

CITY OF DENTON CITY COUNCIL MINUTES

April 1, 2014

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, April 1, 2014 at 3:00 p.m. in the Council Work Session Room at City Hall.

PRESENT: Mayor Burroughs, Mayor Pro Tem Kamp, Council Member Engelbrecht, Council Member Gregory, Council Member King, Council Member Roden, and Council Member Hawkins.

ABSENT: None.

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 April 1, 2014.

Council Member Gregory asked for a short comment from staff regarding 4A – DME Electric Service Standards.

Jerry Fielder, Engineering Division Manager, presented background information and the changes from the 2005 version. Most of the changes were considered minor and were done for clarification purposes or to bring the requirements up to current DME practices and standards. Under Section 2-General Provisions, paragraph S was added regarding contractor and company requirements. He showed how Denton compared to other utilities in terms of material and labor and who was responsible for what.

Another change was Appendix B which included customer requirement forms for multi-family, residential development, residential single home, commercial and industrial. Appendix C included clearance requirements based on the National Electrical Safety Code. The previous standards were adopted by Council in 2005.

3. Receive a report, hold a discussion and give staff direction regarding the naming of the Center for the Visual Arts.

John Cabrales, Assistant City Manager, presented an update on the progress for the changing of the name of the Center for Visual Arts. Council had asked staff to research who had the naming rights of the facility and to meet with the Greater Denton Arts Council on the issue. A meeting had occurred between the Greater Denton Arts Council, the Chamber and the Mayor and a proposed agreement was reached which included naming the Center after Fred and Patsy Patterson and Roy Appleton, Jr. They also proposed that all costs incurred would be paid for by the Chamber of Commerce and/or the City, including the installation of an electronic sign on the Bell Avenue frontage. The requirements of naming facilities from the formal policy were reviewed. Council had the authority to amend these requirements. Staff's research had confirmed that there was no verbiage that conveyed the naming of facility to the GDAC.

Council Member Gregory suggested using the City Manager's contingency fund to upgrade the plaque so that it would be similar to the one for the transit center.

Mayor Burroughs stated that when working on the resolution, he did not recall lighted signs in the discussion. That was a side issue and not a policy question. The policy question was the naming itself. He felt it was a good solution with the two families well connected with the arts in the community.

Mayor Pro Tem Kamp stated she was in support of the naming and suggested receiving some further research on the Patterson's.

Bill Patterson presented background information about the family.

Council Member King stated that he was in favor of the naming.

Council Member Hawkins stated that he was also in favor of the naming and felt that a good job was done getting a resolution to the naming of the building.

Consensus of the Council was to have the City absorb the cost of plaque and proceed with the naming as proposed.

4. Receive a report from staff, hold a discussion, and provide staff direction concerning Denton's 2014 update to the Water Conservation and Drought Contingency Plans.

Tim Fisher, Water Division Manager, presented the details of the plan. The Drought Management Plan was designed to reduce water demands during short term emergency conditions. It separated water uses into essential and non essential water uses. Essential uses were indoor uses and non-essential uses generally meant outdoor uses. Water Conservation Plans were for long term reduction in water use to stretch existing water supplies to support growing population. It involved efficient use of water, similar to efficient use of electricity. It was the key element of a state-wide water supply planning process and of the Region C Water Supply Plan.

History of the plans - prior to 2000 there were no formal plans in place. The first formal plan was approved in January 2000. The Drought Management Plan closely followed the Dallas Water Utilities Plan. It contained four stages and three types of conditions. The Water Conservation Plan was not tied to the Dallas Water Utilities. The Plan was updated every 5 years. In 2012 the Plan was revised and moved the mandatory water restrictions of twice per week from Stage 3 to Stage 1. Spring flooding in 2007 eliminated the need to activate Stage 1.

There were no plans to the change plan, it was just a need to update the goals. A public hearing would be held on April 15th with approval on that same date. Dallas had recently changed their plan from a 4 stage plan to a 3 stage plan. Stage 2 and 3 were modified/combined to Stage 2. Stage 4 was eliminated and became Stage 3. The trigger conditions were modified. Denton staff recommended similar plan changes. The revised drought stage triggers were presented along with the current lake levels, a comparison of current and proposed drought triggers and action measures for each stage.

