

CITY OF DENTON CITY COUNCIL MINUTES

August 5, 2014

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, August 5, 2014 at 1:00 p.m. in the Council Work Session Room at City Hall.

PRESENT: Mayor Pro Tem Engelbrecht, Council Member Gregory, Council Member Hawkins, Council Member Johnson, Council Member Ryan, and Mayor Watts.

ABSENT: Council Member Roden.

1. Citizen Comments on Consent Agenda Items

There were no citizen comments on the Consent Agenda Items.

2. Requests for clarification of agenda items listed on the agenda for August 5, 2014.

Council Member Gregory asked about the cost of service for Consent Agenda Item I.

Kevin Gunn, Director of Technology Services, stated that this item only authorized the agreement which was billed on monthly services. The funding was part of the annual budget process.

Council Member Gregory stated that Consent Agenda Item K authorized the construction concrete work for the new animal shelter. He requested an update on the status of the project.

Captain Scott Fletcher stated that the project was on target for completion.

Council Member Gregory stated that Consent Agenda Item M was a grant but stipulated a specific vendor.

Emerson Vorel, Director of Parks and Recreation, stated that this was a specialized grant for \$50,000 but had to be spent specifically for a particular firm.

Council Member Ryan questioned if the insurance requirements for Consent Agenda Item C were the standard requirements.

Vorel stated that they were the standard insurance requirements for any event.

Council Member Ryan suggested Council review those requirements at a future meeting.

Mayor Watts stated that he had several questions about Consent Agenda Item D, the amendment to the TIRZ. He questioned if the amended language for the list of projects as shown in Exhibit D were projects solely limited to the lease or for the overall project.

Aimee Bissett, Director of Economic Development, stated that the language indicated that this type of activity regarding City property could be utilized including those projects listed. It was not exclusive to one or the other but rather consistent with the project plan.

Mayor Watts stated that the items listed could not only be done with the transfer or lease of the property but could be done with any type. He questioned the last sentence wording that indicated that the TIF Board and Council needed to have approval for both.

City Attorney Burgess stated that the Council adopted the project plan but the actual projects would be seen by both entities.

Mayor Watts asked if it would be specific projects approved by the TIF Board and then come to Council for approval.

City Attorney Burgess stated that it would be a project either contained within the project plan or if not, the plan would have to be amended to allow that project to go forward. It could be an initiative by staff and the TIF Board but approved by Council.

3. Work Session Reports

- A. ID 14-0410 Receive a report, hold a discussion and give staff direction regarding an update on the Convention Center project.

Jon Fortune, Assistant City Manager, presented an update on the project, reviewing the background of project. In December 2013 Council approved the Master Development Agreement that outlined the steps and process to move forward to the convention center as well as feasibility items on how to move the project forward. In February/April staff provided Council an update on the project and sought direction regarding the design of the convention center and in June a request for construction proposals was advertised. There were six responses received but the pricing responses for construction were higher than anticipated, ranging from \$24.5 million to \$31.2 million. The Master Development Agreement indicated that the City's financing contribution would not exceed \$25 million. A selection committee selected a top firm that would meet the needs for the project and began discussions in terms of final pricing and looked at ways to reduce the cost of the project. The primary purpose of this discussion was to review those changes and seek feedback prior to finalizing the pricing negotiations. The most significant change would be the elimination of just over 20,000 square feet of space by changing the design from a three floor structure to a single floor structure. The convention center would maintain same capacity.

Mayor Watts asked what bid was selected.

Fortune stated that the bid cost for the firm selected was \$24.5 million.

Mayor Watts asked what the budget was for it.

Fortune stated it was closer to the \$18 million range.

Mayor Watts asked how the original figure was decided.

Fortune stated that the City had hired a firm that had experience in construction costs in this industry.

Mayor Watt asked where the project was currently in the development process.

Fortune stated the project was in the design development phase.

Gerri Kielhofner, presenting the architect, reviewed the previous design which was a three level design that now was proposed to be a single level design. There was the same amount of meeting room as the former design with the biggest loss of square footage in the stair wells that would no longer be needed. She reviewed the revised first floor and presented new views of the convention center after revisions.

Mayor Watts asked about 25% change orders and the process of those coming to Council.

City Attorney Burgess stated the process dealt with 25% of the total value of the contract in change orders and what authority the City Manager had regarding change orders.

Council Member Ryan stated that the Master Development Agreement set the size of the convention center and if that was changed, would be City be in default.

Fortune stated no, that it had been acknowledged that there might be changes as the project moved forward. The capacity was still the same; there was just a change in size of the facility.

Mayor Watts stated that there was a substantial difference from the outside of the building.

Kielhofner state the architects had only spent one day on the plan and that it was prettied up at this time. There were a lot of details not shown yet.

Council Member Johnson stated that this was a very normal part of the process and cautioned that it was an emotionally charged issue. In the real estate business you could not get emotionally charged. He felt there was a need to think about not hitting the number and sacrificing the project. There may be a need to look at it again.

Council Member Gregory asked what the change in meeting space would what do in terms of marketing.

Kielhofner stated that the ballroom would seat 2,000 but could handle 2,500 with a change in seating type. If the occupancy of meeting rooms was included there would be seating for 3,600.

Mayor Watts stated that he had seen comments in the paper regarding the financing of the project and the desire for a vote of the public. His preference would be to put an item on an agenda to discuss whether to call an election but he would like each Council Member to indicate whether they agreed or not. He did not know the final numbers yet but he would be hard pressed to approve the project by himself. He felt Denton needed a convention center meeting space but had concerns about the project. One of those concerns was the fact that the project was not on city land. The appropriate time for the project to go to the voters would have been before the Master Development Agreement was approved. O'Reilly had spent lots of money on the project and it was a bit late in the game to go in that direction. He was suggesting a vote on an action item on whether to take the project to the voters.

Council Member Gregory stated that he did not see a termination point where the Council could terminate the agreement if voters did not want it and questioned if that would be a breach of the agreement. His perspective was that it would not be right to enter into the agreement without

contemplating that it would terminate if there was an election and the election failed. He felt it would be present a reputation problem for any future private/public agreements to now try and include that in the terms.

Julie Partain, Bond Counsel, stated that the agreement had been negotiated by O'Reilly and staff over the years and did not contemplate an election for the issuance of the General Obligation bonds. The agreement indicated that the City could refuse to fund the project which was a termination point. No election was considered but the agreement could be amended if everyone agreed. If the City didn't issue the bonds, then the agreement would terminate and the deal would be done unless renegotiated.

Council Member Gregory felt that adding an item for a bond election for the next meeting with only one week to prepare was very fast and he was not sure if he knew all the questions to ask about it at this point.

