

CITY OF DENTON CITY COUNCIL MINUTES

September 11, 2018

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, September 11, 2018 at 2:00 p.m. in the Council Work Session Room at City Hall.

PRESENT: Council Member Hudspeth, Council Member Briggs, Council Member Duff, Mayor Pro Tem Ryan, Council Member Armintor, and Council Member Meltzer.

ABSENT: Mayor Watts.

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 September 11, 2018.

Staff responded requests for clarification from Council on the following items:

Council Member Briggs- Item D - consider individually; Item F
Council Member Hudspeth - Item F; Item G; Item O

3. Work Session Reports

- A. ID 18-1196 Receive a report, hold a discussion, and give staff direction regarding gas well setback distances, including the history of setbacks in Denton and current setback requirements in other area cities.

Kenny Banks, General Manager of Utilities, presented the staff report regarding the gas well setbacks distances. He noted the setback history in terms of approved ordinances and the provisions associated with those ordinances, setback history summary; comparison of setback distances in Tarrant and Denton counties; legal perspectives on setbacks; options for consideration.

Council discussed:

- Whether the City had been sued over the current regulations
- How the current setbacks worked
- Whether there were any lawsuits filed under the House Bill provisions
- The difference between setback and reverse setback
- Whether there was a map on the City's website showing the locations of gas wells in the City
- Whether new scientific information on setbacks would have an effect on Denton's requirements
- The definition of "preemption" and whether that was probable with the Texas legislature
- Inspections did not always protect the health and safety of citizens

Council discussed the proper distance for setbacks and reverse setbacks in terms of:

- 300 feet with notification to homeowner/renter
- Proper notification for families living near a gas well for health and safety of children
- Whether there were any wells closer than 250 feet in the city limits
- Gas wells closer than 250 feet were approved a number of years ago when the only regulation was the fire code

- Suggestion to have a 500 foot setback for a protected use and 300 feet for unprotected uses with a means of getting a variance for the setbacks
- Consider 600 feet if a developer was willing to do so
- Consider sending the issue to the Committee on the Environment, Planning and Zoning Commission or sustainability Department for recommendations
- Whether 1500 feet was a reasonable reverse setback
- 1500 feet would probably be a takings claim from a developer.
- Pros and cons for various setback distances in terms of health and safety, takings claims, measuring distances for the setbacks

Consensus of the Council was to consider the item at a later date after committee review and additional information as requested. Have the Committee on Citizen Engagement consider a survey regarding the notification process.

- B. ID 18-1237 Receive a report, hold a discussion, and provide staff direction regarding potential revisions to the Code of Ordinances to address tie-votes.

Rachel Wood, Assistant to the City Manager, presented information on the tie votes provision in the Council's Rules of Procedure. She noted the current issue and options to address tie-vote provisions.

Council discussed:

- The reasoning for revising the supermajority vote
- Effect on possible delays for prospective developments at the Planning and Zoning Commission level
- Whether the supermajority vote was needed
- Whether failure at Planning and Zoning should still be supermajority at Council
- Consider a time limit for scheduling an item in the event of a tie

Consensus of Council was to consider Option 4 with a simple majority vote due to a tie vote; provide a definition for recusal and extended absence; a denial from Planning and Zoning would still require a supermajority; a tie vote from Planning and Zoning would be a simple majority.

- C. ID 18-1336 Receive a report, hold a discussion, and give staff direction regarding the FY 2018-19 City Manager's Proposed Budget, Capital Improvement Program, and Five-Year Financial Forecast.

Tony Puente, Director of Finance, presented an update on proposed changes to the budget and noted the Parks and Recreation fees would also be reviewed.

Council discussed the Customer Service \$20 late fee in terms of fees for residential, small businesses and large businesses as well as a percentage versus a flat fee.

Consensus was to keep the residential fee at \$20 as well as the commercial fee at \$20 until February.