Council Member Gregory asked for a report on car washes and the reuse requirements for water.

Consensus of Council was to proceed with the process.

5. Receive a report, hold discussion and provide direction on modification of the Kimley-Horn and Associates, Inc. consultant contract for Road Impact Fees to add development of a transportation computer model and update of the Denton Mobility Plan.

PS Arora, Wastewater Division Manager, stated that the Council had approved the Road Impact Fees contract with Kimley-Horn on January 7, 2014. The Denton Mobility Plan was a key component of impact fees and needed to be updated. There was no travel demand data used to develop the Mobility Plan. The Mobility Plan was a core component of the Denton Development Code and all of the road construction that was related to capacity upgrades and mobility improvements was tied to the Mobility Plan. To bring the Denton Mobility Plan to modern standards, it was necessary to use the applicable computer model that would allow the City to rely on a technically sound master transportation plan that was based on actual traffic counts, that was calibrated for the existing conditions, and that would project build out needs of the transportation system.

Travel Demand Modeling was the prediction of traffic volumes on a transportation network based on land use, population and network characteristics. The purpose of a Regional Travel Demand Model was to determine projected volumes, evaluate scenarios, and was a tool that aided in the development of a CIP. Arora reviewed what a regional travel demand model could do and additional applications of the model. Those additional applications included separate and fully integrated networks for bicycles and pedestrians; transit routes that could be directly placed on the streets so that interactions between autos and transit could be treated explicitly; and transit access, egress, and walk transfer links.

Kimley-Horn contract modification – Kimley-Horn was already engaged in developing road impact fees and had developed computer models for road master plans. Staff asked them to submit a scope and cost proposal for developing the computer model to update the Mobility Plan. The cost was estimated at \$165,000. Staff was requesting \$10,000 for any additional services that might be needed in the development of the updated Mobility Plan.

Council Member Gregory noted that wide outside lanes would not be excuse for bike lanes.

Council Member King agreed with working with Kimley-Horn for this project.

Consensus of the Council was to proceed with proposal.

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

1. Closed Meeting:
 - A. Deliberations regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071.
 1. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the potential purchase of certain real property interests

located in the 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, and structures, as well as substations. Consultation with the City's attorneys regarding legal issues associated with the potential acquisition 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. (ARCO Substation Re-construction-Denton Municipal Electric)

2. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the acquisition of real property interests located in the O. S. Brewster Survey, Abstract Number 56, located generally in the 1800 block of South Bonnie Brae Street, City of Denton, Denton County, Texas. Consultation with the City's attorneys regarding legal issues associated with the acquisition or condemnation of the real property interests referenced above where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and 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. (Bonnie Brae Widening and Improvements project - Parcel 13 - Harrell)

B. Deliberations Regarding Certain Public Power Utilities: Competitive Matters - Under Texas Government Code Section 551.086.

1. Receive a briefing and information pertaining to certain competitive public power and financial issues regarding Texas Municipal Power Agency ("TMPA") on matters including, without limitation: present and future plant operations issues, plant and system expenses, maintenance issues, performance issues, financial issues, reliability issues, planning issues, and any related issues concerning the City's interest in, and its business relationship with the Texas Municipal Power Agency; discuss, deliberate, and provide Staff with direction regarding such matters.

C. Certain Public Power Utilities: Competitive Matters - Under Texas Government Code Section 551.086; Consultation with Attorneys - Under Texas Government Code Section 551.071.

1. Receive a briefing and presentation from Denton Municipal Electric ("DME") staff regarding certain public power competitive, financial and commercial information relating to issues regarding the implementation of

the "Denton Municipal Electric - Energy Risk Management Policy" that deals with bidding and pricing information as well as contracting information, for purchased power, generation and fuel; and Electric Reliability Council of Texas (ERCOT) bids, prices, offers and related services and strategies, and the terms and authorizations related thereto, as well as other and further public power information. Consultation with the City's attorneys regarding legal issues associated with the implementation of the "Denton Municipal Electric - Energy Risk Management Policy" 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. Discuss, deliberate and provide staff with direction.

