. ID 16-938 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 generally located northwest of N. Loop 288 and west of N. Locust St. in the City of Denton, Denton County, Texas; 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. [Long Road Substation]

- D. ID 16-1028 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 adjacent to Hickory Substation then generally South of W. Hickory Street and East of S. Bonnie Brae Street, and terminating at the Northwest corner of the UNT Campus on Stella Street in the City of Denton, Denton County, Texas; for the construction, expansion and use of electric power transmission lines; where 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. [Hickory Substation area and TM Lines to the UNT Campus]

- E. ID 16-1027 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 on the southeastern corner of West Eagle Drive and Bernard Street. City of Denton, Denton County; 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. [Eagle Substation]

- F. ID 16-1096 Deliberations regarding Real Property - Under Texas Government Code Section 511.072; 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 interests generally located in (i) the Gibson Myers Survey, Abstract No. 843, the Johnson, Green, Myers, and Brummell Survey, Abstract No. 1699, the Moses H. Davis Survey, Abstract No. 377, and the William Wilburn Survey, Abstract No. 1419, City of Denton, Denton County, Texas, for the possible construction of an electric generation facility, and (ii) the William Wilburn Survey, Abstract No. 1419, City of Denton, Denton County, Texas, for the West Parallel Runway Project for Denton Enterprise Airport where deliberation of the potential acquisition of these real property interests in an open meeting would have a detrimental effect on the position of a governmental body in negotiations with a third party. Consultation with the City's attorney's 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.

- G. ID 16-1056 Certain Public Power Utilities: Competitive Matters --- Under Texas Government Code, Section 551.086.

Receive competitive public power competitive information and financial information from staff regarding the proposed FY 2016-2017 operating budget for Denton Municipal Electric ("DME") including without limitation, proposed rates for DME for FY 2016-2017, expected revenues, expenses, commodity volumes, and financial commitments of DME; discuss, deliberate and provide staff with direction.

- H. ID 16-1105 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 City of Denton v. 551 Mayhill Joint Venture, et al. pending in the Probate Court, Denton County, Texas related to the Mayhill Road Widening and Relocation Project.

Special Called 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. CONSENT AGENDA

Mayor Watts noted that Item A would be considered individually.

Council Member Hawkins motioned, Council Member Gregory seconded to adopt the Consent Agenda with accompanying ordinances and resolutions except for Item A which would be considered individually, Item D which would not be considered and the alternative packets for Items B and C. 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", Council Member Bagheri "aye", and Mayor Watts "aye". Motion carried unanimously.

Ordinance No. 2016-249

- B. ID 16-984 Consider adoption of an ordinance approving an amendment to Ordinance No. 2015-074, relating to the Economic Development Partnership Board ("the Board") to add to the membership of the Board and to revise Sec. 2-251 C-1; repealing all conflicting ordinances and portions thereof; and providing an effective date.

Ordinance No. 2016-250

- C. ID 16-1095 Consider adoption of an ordinance authorizing the City Manager to execute a Tower/Ground Lease Agreement between the City of Denton and Denton Commercial Internet, Inc., which agreement will allow the leasing of antenna and ground space at the McKenna Park Radio Tower for a ten (10) year term; and providing for an effective date.

This item was not considered.

- D. ID 16-1104 Consider approval of a resolution of the City Council of the City of Denton, a Texas Home Rule Municipal Corporation, electing for the City to have the right to continued performance of services provided by the Texas Municipal Power Agency, a municipal power agency, under the provision of the power sales contract, as amended, for the useful life of the system; direction to the interim City Manager, or his designee, to provide written notice of this election to TMPA; and, providing an effective date.

Item A was considered.

Resolution No. R2016-028

ID 16-957 Consider approval of a resolution by the City Council for the construction, expansion, and use of an electric power transmission /distribution substation located at the southeastern corner of West Eagle Drive and Bernard Street, in the City of Denton, Denton County Texas, as part of Denton Municipal Electric's service territory. [Eagle Substation]

Galen Gillum, Director of Administrative Services, presented the executive summary of the item. The problem of the current station was growth and aging infrastructure. He reviewed the public involvement process, displayed the transmission line and the various sites that were evaluated. The history of the discussion on the site was presented. The next steps in the process were noted.

The following individuals submitted Speaker Cards:

Willie Hudspeth – opposed
Deb Armintor - undecided

Council Member Gregory motioned, Council Member Hawkins seconded to approve the resolution. 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", Council Member Bagheri "aye", and Mayor Watts "aye". Motion carried unanimously.