Gary Packan, Director of Parks and Recreation, presented revenue/expenditure background information on the Water Park as well as an update on revenue/expenditure projection as noted from prior council direction. He reviewed the deficit for this fiscal year and next steps in the process in terms of implementation of an Aquatic Assessment Action Plan.

Council discussed that a reduction of fees might increase attendance; consider a special promotion offer to help increase sales; and that Council did not need to micromanage.

Puente provided a recap of budget changes in terms of the General Fund, Electric Fund, Downtown Tax Increment Reinvestment Zone Fund, Tree Mitigation Fund, Police Confiscation Fund. He noted the original proposed versus revised proposed property tax rate, the revised General Fund forecast, and next steps in the budget process.

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

1. Closed Meeting:

A. ID 18-1256 Consultation with Attorneys - Under Texas Government Code Section 551.071

Received information from the City's attorneys and discuss legal status, strategy and possible resolution or litigation in Cause No. 17-3526-211, styled "Deborah Knabe v. Allison A. Vetere and the City of Denton, Texas" pending in the 211th Judicial District Court, Denton County, Texas; discussion of these legal matters in an open meeting would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.

B. ID 18-1391 Deliberations Regarding Certain Public Power Utilities: Competitive Matters - Under Texas Government Code Section 551.086; Consultation with Attorneys - Under Texas Government Code, Section 551.071.

Receive competitive and financial public power information from staff related to the Power Purchase Agreement between the City of Denton, as the seller of power and electric energy services, and Texas Woman's University, as the buyer of power and electric energy services; discuss, deliberate, and make recommendations to City Council regarding the same. Consultation with the City's attorneys regarding legal issues associated with the above matters where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation.

C. ID 18-1461 Consultation with Attorneys - Under Texas Government Code Section 551.071

Consultation with the City's attorneys regarding legal issues associated with gas well setback distances 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.

This item was not considered.

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

1. PLEDGE OF ALLEGIANCE

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

2. PROCLAMATIONS/PRESENTATIONS

A. ID 18-1396 Fall Prevention Awareness Day

Mayor Pro Tem Ryan presented the proclamation for National Fall Prevention Awareness Day.

B. ID 18-1397 Pain Awareness Month

Mayor Pro Tem Ryan presented the proclamation for Pain Awareness Month.

C. ID 18-1398 Constitution Week

Mayor Pro Tem Ryan presented the proclamation for Constitution Week.

3. PRESENTATION FROM MEMBERS OF THE PUBLIC

This item was not considered as there were no schedule reports and no additional citizen report requests.

4. CONSENT AGENDA

Council Member Hudspeth motioned, Council Member Armintor seconded to approve the Consent Agenda and accompanying ordinance and resolutions with the exception of Item D which was considered individually. On roll call vote, Council Member Hudspeth "aye", Council Member Briggs "aye", Council Member Duff "aye", Mayor Pro Tem Ryan "aye", Council Member Armintor "aye", and Council Member Meltzer "aye". Motion carried unanimously.

Ordinance No. 18-771

- A. ID 18-771 Consider adoption of an ordinance of the City of Denton, Texas, a Texas home-rule municipal corporation, accepting competitive proposals and awarding a public works contract for the Supply of Overhead Electric Distribution Services for the City of Denton; providing for the expenditure of funds therefor; and providing an effective date (RFP 6582- awarded to Primoris T&D Services, LLC, for one (1) year,

with the option for two (2) additional one (1) year extensions, in a total not-to-exceed amount of \$900,000 for all years). The Public Utilities Board recommends approval (7-0).

Ordinance No. 18-1233

- B. ID 18-1233 Consider adoption of an ordinance of the City of Denton, Texas, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract for the supply of liquid oxygen for the Water Department to Airgas USA, LLC; providing for the expenditure of funds therefor; and providing an effective date (IFB 6785-awarded to Airgas USA, LLC, for one (1) year, with the option for two (2) additional one (1) year extensions, in a total not-to-exceed amount of \$250,000 for all years).