2. Receive a presentation from Denton Municipal Electric ("DME") staff regarding public power competitive and financial matters pertaining to plans, strategies, opportunities, and developments for generation improvements to the DME system; discuss and deliberate strategies relating to selecting and acquiring generation resources for the City; discuss and deliberate opportunities and strategies for the City to acquire purchased power and enter into agreements regarding the same in light of the possible resource shortage in ERCOT in order to meet its future energy needs. Discuss, deliberate and provide staff with direction.

D. Consultation with Attorneys - Under Texas Government Code Section 551.071, Deliberations regarding Economic Development Negotiations - Under Texas Government Code Section 551.087.

1. Receive a report and hold a discussion regarding legal and economic development issues regarding the creation of a public improvement district and proposed amendments to the economic development incentive agreements for the Rayzor Ranch mixed-use development. This discussion shall include commercial and financial information the City Council has received from Rayzor Ranch developers which the City Council seeks to have locate, stay, or expand in or near the territory of the city, and with which the City Council is conducting economic development negotiations; including the offer of financial or other incentive where the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the provisions of the Texas Open Meetings Act, Chapter 551 of the Texas Government Code.

E. 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/or impacts of federal and state law and regulations as it concerns municipal regulatory authority and matters relating to enforcement of the ordinance.

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. Proclamations/Awards

1. National Service Recognition Day

Mayor Burroughs presented the proclamation for National Service Recognition Day.

2. Denton Redbud Festival Day

Mayor Burroughs presented the proclamation for Denton Redbud Festival Day.

3. Presentation of Tree City USA Re-Certification

The Tree City USA re-certification was presented to the City. This was the 23rd Tree City USA award for the City of Denton.

3. CITIZEN REPORTS

There were no citizen reports for this meeting.

Council Member King made a presentation to Council regarding his time on Council and thanked his fellow Council Members.

4. CONSENT AGENDA

Council Member Hawkins motioned, Council Member Gregory seconded to approve the Consent Agenda and accompanying ordinances and resolutions. On roll call vote, Mayor Burroughs "aye", Mayor Pro Tem Kamp "aye", Council Member Engelbrecht "aye", Council Member

Gregory "aye", Council Member King "aye", Council Member Roden "aye", and Council Member Hawkins "aye". Motion carried unanimously.

Ordinance No. 2014-086

- A. Consider adoption of an ordinance of the City Council of the City of Denton, Texas approving and adopting the revised and amended "Denton Municipal Electric - Electric Service Standards" regarding the City's municipally-owned electric utility, Denton Municipal Electric; providing for a repealer; providing for a severability clause; providing an effective date.

Ordinance No. 2014-087

- B. Consider adoption of an ordinance authorizing the City Manager or his designee to execute a purchase order through the Buy Board Cooperative Purchasing Network for the acquisition of three (3) Caterpillar Model 430F Backhoes for the City of Denton Wastewater Collections and Water Distribution Departments; and providing an effective date (File 5514 awarded to Holt CAT in the amount of \$282,576). The Public Utilities Board recommends approval (5-0).

Ordinance No. 2014-088

- C. Consider adoption of an ordinance of the City of Denton, Texas authorizing the expenditure of funds for payments by the City of Denton for electrical energy transmission fees to those cities and utilities providing energy transmission services to the City of Denton; and providing an effective date (File 5388-Additional Electrical Energy Transmission Fees for Fiscal Year 2013-14 in the total amount of \$787,855.39). The Public Utilities Board recommends approval (5-0).

Ordinance No. 2014-089

- D. Consider adoption of an ordinance accepting competitive proposals and awarding a public works contract for the construction of traffic control intersections for the City of Denton; providing for the expenditure of funds therefor; and providing an effective date (RFP 5442-awarded to Durable Specialties, Inc. in the three (3) year not-to-exceed amount of \$4,500,000).