3. ITEMS FOR INDIVIDUAL CONSIDERATION

- A. ID 16-871 Consider adoption of an ordinance approving a Development Agreement between the City of Denton and Justland Development LLC, concerning the use of City property for Temporary Stormwater Facilities for the proposed development of Meadow Oaks Subdivision, Phase 4, until the permanent Ruddell Street Stormwater Facilities are installed; allowing for cost participation in the permanent stormwater facilities; providing to the City a conveyance of land in fee; requiring a performance bond or letters of credit; authorizing the City Manager to execute the agreement; and providing for an effective date.

Consideration of this item was moved to September 13, 2016 council meeting.

- B. ID 16-980 Consider nominations/appointments to the City's Economic Development Partnership Board.

Caroline Booth, Assistant Director of Economic Development, presented background information on the EDP Board and the makeup of the Board. She reviewed the nominating process which involved a nominating committee that presented a slate of nominees for Council to consider. She presented the list of nominees.

Willie Hudspeth spoke in support.

Council Member Gregory motioned, Mayor Pro Tem Roden seconded to approve the nominations. 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 Mayor Watts "aye". Council Member Bagheri "nay". Motion carried with a 6-1 vote.

Ordinance No. 2016-251

- C. A16-0003b Consider adoption of an ordinance of the City of Denton approving a pre-annexation development agreement between the City of Denton and Ryan Capital Partners, Ltd. for the Creekside (Ryan Ranch) Development; authorizing the Mayor to execute said Agreement; providing severability and providing an effective date.

Munal Mauladad, Deputy Director of Development Services, presented the background information on the proposal and reviewed each of the three tracts in terms of size, use and enhancements. She presented the changes in the agreement.

The following individuals submitted Speaker Cards:

Willie Hudspeth spoke regarding the roadways.
Bob Shelton would answer any Council questions.

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", Council Member Bagheri "aye", and Mayor Watts "aye". Motion carried unanimously.

Resolution No. R2016-029

- D. ID 16-1086 Consider approval of a resolution of the City of Denton, a Texas Municipal Home Rule Corporation, ("City") approving and authorizing the sales of certain assets by the Texas Municipal Power Agency ("Agency") and the refunding of certain Agency financial obligations in connection with the Agency's sale of assets; authorizing the Mayor to act on the City's behalf in executing certain amendments to agreements by and between, and among the Agency and the Cities of Bryan, Denton, Garland, and Greenville ("Participating public entities" [Each a "Participating Public Entity"]) necessary to effectuate the Agency's sales of assets and the associated refunding of its financial obligations; and to take such other and further actions as are necessary in order to effectuate and finalize the City's approval of such sales and the refunding of the Agency's related indebtedness; authorizing and approving other matter related thereto; and providing an effective date.

Phil Williams, General Manager-DME, presented information on the history of TMPA.

Speaker Card were submitted by:

Willie Hudspeth – opposed
Deb Armintor - undecided

Council Member Bagheri motioned, Mayor Pro Tem Roden seconded to approve the resolution. 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", Council Member Bagheri "aye", and Mayor Watts "aye". Motion carried unanimously.

- E. A16-0003c Consider adoption of an ordinance of the City of Denton approving an amendment to a non-annexation agreement between the City of Denton and Ryan Capital Partners, Ltd.; and providing an effective date.

This item was not considered.

4. PUBLIC HEARINGS

- A. ID 16-1067 Hold a public hearing on a proposal to adopt a tax rate of \$0.684750 with a maximum allowable rate of \$0.689750 per \$100 valuation, which will exceed the lower of the effective or rollback tax rate.

The Mayor opened the public hearing.

Chuck Springer, Director of Finance, presented information on the tax rate public hearings. This was the first public hearing on the two required public hearings per State law. He presented budgetary priorities as set in the proposed budget, General Fund expenditures by category and by function. He then reviewed the next steps in the process.

The following individuals spoke during the public hearing:

- Willie Hudspeth - did not speak on the topic but rather spoke on the budget discussion that occurred during the Work Session
- Deb Armintor - did not speak on topic but rather spoke on the water park fees.

The Mayor closed the public hearing.

There was no action at this time on this item

5. 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.

Mayor Pro Tem Roden asked for a discussion on the Downtown in terms of the mix of businesses and the related incentives.

Council Member Briggs asked for a report on the creation of a possible Denton music council.

Council Member Briggs requested information on the EDP Board ordinance as it related to council seats.

Council Member Wazny requested Work Session on single room occupancy housing and associated development standards.

Council Member Gregory suggested exploring the use of the services of Greater Denton Arts Council as a vehicle for supporting a music council.

Mayor Watts asked for a report on the Parks Department possibly cultivating areas for monarch butterfly migration in some of the city parks.

Mayor Watts asked for a discussion regarding the water park and the involvement with DISD including the joint use agreement.

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 8:25 p.m.

CHRIS WATTS
MAYOR
CITY OF DENTON, TEXAS

JENNIFER WALTERS
CITY SECRETARY
CITY OF DENTON, TEXAS