Council Member Johnson stated that as he read the agreement it was a build to suit lease and lease to O'Reilly who would make sure it was successful. He felt there were many comments about location, design, capacity and number of rooms for hotel but that had already been decided. His concern in reading the agreement was that it was banking on the success of the hotel to make the convention center successful. There was a lot left to be done to determine if the project was going to happen. There was one week to decide whether to call an election and whether voters should vote on this. He felt the item was not ready to go to a vote and that the project might die on its own due to various issues. The City needed to stay the course and keep working on it to determine if the project was going to happen as there was a lot of work left to be done. If the issue went to the voters, Council would have to stop talking about it until after the election and he would be concerned about what the voters would be voting on. Once an election was called, public communication from Council would have to stop.

Mayor Watts expressed concern that it had been three years to do the deal and when coming down to the feasibility, it was 40% off budget. He had asked about how the numbers were derived as he perceived that there were information gaps such as proforma for room rates and occupancy rates. He was struggling with the actual deal components of the agreement. It was time to take a good hard look at the project as it was changing at this time and decisions needed to be made with the partners in mind along with the public in mind.

Mayor Pro Tem Engelbrecht stated that the agreement was started during poor economic times and the fact that it dealt with three entities made it take more time. He felt the location was good and that the City had a good partner with this project. He was not in favor of putting an item on an agenda for a vote.

Council Member Ryan indicated that he had stated publically that voters needed to have a voice in the issue. He did not see that a Notice of Intent to Sell would happen within two weeks. While he was in favor of sending the issue to the voter, right now there were too many unanswered questions and it was not feasible to send to the voters.

Council Member Johnson stated that once there was a completed project, Council may decide whether to take it to the voters but at this time there was nothing for voters to vote on.

Mayor Watts stated that he would like to know when the bids were in and would like to know all of the costs to make the project successful. He could see that there was no support for putting the issue on the agenda for a Council vote.

- B. ID 14-0311 Receive a report, hold a discussion and give staff direction regarding nominations to the City's Boards and Commissions.

Jennifer Walters, City Secretary, presented the list of nominations which Council had submitted before the meeting.

Council discussed the nominations and submitted additional names for consideration.

City Secretary Walters indicated that the list would be updated before the regular meeting for Council consideration.

- C. DCA14-0003 Receive a report, hold a discussion and give staff direction regarding amendments to Section 35.16 of the Denton Development Code, requiring developers to provide information regarding the proximity of gas wells through the subdivision and platting process. (DCA14-0003)

Brian Lockley, Director of Planning and Development stated that staff was requesting direction regarding amendments to the Denton Development Code that required developers to provide information regarding the proximity of gas wells through the subdivision and platting process. The goal was to ensure homeowners had access to information concerning location of gas wells. However, there needed to be a balance between homeowner notification and rights to develop the surface estate and rights to access mineral interests. Non-regulatory approaches staff was using included a gas well website with maps of all permitted well sites, a gas well hotline, and training for realtors on how to use the gas well website. A proposed Code amendment was initiated by a Kelsoe tract rezoning in which Council directed staff to find ways to notify homeowners when they were purchasing a home within 1,200 feet of an existing or permitted gas well drilling and production site.

Council Member Johnson asked if the City had the authority to act to have such a notice at the beginning of the closing documents.

Mayor Watts stated that as part of closing documents, he had never seen a plat. There might be a survey but not a plat.

Lockley stated in terms of a plat issue, realtors might be required to have a copy of the plat on display to show available lots; however, there might be a problem with requiring them to have a plat with the gas wells including possible enforcement. He continued with the Code amendment process which included a developer's meeting and follow-up interviews to address concerns regarding title and mortgages. Concerns expressed by the developers included (1) the responsibility should be on the gas well operator, not the residential developer, (2) there might be title or lending issues, (3) the 1,200 foot distance might not be appropriate, (4) surveying the gas well would add extra cost, (5) and liability with including information on gas wells and not other potential nuisance uses in the vicinity, such as gas stations or industrial uses. Developer potential alternatives included (1) larger signage on the gas well and (2) mailers in utility bills to

inform all current residents of the gas website so they could find locations nearest to them. Staff contacted various outside sources for follow-up interviews. Results of those follow-ups indicated that there should not be any issues with a title but there could be an increased risk for mortgage underwriters which translated to additional time, fees and possible loan denial. Staff was proposing the following code amendments: (1) applicable to all new plats, (2) adopt the vicinity map concept and (3) use similar language to zoning ordinances that would be inserted into the subdivision regulations.

Council Member Gregory asked what would be the process to remove a deed restriction if a gas well was abandoned and capped.

Lockley stated that it would be no different from removing other deed restrictions.

Council Member Johnson stated that the process to remove deed restrictions was huge and questioned if the City would have the right to remove the restrictions at such time the restriction no longer existed.

Lockley stated that this was just a notice and not a deed restriction.

City Attorney Burgess stated that this proposal would not be a formal deed restriction. Staff was trying to craft a notice and place it in a location of prominence for the home buyer.

Lockley stated that a notice in the deed restrictions was just a notice and not a formal restriction. Staff needed direction from Council before proceeding with a code amendment.

Council Member Johnson asked if staff had met with homebuilders in Denton and discussed the impact on their ability to sell homes.

Michele Berry, Assistant Planner, stated that notices had been sent to area homebuilders. The developers indicated that they were more in favor of a deed restriction rather than homeowners association covenants.

Mayor Watts felt it would be good to work with local and state associations in terms of a residential contract for notice of locations of gas wells.

Council Member Gregory suggested adding it to the legislative action slate.

Council Member Engelbrecht asked what would happen if the distance requirement was changed in the future – would the current information be grandfathered.

Council Member Johnson stated that he was concerned that first time homebuyers did not look at all of their closing documents.

Council Member Gregory suggested putting signs on the walls around the tank batteries to make potential buyers aware of what the facility was.

Consensus of the Council was to keep the distance at 1,200 feet, amend the notification wording for Option B and include the issue as part of the City's legislative agenda.

- D. ID 14-0393 Receive a report, hold a discussion and give staff direction regarding aesthetics related to the 35Express Project.

John Cabrales, Assistant City Manager, presented information on this item in terms of an overview of the TxDOT base design, aesthetic concepts, Public Art Committee recommendation, and UNT interest and direction. He displayed a wall concept with a preferred medallion concept. The Public Art Committee recommended a smooth texture on the abutment to make the design more prominent. TxDOT was agreeable with a color change in Denton's section. It was felt that if Corinth, UNT and Denton agreed on a color, TxDOT would agree. Staff was not ready for a recommendation at this time and would be returning with color choices at a future date.

Council Member Gregory suggested bringing the bridge surface to the Mobility Committee to review in the context of pedestrian traffic. The Committee could also look at the proposed traffic circle and funding for that.