Ordinance No. 2014-090

- E. Consider adoption of an ordinance of the City of Denton, Texas authorizing the approval of a First Amendment to a contract for mowing services, by and between VMC Landscape Services and the City of Denton, Texas, providing for the expenditure of funds therefor; and providing an effective date (File 4964-providing for an additional expenditure amount of \$250,000 with the total contract amount not-to-exceed \$300,000).

Ordinance No. 2014-091

- F. Consider adoption of an ordinance of the City of Denton, Texas, amending the Fiscal Year 2013-14 Budget and Annual Program of Services of the City of Denton to allow for adjustments to the Capital Improvement Program of six hundred thousand dollars (\$600,000), the Technology Services Fund of one hundred forty-

four thousand dollars (\$144,000), the General Fund of two hundred forty thousand dollars (\$240,000), and the Street Improvement Fund of one hundred seventy-five thousand dollars (\$175,000), and establishing the Library Donation Fund to include revenues and expenditures of thirty thousand dollars (\$30,000); declaring a municipal purpose; providing a severability clause; providing for an open meetings clause; and providing for an effective date. The Audit/Finance Committee recommends approved (2-0).

Ordinance No. 2014-092

- G. Consider adoption of an ordinance of the City of Denton, Texas, granting the Denton Festival Foundation, pursuant to Section 17-20 of the Code of Ordinances of the City of Denton, Texas, a three-year exception, year 2014 through 2016, to the limitations imposed by that section with respect to hours of operation of an amplified loudspeaker system; and setting an effective date. Staff recommends approval of request.

Resolution No. R2014-009

- H. Consider approval of a resolution allowing Pro-Fest, Inc. to be the sole participant allowed to sell alcoholic beverages for three consecutive years at the Denton Arts and Jazz Festival beginning April 25 - 27, 2014, April 24 - 26, 2015, and April 29 - May 1, 2016, 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 recommends approval (6-0). Staff recommends approval of the request.

Resolution No. R2014-010

- I. Consider approval of a resolution allowing Mi Casita Mexican Food to be the sole participant allowed to sell alcoholic beverages at the Cinco de Mayo Celebration on May 3, 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 recommends approval (6-0). Staff recommends approval of the request.

Ordinance No. 2014-093

- J. Consider adoption of an ordinance approving a City sponsorship in an amount not to exceed \$123,000 of in-kind services and resources for the Denton Arts and Jazz Festival to be held in Quakertown Park on April 25 - 27, 2014; and providing an effective date.

Approved the noise exception listed below.

- K. Consider a request for an exception to the Noise Ordinance for the purpose of performing music and announcements during the 2014 Relay for Life to be held at the Guyer High School Football Field located at 7501 Teasley Drive. The Relay will begin at noon and end at midnight on Saturday, April 12, 2014. The request is for a variance in decibels, from 70 to 75 decibels and for amplified sound to be extended from 10 p.m. to midnight. Staff recommends approval of the request.

Ordinance No. 2014-094

- L. Consider adoption of an ordinance of the City of Denton, Texas authorizing the City Manager or his designee to make an offer to purchase and execute a Contract of Sale, by and between John Powell Walker and Martin A. William (the "Owner") and the City of Denton regarding the sale by Owner and purchase by the City of a fee interest in land consisting of 10.372 acres, being situated in the M. Forrest Survey, Abstract No. 417, in the City of Denton, Denton County, Texas, 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, and structures, as well as substations for the purchase price as prescribed in the Contract of Sale; authorizing the City Manager, or his designee, to make an offer to purchase the property interest from Owner for such purchase price, and execute and deliver any and all other documents necessary to accomplish closing of the transaction contemplated by the Contract of Sale; authorizing the expenditure of funds, therefor. The Public Utilities Board recommends approval (5-0).

Approved the minutes listed below.

- M. Consider approval of the minutes of: February 3, 2014 February 4, 2014 February 11, 2014 February 14, 2014

5. ITEMS FOR INDIVIDUAL CONSIDERATION

Resolution No. R2014-011

- A. Consider approval of a resolution amending guidelines for public improvement districts; and providing an effective date.

Aimee Bissett, Director of Economic Development, presented information on both Items A and B. Scott Wagner, RED Development, thanked Council for consideration of the project and for support for the PID to assist with the public infrastructure of the project.