Ordinance No. 18-1304

- C. ID 18-1304 Consider adoption of an ordinance of the City of Denton, Texas, a Texas home-rule municipal cooperation, authorizing the City Manager to execute a contract through the Buy Board Cooperative Purchasing Network Contract Number 507-16, for the Purchase or Rental of Uniform for City of Denton employees; authorizing the expenditure of funds therefor; and providing an effective date (File 6839- awarded to G&K Services, a Division of Cintas, for a three (3) year not-to-exceed amount of \$500,000).

Ordinance No. 18-1344

- E. ID 18-1344 Consider adoption of an ordinance by the City of Denton authorizing the City Manager, or his designee, to accept the Comprehensive Selective Traffic Enforcement (STEP) grant (Grant No. 2019-Denton PD-S-1YG-00044) in the amount of \$88,536.68 from the U.S. Department of Transportation passed through the Texas Department of Transportation for the period of October 1, 2018 through September 30, 2019; and providing an effective date.

Ordinance No. 18-1408

- F. ID 18-1408 Consider adoption of an ordinance of the City of Denton authorizing an agreement between the City of Denton, Texas and Denton Community Market for Staff Time and Portable Restrooms; providing for the expenditure of funds in the total amount of Five Hundred Dollars (\$500); and providing an effective date.

Confirmed the appointment noted below

- G. ID 18-1413 Consider and confirm the appointment by the City Manager of Lilyan Prado Carrillo to the Civil Service Commission.

Ordinance No. 18-1416

- H. ID 18-1416 Consider adoption of an ordinance of the City of Denton releasing, abandoning, and vacating a 1.139 acre public utility easement granted to the City of Denton by Good Samaritan Village of Denton County, recorded as Instrument No. 1997-R0034793, Real Property Records, Denton County, Texas; providing for

severability and an effective date. (Good Samaritan Addition - easement abandonment)

Ordinance No. 18-1417

- I. ID 18-1417 Consider adoption of an ordinance of the City of Denton, Texas, a Texas home-rule municipal corporation, authorizing the City Manager to approve the purchase of one (1) trailer mounted Fire Pump Testing and Training Simulator for the Fire Department to FD International, Inc.; providing for the expenditure of funds therefor; and providing an effective date (IFB 6853 - awarded to FD International, Inc., in the not to exceed amount of \$61,700).

Ordinance No. 18-1418

- J. ID 18-1418 Consider adoption of an ordinance of the City of Denton releasing, abandoning, and vacating an electric transmission line easement granted to the City of Denton by Ethel Lee Bush, recorded in Volume 488 Page 289, Deed Records, Denton County, Texas; providing for severability and an effective date. (Bellaire North Addition - electric transmission easement abandonment)

Ordinance No. 18-1419

- K. ID 18-1419 Consider adoption of an ordinance releasing, abandoning, and vacating (I) a 0.352 acre drainage easement granted to the City of Denton by Kelsoe & Riley, LLC, recorded as Instrument No. 2015-145562, Real Property Records, Denton County, Texas and (II) a 1.286 acre drainage easement granted by Pitner Family Limited Partnership, recorded as Instrument No. 2015-145563, Real Property Records, Denton County, Texas; providing for severability and an effective date. (Ryan Meadows Phase II Addition - drainage easement abandonments)

Ordinance No. 18-1428

- L. ID 18-1428 Consider adoption of an ordinance of the City of Denton, Texas, a Texas home-rule municipal corporation, authorizing the City Manager to execute an Administration of IRS Section 125 Flexible Spending Accounts for Medical Care and Dependent Care Service contract with Discovery Benefits, Inc. for the City of Denton; providing for the expenditure of funds therefor; and providing an effective date (RFP 6798- awarded to Discovery Benefits, Inc. in the five (5) year not-to-exceed amount of \$166,276).