Cabrales stated that the only public art recommended at this point in time was the two medallions. A monument entrance marker would be considered in the future. There was a base line recommendation for North Texas Blvd. for the sidewalks but decorative pavement, decorative pavers and native plants could be added. The City would pay for and maintain any kind of landscaping. Another consideration was a protection barrier for pedestrians with lightings and rail treatments. He presented a list of UNT's aesthetic interests.

Mayor Pro Tem Engelbrecht expressed several ideas on the project. He questioned if the name on the bridge could be changed to "Denton" instead of the name of the street. He had a problem with painting the bridge green as it was not UNT's bridge and he would rather like to tie it to the convention center.

Council discussed the design of the bridges, medallion pictures, signage on the bridge and next steps in the process.

Consensus of the Council: (1) in agreement with the recommended artwork, (2) in agreement with the smooth texture, (3) continue with discussion with UNT and the consultant to identify aesthetic opportunities on North Texas Blvd. and (4) agreed with landscaping in the area.

Mayor Watts asked for a staff report on the Loop 288 bridge in terms of what could be done and the cost parameters.

- E. ID 14-0315 Receive a report, hold a discussion, and give staff direction on the wastewater collection system asset management program and the Water Environment Association of Texas 2014 Sidney Allison Award for Denton.

PS Arora, Wastewater Division Manager, stated that the City of Denton Wastewater Collection System Asset Management Program had been selected as the recipient of the Water Environment Association of Texas (WEAT) Sidney Allison Award for 2014. The Sidney L. Allison Award was given by WEAT to a person (or entity) that had made significant contributions to the engineering, science, and/or operation and maintenance of wastewater collection and pumping stations with the mission to transport wastewater to the treatment plant. The award was presented on Wednesday, April 16th during the Conference Awards Breakfast at Texas Water 2014 Conference in Dallas, Texas.

Denton Wastewater staff had been implementing step by step the asset management program for the wastewater collection system over several years. Staff had made presentations to the Public Utilities Board over the last several years on the progress of the implementation of this program. Staff had also presented the implementation of the asset management program in several regional as well as national conferences.

- F. ID 14-0370 Receive a report; hold a discussion, and give staff direction regarding the 2014-15 Proposed Budget, Capital Improvement Program and Five-Year Financial Forecast.

Chuck Springer, Director of Finance, stated that he did not have a formal presentation for the Work Session. The regular session agenda contained a resolution that set the tax rate. Staff had formulated questions from the July 31st meeting and would be presenting them to Council at the August 12th and 19th meetings.

Council Member Ryan stated that Consent Agenda Item D dealt with the Downtown TIF. He suggested that the community market be considered for funding through that program.

Council Member Gregory questioned if the remaining money allocated for the bike plan rolled over into the next budget.

Springer stated correct that it would transfer to a capital program and stay there until spent for bike projects.

Mayor Pro Tem Engelbrecht stated that he would like to see a plan from staff on recommendations for the purchase of trees in terms of what could be accomplished this next budget year.

John Cabrales, Assistant City Manager, stated that a Work Session was planned in the near future to discuss the tree fund.

Council Member Ryan stated that the demolition of the old tax office could be moved into a TIF project as it was in the TIF boundary.

Council Member Gregory reminded Council of the parking needs for the downtown area and that most of the TIF money was for that project.

Following the completion of the Work Session, the City Council convened in a Closed Meeting at 5:00 p.m. to consider the specific items listed below under the Closed Meeting section of this agenda.

1. Closed Meeting:

- A. ID 14-0411 Deliberations regarding Real Property - Under Texas Government Code, Section 551.072; and Consultation with Attorneys - Under Texas Government Code, Section 551.071.

1. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the potential purchase of certain real property interests located in the W. Roark Survey, Abstract No. 1087, J. Severe Survey, Abstract 1164, B.B.B. & C.R.R. Co. Survey, Abstract No.196 and the J. W. Withers Survey, Abstract No. 1343, all in Denton County, Texas, generally located along a line running west to east, commencing at U.S. Highway 377 adjacent to the Fort Worth Drive Substation and continuing to the west right of way line of F. M. 1830 City of Denton, Texas. Consultation with the City's attorneys regarding legal issues associated with the potential acquisition and condemnation of the real property described above where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation. (Denton Municipal Electric Fort Worth T1 Addition Expansion, Denton Municipal Electric Fort Worth Drive and FM 1830 Distribution, and Hickory Creek Detention Facility projects: Burch Family Farms Ltd.) [ID 14-0412]
- B. ID 14-0391 Deliberations regarding Real Property - Under Texas Government Code, Section 551.072; and Consultation with Attorneys - Under Texas Government Code, Section 551.071.
1. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the acquisition of certain real property interests located in the M. Forrest Survey, Abstract Number 417, in the City of Denton, Denton County, Texas, being a fee interest in land, regarding a certain 10.372 acre tract of land located generally north of Blagg Road and east of Geesling Road, for the public use of expansion, construction, maintenance, operation, and improvement of electric transmission and distribution lines facilities, structures, and substations. Consultation with the City's attorneys regarding legal issues associated with the acquisition of land 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 Municipal Electric Arco Substation Project).
- C. ID 14-0399 Certain Public Power Utilities: Competitive Matters - Under Texas Government Code Section 551.086.
1. Receive competitive public power information and competitive financial information from staff in the form of a proposed operating budget for Denton Municipal Electric ("DME") for FY 2014-2015, including without limitation, revenues, expenses, commodity volumes, and commitments; and discuss, deliberate, consider adoption of the budget and other matters, and provide

staff with direction regarding such matters.

D. ID 14-0403 Deliberations regarding Personnel Matters - Under Texas Government Code Section 551.074.

1. Deliberate and discuss the appointment and duties of public officers to boards or commissions exercising discretionary or rule making power as opposed to purely advisory powers, which includes without limitation the Health and Building Standards Commission, the Historic Landmark Commission, the Planning and Zoning Commission, and the Zoning Board of Adjustment.

E. ID 14-0419 Consultation with Attorneys - Under Texas Government Code, Section 551.071.

1. Discuss, deliberate, and receive information from the City's attorneys pertaining to the legal consequences of negotiation and extensions of non-annexation agreements in areas of the City's extraterritorial jurisdiction, and provide the City's attorneys with direction, 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 or legal proceedings.

This item was not considered.

F. ID 14-0420 Consultation with Attorneys - Under Texas Government Code, Section 551.071.

1. Consult with and provide direction to City's attorneys regarding legal issues and strategies associated with Gas Well Ordinance regulation of gas well drilling and production within the City Limits and the extraterritorial jurisdiction, including: Constitutional limitations, statutory limitations upon municipal regulatory authority; statutory preemption and vested rights; impacts of federal and state law and regulations; impacts of gas well drilling upon protected uses and vice-versa; moratorium on drilling and production; other concerns about municipal regulatory authority or matters relating to enforcement of the Gas Well Ordinance; settlement matters concerning gas well drilling in the City; surface development issues involving surface and mineral estates; and legal matters associated with a citizen's initiative regarding hydraulic fracturing where a public discussion of these legal matters would conflict with the duty of the City's attorneys under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.