Bissett presented background information on the history of the Rayzor Ranch development. Council would be considering the existing PID guidelines amendments and ordering a public hearing to consider the creation of Rayzor Ranch Public Improvement District No. 1.

Currently there were two funding options that were allowed. RED Development had recommended a third financing option of using PID financing for construction financing. The resolution in Item B accepted the petition and called for the public hearing. That resolution did not obligate the Council except to hold the public hearing.

A Speaker Card was submitted by David Zoltner who stated that he was opposed to the creation of the PID District and the associated funding for the PID. He did not feel it was smart public policy to proceed in this manner.

Council Member King motioned, Mayor Pro Tem Kamp seconded to approve the resolution. On roll call vote, Mayor Burroughs "aye", Mayor Pro Tem Kamp "aye", Council Member

Engelbrecht "aye", Council Member Gregory "aye", Council Member King "aye", Council Member Roden "aye", and Council Member Hawkins "aye". Motion carried unanimously.

Resolution No. R2014-012

- B. Consider approval of a resolution of the City Council of the City of Denton, Texas, accepting for filing a petition for the creation of Rayzor Ranch Public Improvement District No. 1; ordering a public hearing to consider the creation of Rayzor Ranch Public Improvement District No. 1; authorizing and directing the publication and mailing of notices of the public hearing as required by law; and providing for an immediate effective date.

Council Member Engelbrecht stated that he would be voting to approve the resolution but with reservations and would further discuss those reservations at the public hearing.

Mayor Burroughs encouraged staff and the developer to put out information concerning the development of the PID and its provisions.

Mayor Pro Tem Kamp motioned, Council Member King seconded to approve the resolution. On roll call vote, Mayor Burroughs "aye", Mayor Pro Tem Kamp "aye", Council Member Engelbrecht "aye", Council Member Gregory "aye", Council Member King "aye", Council Member Roden "aye", and Council Member Hawkins "aye". Motion carried unanimously.

Ordinance No. 2014-095

- C. Consider adoption of an ordinance of the City of Denton, Texas amending section 28-253 of the Code of Ordinances to provide for the adoption of the 2012 International Energy Conservation Code, as published by the International Code Council; providing for amendments thereto; providing a penalty for violation of a fine not to exceed \$2,000.00; providing for severability; repealing all ordinances in conflict therewith; and providing an effective date.

Kurt Hansen, Building Official, presented the history of the code over the years and presented an energy code comparison with the current regulations, the COG suggestions and the City's proposal. He presented an equivalent of overage compromise with 4% added with the COG amendments and the City amendments that would be rolled over from the last code. Staff had met with the Committee on the Environment and the Committee agreed with the 4%. Staff also made a presentation to the Health and Building Standards Commission which also agreed with the provisions. The Commission suggested adopting the 2012 with COG amendments but not the 4% overage - just the Code with COG amendments. The effective date of the ordinance would be May 1, 2014. Staff was also recommending the 4%.

Mayor Burroughs stated that he had received emails today from the Dallas Builders Association requesting the inclusion of the Green Built Texas Program. He questioned if that had been considered during the discussions.

Hansen stated that was a voluntary program for builders to qualify for certain levels of green building. He would suggest holding that program for a later presentation to the Committee on the Environment and a proposal for future developers.

Mayor Burroughs suggested that the program could be considered separately from the Code.

Mayor Pro Tem Kamp agreed that the program would be two different tracks; one being a green building program and one being the energy code.

Council Member Engelbrecht suggested it be separate from the energy code consideration.

Council Member Gregory asked about the Commission recommendation and the rationale for their recommendation.

Hansen stated that developing bigger homes were harder to reach the energy code much less surpass the energy code. It also added to the expense of the homes.

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

6. PUBLIC HEARINGS

There were no public hearings for this meeting.

7. CITIZEN REPORTS

There were no citizen reports for this portion 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.

There were no items presented by Council.

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 8:31 p.m.

MARK A. BURROUGHS
MAYOR
CITY OF DENTON, TEXAS

JENNIFER WALTERS
CITY SECRETARY
CITY OF DENTON, TEXAS