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 14-0389 Presentation to the Denton Public Library from the Internal Revenue Service-Education and Communication Division.

Mayor Watts presented the award to the Denton Public Library from the Internal Revenue Service-Education and Communication Division.

- B. ID 14-0283 National Health Center Week

Mayor Watts presented the proclamation for National Health Center Week.

Mayor Watts presented an award for the Water Environment Association of Texas 2014 Sidney Allison Award to PS Arora and his staff.

3. CITIZEN REPORTS

- A. ID 14-0282 Receive a citizen report from Brian McCarter regarding the creation of a Zero Waste Team in Denton.

Mr. McCarter spoke on the creation of a Zero Waste Team in Denton. Zero Waste would save the City millions of dollars, create jobs and be beneficial for the environment. He invited the City to create a team to research the benefits of Zero Waste.

- B. ID 14-0407 Receive a citizen report from Gerald DeMarsh regarding lack of response from the Denton Police Department.

Mr. DeMarsh was not present at the meeting.

4. CONSENT AGENDA

Council Member Gregory motioned, Council Member Hawkins seconded to approve the Consent Agenda and accompanying ordinances and resolutions. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

Ordinance No. 2014-219

- A. ID 14-0293 Consider adoption of an ordinance of the City of Denton, Texas, granting the Blues Festival a three-year exception, 2014, 2015, and 2016, to the limitations imposed by Section 17-20 of the Code of Ordinances of the City of Denton, Texas,

granting an increase from 70 to 75 dba loudspeaker amplification and increased hours for three consecutive years, that being: September 20, 2014, 1:00 p.m. until 10:30 p.m. and September 21, 2014, 1:00 p.m. until 8:30 p.m.; September 19, 2015, 1:00 p.m. until 10:30 p.m. and September 20, 2015, 1:00 p.m. until 8:30 p.m.; September 17, 2016, 1:00 p.m. until 10:30 p.m. and September 18, 2016, 1:00 p.m. until 8:30 p.m.; and setting an effective date. Staff recommends approval of the request.

Ordinance No. 2014-220

- B. ID 14-0330 Consider adoption of an ordinance approving a City sponsorship in an amount not to exceed \$15,000 of in-kind services for the 16th Annual Blues Festival to be held in Quakertown Park on September 20-21, 2014; and providing an effective date.

Resolution No. R2014-027

- C. ID 14-0401 Consider approval of a resolution allowing the Denton Black Chamber of Commerce to be the sole participant allowed to sell alcoholic beverages at the Denton Blues Festival on September 20-21, 2014, upon certain conditions; authorizing the City Manager or his designee to execute an agreement in conformity with this resolution; and providing for an effective date. The Parks, Recreation and Beautification Board recommend approving the request with a vote of 6-0.

Ordinance No. 2014-221

- D. ID 14-0317 Consider adoption of an ordinance of the City of Denton, Texas, approving an Amendment to the Project Plan for Tax Increment Finance Zone Number 1 (Downtown TIF) by adding examples of certain types of projects which may facilitate economic development, and providing an effective date. (The TIF Board No. 1 recommends approval 5-0).

Approved the reappointment shown below

- E. ID 14-0368 Consider the re-appointment by the City Manager of Abraham Benavides to the Civil Service Commission.

Ordinance No. 2014-222

- F. ID 14-0374 Consider adoption of an ordinance of the City of Denton authorizing the City Manager or his designee to execute a contract with the Houston-Galveston Area Council of Governments (H-GAC) Cooperative Purchasing Program for the acquisition of one (1) Utility Crane Truck for the City of Denton Wastewater Treatment Department; and providing an effective date (File 5599-Purchase of one (1) Utility Crane Truck from Chastang Ford in the amount of \$110,221). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2014-223

- G. ID 14-0376 Consider adoption of an ordinance authorizing the City Manager to execute an Interlocal Agreement with the City of Krum under Section 791.001 of the State of Texas Government Code, to authorize the purchase and exchange of fire trucks between the City of Denton and City of Krum; authorizing the expenditure of funds therefor; and providing an effective date (File 5609-Interlocal Agreement with

the City of Krum).

Ordinance No. 2014-224

H. ID 14-0377 Consider adoption of an ordinance awarding a contract for the purchase of upgrade and maintenance services including equipment, for the Radio Communication System for the City of Denton Water Production department as awarded by the State of Texas Department of Information Resources (DIR) through the Go DIRect Program, Contract Number DIR-SDD-2060; providing for the expenditure of funds therefor and providing an effective date. (File 5598 awarded to Johnston Technical Services, Inc. in the three (3) year not-to-exceed amount of \$150,000). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2014-225

I. ID 14-0378 Consider adoption of an ordinance authorizing the City Manager to execute an Interagency Agreement with the State of Texas Department of Information Resources/Communications Technology Services Division (DIR/CTS) under Section 791.001 of the State of Texas Government Code, to authorize the City of Denton to obtain connectivity services through the TEX-AN network for communication services; authorizing the expenditure of funds therefor; and providing an effective date (File 5585-Interagency Agreement with the Department of Information Resources/Communications Technology Services Division).

Ordinance No. 2014-226

J. ID 14-0379 Consider adoption of an ordinance of the City of Denton, Texas, authorizing the City Manager, or his designee, to enter into an interlocal agreement with the North Central Texas Council of Governments ("NCTCOG") for data collection on pedestrian and bicyclist travel in the region for the Metropolitan Transportation Plan; and providing an effective date (File 5600).

Ordinance No. 2014-227

K. ID 14-0380 Consider adoption of an ordinance accepting competitive proposals and awarding a public works contract for the construction of a pre-cast concrete security screening fence at the City of Denton Pockrus and McKinney Substations and Linda McNatt Animal Care and Adoption Center; providing for the expenditure of funds therefor; and providing an effective date (RFP 5563-awarded to Walsh's Hawk Construction Co., LLC in the not-to-exceed amount of \$868,607). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2014-228

L. ID 14-0382 Consider adoption of an ordinance authorizing the City Manager to execute a three year Professional Services Agreement (PSA) with Coleman and Associates Land Surveying for ground surveying services for the City of Denton Landfill, and providing for an effective date (File 5571-Ground Surveying Services for City of Denton Landfill awarded to Coleman and Associates Land Surveying in an amount not to exceed \$350,000). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2014-229

M. ID 14-0383 Consider adoption of an ordinance of the City of Denton, Texas providing for, authorizing, and approving the purchase of a Light-Structure Green Lighting System for Soccer Fields located at Mack Park, which are 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 5503 awarded to Musco Sports Lighting, LLC (Musco) in the amount of \$147,131 of which \$50,000 will be funded through a 2014 Fiscal Year United Soccer Federation Foundation Grant Agreement).

Ordinance No. 2014-230

N. ID 14-0384 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for the supply of Electric Utility Overhead Distribution Conductors for Denton Municipal Electric; providing for the expenditure of funds therefore; and providing an effective date (RFP 5543-awarded to HD Power Solutions in the three (3) year not-to-exceed amount of \$1,000,000).

Ordinance No. 2014-231

O. ID 14-0385 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for the supply of concrete light poles for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (RFP 5552-awarded to Techline, Inc. in the three (3) year not-to-exceed amount of \$684,675).

Ordinance No. 2014-232

P. ID 14-0386 Consider adoption of an ordinance accepting competitive bids and awarding a contract for the purchase of three (3) Dodge 5500 trucks for the City of Denton Traffic Control and Fire Departments; providing for the expenditure of funds therefor; and providing an effective date (Bid 5569-awarded to the lowest responsible bidder meeting specification, Dallas Dodge, in the amount of \$208,706.32).

Ordinance No. 2014-233

Q. ID 14-0387 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for electric transmission line compression fittings for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (RFP 5582-awarded to Techline, Inc. in the three (3) year not-to-exceed amount of \$410,000). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2014-234

R. ID 14-0388 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for electric utility transmission line conductor attachments and pole hardware for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (RFP 5583-awarded to Stuart C. Irby Company in the three (3) year not-to-exceed amount of \$620,000). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2014-235

- S. ID 14-0412 Consider adoption of an ordinance finding that a public use and necessity exists to acquire (i) fee simple to an approximate 1.074 acre tract (the "Substation Tract") located in the W. Roark Survey, Abstract No. 1087 and the J. Severe Survey, Abstract No. 1164, both in Denton County, Texas, located generally along the east line of U. S. Highway 377 adjacent to and east of the Fort Worth Drive Substation Addition, and (ii) fee simple to an approximate 0.627 acre tract (the "Pump Station Tract") located in the B.B.B. & C. R. R. Co. Survey, Abstract No. 196 and the J. W. Withers Survey, Abstract No. 1343, both in Denton County, Texas, generally located west and adjacent to the G. C. & S. F. Railroad right of way and running to the west right of way line of F. M. Highway 1830, and (iii) an approximate 0.476 acre ingress and egress easement tract located in the J. Severe Survey, Abstract No. 1164, Denton County, Texas, located generally along the east line of U. S. Highway 377 adjacent to and south of the Fort Worth Drive Substation Addition, Denton County, Texas, and (iv) an approximate 1.802 acre electric utility and communication easement located in the W. Roark Survey, Abstract No. 1087, Denton County, Texas, located generally east of the Ft. Worth Drive Substation Addition and running to the west line of a tract of land owned by Connie M. Altemus, called 37.87 acres in deed recorded in Volume 901, Page 777, Deed Records, Denton County, Texas, (the "Altemus tract") and (v) an approximate 1.793 acre temporary construction and access easement located generally east of the Fort Worth Drive Substation Addition and running to the west line of the Altemus Tract, contiguous with and adjacent to, along the northern line, of said electric utility and communication easement located generally east of the Ft. Worth Drive Substation Addition and running to the west line of the Altemus tract; for (A) as concerns the Substation Tract, ingress and egress easement, electric utility and communication easement and the temporary construction and access easement, the public use of expansion, construction, maintenance, operation, and improvement of electric transmission and distribution lines, facilities, and structures; and (B) as concerns the Pump Station Tract, the public use of a wet weather pump station and detention facility project (the "Hickory Creek Detention Facility"); authorizing the City Manager or his designee to make an offer to Burch Family Farms, Ltd. (the "Owner") to purchase the property interests for the purchase price of Thirty Six Thousand Dollars and No Cents (\$36,000.00), and other consideration, as prescribed in the Purchase Agreement, (the "Agreement") as attached to the ordinance and made a part thereof; authorizing the expenditure of funds therefor; and providing an effective date. (Denton Municipal Electric Fort Worth T1 Addition Expansion, Denton Municipal Electric Fort Worth Drive and FM 1830 Distribution, and Hickory Creek Detention Facility projects: Burch Family Farms Ltd.)

Ordinance No. 2014-236

- T. ID 14-0413 Consider adoption of an ordinance providing authorization for and ratification of a License Agreement with Dallas Area Rapid Transit for the purposes of constructing, installing, maintaining and operating a sanitary sewer line crossing the Northwest Denton Line northwest of Lakeview Blvd.; and providing an effective date.

Ordinance No. 2014-237

- U. ID 14-0414 Consider adoption of an ordinance providing authorization for the City

Manager or his designee to execute a Reimbursement Agreement with 4984 Partners, Ltd. for the purposes of 4984 Partners, Ltd. reimbursing the City for an annual license fee payable by the City to Dallas Area Rapid Transit for the purposes of constructing, installing, maintaining, and operating a sanitary sewer line crossing the Northwest Denton Line northwest of Lakeview Blvd.; and providing an effective date.

5. ITEMS FOR INDIVIDUAL CONSIDERATION

- A. ID 14-0312 Consider nominations/appointments to the City's Boards and Commissions: Airport Advisory Board; Animal Shelter Advisory Committee; Community Development Advisory Committee; Health & Building Standards Commission; Historic Landmark Commission; Human Services Advisory Committee; Library Board; Parks, Recreation and Beautification Board; Planning and Zoning Commission; Public Art Committee; Public Utilities Board; Traffic Safety Commission; and Zoning Board of Adjustment.

Jennifer Walters, City Secretary, presented the nominations as discussed in the Work Session.

Council Member Hawkins motioned, Council Member Ryan seconded to approve the nominations. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

- B. ID 14-0316 Consider appointment of board members for Tax Increment Financing Zone Number One (Downtown TIF).

Aimee Bissett, Director of Economic Development, presented the nominations for the Board. Those nominations included Bob Moses, Marty Rivers, Chris Watts and Kevin Roden.

Council Member Johnson motioned, Mayor Pro Tem Engelbrecht seconded to approve the nominations. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

- C. ID 14-0429 Consider nominations/appointments to the City Economic Development Partnership Board.

Aimee Bissett, Director of Economic Development, presented the nominations as noted by the Nomination Committee. The City Council representatives nominated were Mayor Watts, Council Member Johnson, Chamber Representation - Marty Rivers, Top 21 - John Gilmer, and at-large - Carol Ann Simmons.

Council Member Gregory motioned, Mayor Pro Tem Engelbrecht seconded to approve the nominations. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

Resolution No. R2014-028

- D. ID 14-0395 Consider approval of a resolution of the City Council of the City of Denton, Texas placing a proposal on the September 16, 2014, City Council public meeting agenda to adopt a 2014 Tax Rate that will exceed the lower of the rollback rate or the effective tax rate; calling two public hearings on a tax increase to be held on August 19, 2014, and September 9, 2014 and calling a budget public hearing on the Fiscal Year 2014-2015 Annual Program of Services of the City of Denton to be held on August 19, 2014; requiring publication of notices of the public hearings in accordance with the law; requiring the posting of the notices of the public hearings on the City's Internet website; requiring the posting of the notices on the City's public access channel; and providing an effective date.

Chuck Springer, Director of Finance, stated that the Texas Constitution and Texas Property Tax and Local Government Codes required taxing units to comply with specific guidelines in adopting tax rates. The guidelines were related to a concept known as Truth-in-Taxation. This concept was a way to make taxpayers aware of tax rate proposals and allow taxpayers in certain circumstances to rollback or limit a tax.

Council Member Hawkins motioned, Council Member Ryan seconded to approve the resolution. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

Ordinance No. 2014-238

- E. ID 14-0423 Consider adoption of an ordinance ordering an election to be held in the City of Denton, Texas, on November 4, 2014, to legalize the sale of all alcoholic beverages including mixed beverages; making findings; providing a repealer clause; providing a severability clause; providing for a penalty; and providing for publication and an effective date.

Mayor Watts indicated that a Comment Card had been submitted by Pete Kamp who would be available for questions.

Council Member Ryan motioned, Council Member Gregory seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

6. PUBLIC HEARINGS

- A. ID 14-0295 Hold a public hearing concerning the \$98.175 million Bond Election to be held on November 4, 2014, and project recommendations developed by the Citizens Bond Advisory Committee.

Bryan Langley, Assistant City Manager, presented the process to achieve the bond program. A committee had been formed to develop a list of projects to be considered for the bond program. There were four separate propositions - street improvements, public safety facilities, storm water

drainage and park system improvements. The propositions also included related public art improvements. If approved, the program would result in a tax increase of up to a \$.03. An oversight committee would be formed, once the bonds were approved, to oversee and monitor the program as implemented.

The Mayor opened the public hearing.

Tim Crouch, 3800 Lariat Road, Denton, 76207 - spoke in favor.

Comment cards were submitted by:

Keely Riggs, 3108 Broken Bow, Denton, 76209 - in support for a Splash Park
Jerilyn Christian, 1500 Morin, Denton, 76207 – in support for a Splash Park
Amber Briggles, 1315 Dartmouth, Denton, 76201 – in support for a Splash Park

The Mayor closed the public hearing.

No action was required on this item.

Ordinance No. 2014-239

B. Z11-0018 Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, providing for a zoning change from a Neighborhood Residential 4 (NR-4) zoning district classification and use designation to a Neighborhood Residential 6 (NR-6) zoning district classification and use designation, a Neighborhood Residential Mixed Use 12 (NRMU-12) zoning district classification and use designation; and a Neighborhood Residential Mixed Use (NRMU) zoning district classification and use designation, and further restricted by an overlay district; the area for zoning change encompasses 6.71 acres of land located at the northeast corner of McKinney Street and Jannie Street, in the city of Denton, Denton County, Texas; providing for a penalty in the maximum amount of \$2,000.00 for violations thereof, severability and an effective date. (The Planning and Zoning Commission recommends approval, 6-0.)

Brian Lockley, Director of Planning and Development, stated that the applicant, Rick Baria, on behalf of property owner Gene Hartman, was requesting the rezoning of approximately 6.71 acres of land from NR-4 zoning district to NR-6 zoning district, NRMU-12 zoning district, and NRMU zoning district for the purpose of developing it with single family residences, offices, and restaurants. He provided information on the location of the property, the zoning map, proposed zoning, future land use map, and proposed concept plan. The Planning and Zoning Commission recommended approval with an additional overlay district. The Development Review Committee also recommended approval of southern portion of the property but recommended denial of the rezoning of the northern portion of the site to keep it more consistent with surrounding residential properties.

The Mayor opened the public hearing.

Rick Baria, representing the property owner, spoke in favor of the proposal.

Council discussed with Mr. Baria the density of the proposal, whether there would be privacy fences, good use of the space, size of homes in the current neighborhood compared to proposed homes, the size of the businesses allowed in NRMU-12; green spaces for a homeowner's association to maintain and if the homeowner's association included the commercial section

Gene Hartman, 818 Stanley, Denton, 76201 - spoke in favor of the proposal.

The Mayor closed the public hearing.

Council Member Johnson motioned, Council Member Hawkins seconded to adopt the ordinance with the recommendation by the Planning and Zoning Commission. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

Ordinance No. 2014-240

- C. S12-0001 Continue a public hearing and consider adoption of an ordinance regarding a Specific Use Permit (SUP) to allow wrecker services and impound lots use on a property located in an Employment Center Industrial (EC-I) zoning and use district on approximately 1.3 acres. The subject property is generally located south of Smith Street, east of Dallas Drive, and north of Teasley Lane; and providing for a penalty in the maximum amount of \$2,000.00 for violations, thereof, severability and an effective date. (S12-0001) The Planning and Zoning Commission recommended approval of this request subject to conditions (6-0).

Brian Lockley, Director of Planning and Development, stated that this was a request for a specific use permit to allow a wrecker service and impound lot. The applicant (Greg Edwards on behalf of Akers Towing Services) was requesting approval of a Specific Use Permit (SUP) to legally conduct wrecker services and impound lots operations on the subject property. The subject site was currently zoned EC-I. Per Section 35.5.6.2 of the Denton Development Code (DDC), wrecker services and impounds lots require an approval of SUP and must comply with limitation (L29). Presently, the site was used for wrecker services and impounds lots operation. There were no records showing City of Denton issued a permit for the operation. The intent of this request was to obtain required permits from the City to authorize the use. Information on file with the Building Inspection Division indicated the City issued a Certificate of Occupancy (C.O.) for the property in 1978 for automotive store. However, no wrecker services or impound lots were approved with the use. The property was designated as a Commercial zoning district in 1978. Per the City of Denton 1969 Zoning Ordinance, the ordinance regulating land use in 1978, auto wrecking or salvage yard was prohibited in the Commercial zoning district. Subsequent to the 1978 C.O., several C.O.'s were issued by the City for uses relating to automotive services. The zoning map, future land use map, limitation 29 conditions, and storm water quality practices that had to be followed were reviewed. The history of permits issued to the business was presented and Lockley indicated that this was a long standing business in the City that provided a valuable service to the City. The issue came to light during a community improvement issue for storage of vehicles. He reviewed the issues associated with Community Improvement Services and the great amount of clean up that had been accomplished. Both the Planning and Zoning Commission and the Development Review Committee recommended approval subject to the following conditions: (1) the site plan as submitted and shown in Exhibit 8 shall guide the

operation of the use of the property for wrecker services and impounds lots, (2) best management practices (BMPs) addressing storm water quality must be implemented and maintained on site within ninety (90) days from date of approval of the Specific Use Permit; BMP(s) must be designed to treat hydrocarbons and attain the pollutant removal capabilities recommended for parking areas in the Integrated Storm Water Management (iSWM) Manual, as published by the North Central Texas Council of Governments, or similar practices consistent with low impact development (LID) approaches; (3) applicant shall provide documentation for best management practices for staff review and approval prior to installation. The documentation for the BMP's shall be submitted to staff for review within sixty days of approval of this SUP; (4) the applicant shall install an eight-foot (8') high screening fence and a type "B" buffer along the perimeter of the site with the landscaping planted along the outside of the fence, and shall be irrigated and kept alive at all times. Material for the construction of the screening fence shall be made of wood or other opaque materials; (5) the applicant shall construct the screening fence and type "B" buffer within 60 days after approval of this SUP. The screening and type "B" buffer shall be maintained at all times for continual use of the property for wrecker services and impound lots; and (6) any violations of the above conditions shall render this SUP null and void without any further action of the City of Denton.

The Mayor opened the continued public hearing.

The following individuals spoke during the public hearing:

Greg Edwards, 1621 Amanda Court, Ponder, 76259 – in support.

Mayor Watts asked Edwards about the proposed five conditions.

Edwards stated that the applicant was proposing to meet Conditions #2 and #3 in L29 by not contaminating the site.

Council Member Gregory asked about steps which were taken when a vehicle came in on a truck in terms of capturing more than oil.

Edwards stated that new wreckers had flat beds which trapped fluids on the flat bed.

Council Member Gregory asked what was done to prevent fluids from getting on the site.

Edwards stated if the vehicles were leaking when taken off the flat bed, a pan was placed under them to catch or drain the fluids that might be leaking.

Gloria Akers, 715 Dallas Drive, Denton, 76205 - spoke in opposition to the condition for the storm water drainage system.

Council discussed the water quality in the creek and the time length vehicles were stored on the property.

Joe Akers, 715 Dallas Drive, Denton, 76205 - spoke in favor
Fred Hill -spoke in favor

The Mayor closed the public hearing.

Council Member Gregory asked about sites around the City to do testing in fresh water streams and the watershed for pollutants.

Ken Banks, Director of Environmental Services, stated that testing would be done as close as possible downstream. He could not recall seeing on the monitoring network any problems to the site with what monitor. They did not do metals or hydrocarbon testing.

Council Member Johnson asked about best management practices in terms of lime stone buildup. There were no citations already for the procedures being used. He suggested Council move forward with a probationary period and test for any possible pollutants.

Banks stated that a problem staff was facing was that there was a limitation added as part of an ordinance which specifically stated an analysis needed to include best management practices for the size for runoff and achieved the goals noted in the manual or an equivalent practice. Staff did not look at a gravel parking lot as it was not designed for stormwater treatment similar to designed treatment.

Council Member Johnson stated that there were a lot of businesses grandfathered on sites. Given the history of the business and a long standing operation at the site with no citations for contaminations, he felt the appropriate course would be to continue the operation but until such time as there was a problem, no additional measures would be needed.

Mayor Pro Tem Engelbrecht asked if the specific use permit ran with the property or the business.

Lockley stated it ran with the property.

Mayor Pro Tem Engelbrecht stated that if it went with the business and the business was discontinued, the specific use permit would go away also. He questioned if it might set a precedence to allow an exception for this business.

City Attorney Burgess stated that a requirement had been set in the Code which had application in future cases for wrecker services under similar circumstances. The question was whether Council should vary from the requirement in the ordinance.

Mayor Pro Tem Engelbrecht asked if a specific use permit could be issued with a sunset provision.

Lockley replied it could be done so that after that specific time the permit would expire. An expiration date could be included in the ordinance so long as the use was still in place with the applicant. If the land use would change, the specific use permit would no longer be applicable as it would have been specific to impound lots and wrecker services. If other uses were to occupy the site, the specific use permit would no longer be applicable.

Council Member Gregory asked why the Limitation 29 was included in the ordinance.

Lockley replied to be proactive in these instances.

Council Member Gregory asked if other towing lots had some of these practices as described in the manual.

Lockley stated that he would have to research the existing lots to determine what was being required of them.

Council Member Ryan questioned if the original wording for the Certificate of Occupancy was not done properly.

Lockley stated that staff had found that at times the older Certificates of Occupancy did not provide much detail of the services provided.

Council Member Ryan asked if the wording missing from the Certificate of Occupancy was what made the specific use permit required and suggested if an option would be to give vesting on this property.

City Attorney Burgess stated that the City had certain responsibilities to the environment to oversee water quality and stormwater. The rules were done for the public purpose to ensure safe drinking water and water quality.

Council Member Ryan stated that the rules had changed over time but at the time the Certificate of Occupancy was issued and the business started, the City knew what the business was but it was just not written on the Certificate. This was a well established non-conforming use.

Mayor Watts felt that this was a situation with a failure to communicate. Given the history of the location he tended to approve the permit without conditions but have monitoring for a length of time to see if there was an issue. Staff had to uphold the City code but he felt there was a way to resolve the zoning issue with a specific use permit and give some latitude on the conditions tolling to provide testing if a problem arose. There was no indication that there was a problem and this was an attempt to impose conditions without proof.

Lockley stated that one possible option was to assign a temporary specific use permit to allow staff to monitor conditions and use the time to look at the Code to amend for this situation as there might be others like this. Another option was to postpone this item to consider another option for L29.

Council Member Gregory felt that L29 was reasonable as its purpose was to prevent contamination of the water system. However, he did not want to vote on something that would close down a business. He had not heard the best route yet except for a specific use permit with a time limit and testing for contaminants.

Council discussed various issues associated with solving the problem such as a sunset clause for the specific use permit, changes in ownership of the business, best management practices, requiring all similar businesses to have the same conditions added to their locations so that not just this one business was penalized, and monitoring requirements instead of the L29 condition.

Council Member Johnson replied correct that all other recommendations would be included.

Council Member Johnson motioned, Council Member Hawkins seconded to grant the specific use permit with a sunset provision expiring when Akers Towing Company under the ownership of the Akers family ceased to be in business at the property and to not require the filtration system unless there was documentation of contamination and at such time the applicant would be required to install the filtration and if the system were not installed, the applicant would lose the specific use permit. Staff would implement some sort of monitoring to be in compliance with L29.

Mayor Pro Tem Engelbrecht asked if the motion included all of the other conditions such as the fencing, etc.

Council Member Johnson replied correct that all other recommendations would be included.

On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

Ordinance 2014-241

D. Z14-0008 Hold a public hearing and consider adoption of an ordinance providing for rezoning of an approximately 3.54 acre tract of land from Neighborhood Residential 1 (NR-1) to Neighborhood Residential Mixed Use (NRMU) zoning district. The subject property is generally located at the southeast corner of US Highway 377 (Fort Worth Drive) and Hamilton Road, and is legally described as a 3.54 acre portion of a 8.35 acre tract situated in the James Severe Survey, Abstract Number 1164 and described in the deed from Billy Royce Kenas and Joyce Kenas to Argyle Business Center, Limited Liability Company, as recorded in document number 20005-125511, in the City of Denton, Denton County, Texas; providing for a penalty in the maximum amount of \$2,000.00 for violations thereof, severability and an effective date. (Z14-0008) The Planning and Zoning Commission recommended approval of this request (4-2).

Brian Lockley, Director of Planning and Development, presented the details of the proposal. The request was for rezoning from NR-1 to NRMU at the southeast corner of 377 and Hamilton Road. He presented the zoning map, proposed zoning map, future land use map, site photos, and notification results. He detailed the changes in permitted uses if the zoning change was granted which included uses more geared towards commercial land use categories. He also reviewed the findings relevant to the rezoning proposal. The Planning and Zoning Commission and the Development Review Committee recommended approval.

The Mayor opened the public hearing.

Lee Allison, applicant, spoke in favor.

The Mayor closed the public hearing.

Mayor Pro Tem Engelbrecht motioned, Council Member Johnson seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

- E. A14-0001 Hold the first of two public hearings to consider the adoption of an ordinance of the City of Denton, Texas regarding the annexing 40.33 acres of land, more or less, generally located on the west side of Cooper Creek Road, approximately 800 feet south of Silver Dome Road and approximately 1,800 feet north of Mingo Road more specifically described in Exhibits "A" and "B"; approving a service plan for the subject property and temporarily placing the property in the Rural Residential - 5 (RD-5) zoning district; providing for a correction of the City Map to include the annexed lands; providing for a savings clause and effective date. (A14-0001)

Brian Lockley, Director of Planning and Development, stated that this was the first of two public hearings to consider the annexation of property which currently was outside the city limits. He reviewed the current zoning map, future land use map, and notification information. He also reviewed the findings for the property and presented a schedule for annexation.

Council Member Council Gregory asked why the annexation was not in conjunction with the zoning as requested.

Lockley stated that in the past, the direction was to apply the default zoning. If staff received confirmation, they could proceed in that direction.

The Mayor opened the public hearing.

Jeff Crownover, representing the applicant, spoke in favor.

The Mayor closed public hearing.

No action was required on this item at this time.

Ordinance No. 2014-242

- F. S13-0006 Hold a public hearing and consider adoption of an ordinance regarding a Specific Use Permit (SUP) to allow a twenty-seven (27) unit multi-family development on approximately 2.30 acres within a Neighborhood Residential Mixed Use 12 (NRMU-12) zoning district. The subject property is generally located at the southeastern corner of University Drive and Nolen Circle; and providing for a penalty in the maximum amount of \$2,000.00 for violations, thereof, severability and an effective date. (S13-0006) The Planning and Zoning Commission recommended approval of this request with overlay restrictions (5-1).

Brian Lockley, Director of Planning and Development, stated that this request was for a specific use permit for a 27 unit multi-family development. He presented information on the zoning map, location of property, land use map, site plan, landscape plan, elevations of proposed development and existing site photos. Two neighborhood meetings were held with issues dealing with existing conditions in the neighborhood. The nature of comments dealt with drainage, traffic and

quality of life issues. The uses allowed in the NRMU-12 zoning district were reviewed. The Planning and Zoning Commission and the Development Review Committee recommended approval subject to conditions. The applicant was in agreement with the conditions.

Council Member Engelbrecht stated that there was ingress/egress but not a median cut on University.

Lockley stated correct and that traffic would have to go east bound to get out of the property and make a u-turn.

Earl Escobar, Engineering Development Review Manager, stated that there was a driveway location across a median opening and already a left turn lane into the site.

The Mayor opened the public hearing.

The following individuals spoke during the public hearing:

Joe Moore, 1505 Creek Avenue, Denton, 76209 – opposed
Stephanie Mayfield, 2005 Redwood Place, Denton, 76209 – opposed
Dave Crockarell, 1900 Boyd, Denton, 76209 – opposed

Council Member Gregory stated that this was the first he had heard about flooding from Primrose and questioned Mr. Crockarell if city staff had been contacted regarding the problem.

Crockarell replied not to his knowledge.

Lindsey Crockarell, 1900 Boyd, Denton, 76209 - opposed
Allen Gaskakmp, 2007 Boyd, Denton, 76205 – opposed
Taylor Barnes, 1815 Creek Avenue, Denton, 76209 – opposed

The following individuals submitted comment cards:

John Rickerson, 1812 Boyd, Denton, 76209 – opposed
Crystal Collins, 1902 Boyd, Denton, 76209 – support
Jacob Ervin, 1506 Choctaw, Denton, 76209 – opposed
Kim Scott, 1912 Boyd, Denton, 76209 – opposed
Diana Davis, 1513 Creek, Denton, 76209 – opposed

Additional speakers included Steve Harn representing the applicant and John Porter, applicant, both speaking in favor.

The Mayor closed the public hearing.

Council discussed drainage issues in the area, traffic flow, speed bumps, and green space.

Council Member Johnson questioned if the applicant agreed to the conditions.

Lockley stated that they were in agreement with all of the proposed conditions. The applicant had a history in the City with nice developments.

Council Member Johnson motioned, Mayor Pro Tem Engelbrecht seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

7. CITIZEN REPORTS

There were no citizen reports for this section of the meeting.

8. CONCLUDING ITEMS

- A. Under Section 551.042 of the Texas Open Meetings Act, respond to inquiries from the City Council or the public with specific factual information or recitation of policy, or accept a proposal to place the matter on the agenda for an upcoming meeting AND Under Section 551.0415 of the Texas Open Meetings Act, provide reports about items of community interest regarding which no action will be taken, to include: expressions of thanks, congratulations, or condolence; information regarding holiday schedules; an honorary or salutary recognition of a public official, public employee, or other citizen; a reminder about an upcoming event organized or sponsored by the governing body; information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the municipality; or an announcement involving an imminent threat to the public health and safety of people in the municipality that has arisen after the posting of the agenda.

Council Member Ryan suggested receiving the agenda backup earlier and perhaps consider sending it out when individual agenda items were completed.

Council Member Engelbrecht requested a Work Session on calming devices for traffic.

Council Member Engelbrecht suggested posting City awards on the walls in the Council Chambers.

Mayor Watts agreed with the suggestion of receiving the agenda backup earlier and perhaps switching from Friday to Thursday.

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

There was no continuation of the Closed Meeting.

With no further business, the meeting was adjourned at 11:45 p.m.

CHRIS WATTS
MAYOR
CITY OF DENTON, TEXAS

JENNIFER WALTERS
CITY SECRETARY
CITY OF DENTON, TEXAS