Ordinance No. 18-1432

- M. ID 18-1432 Consider adoption of an ordinance of the City of Denton, Texas, amending Ordinance No. 18-163 related to the duration of the Professional Services Agreement with Innovative Transportation Solutions, Inc. for Transportation Services; providing an effective date (RFQ 6610- providing for a two (2) year contract in the amount of \$252,000, with three (3) one-year options to renew for a not-to-exceed total award of \$630,000).

Approved the minutes listed below

- N. ID 18-1434 Consider approval of the minutes of July 17, July 24, August 2, August 6, August 7, August 14, and August 21, 2018.

Ordinance No. 18-1452

- O. ID 18-1452 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing and approving the City Manager, or his designee, to expend funds to the Denton County Friends of the Family, as a contractual consultant, in the amount of \$39,395.00 under the Domestic and Sexual Violence Initiative Grant (Grant No. 2016-VF-GX-K024) from the International Association of Chiefs of Police (IACP), with said expenditure being administered by the City of Denton for prevention of domestic and sexual violence, for a period from January 1, 2018 through September 30, 2019; and providing an effective date.

Item D was considered.

Ordinance No. 18-1315

- D. ID 18-1315 Consider adoption of an ordinance of the City Council of the City of Denton, Texas providing for, authorizing, and approving the execution by the City Manager of an amendment to extend the Power Purchase Agreement by and between the City of Denton, Texas and the Texas Woman's University; providing for an effective date. The Public Utilities Board recommends approval (6-0).

George Morrow, General Manager-DME, indicated that he was available for questions.

Council Member Hudspeth motioned, Council Member Meltzer seconded to adopt the ordinance. On roll call vote, Council Member Hudspeth "aye", Council Member Briggs "aye", Council Member Duff "aye", Mayor Pro Tem Ryan "aye", Council Member Armintor "aye", and Council Member Meltzer "aye". Motion carried unanimously.

5. ITEMS FOR INDIVIDUAL CONSIDERATION

- A. ID 18-915 Consider adoption of an ordinance authorizing a development agreement between the City of Denton and Marker Stone Realty Partners I, LLC and Marker Stone Realty Partners II, LLC; providing for acquisition of necessary property interest, installment of critical infrastructure, and provision of electrical services; authorizing the City Manager to execute the agreement, and providing for an effective date. (Evers Way and Beall Way Additions)

This item was not considered.

Ordinance 18-1159

- B. ID 18-1159 Consider adoption of an ordinance approving an agreement between the City of Denton, Texas, and the Denton Chamber of Commerce regarding an economic development partnership; and providing an effective date.

Caroline Booth, Director of Economic Development, presented information concerning the agreement with the Denton Chamber of Commerce. She reviewed the agreement provisions which were enhanced from the past agreements. Options for consideration were noted. Staff recommended to renew the agreement.

Council discussion included:

- Whether this was the sole source of funding for the Chamber
- Future agreement funding should come from the General Fund and not from utility funds

Council Member Hudspeth motioned, Council Member Briggs seconded to adopt the ordinance. On roll call vote, Council Member Hudspeth "aye", Council Member Briggs "aye", Council Member Duff "aye", Mayor Pro Tem Ryan "aye", Council Member Armintor "aye", and Council Member Meltzer "aye". Motion carried unanimously.

Ordinance 18-1382

- C. ID 18-1382 Consider adoption of an ordinance of the City of Denton, Texas authorizing the City Manager or his designee, to execute a Decommissioning Escrow Agreement among and between the Texas Municipal Power Agency, the City of Bryan, Texas, the City of Denton, Texas, the City of Garland, Texas and the City of Greenville, Texas ("Cities") regarding the establishment of escrow for decommissioning pursuant to the existing joint operating agreement between the Cities and TMPA; and providing an effective date. The Public Utilities Board recommends approval (7-0).

George Morrow, General Manager-DME, presented information on the TMPA decommissioning Escrow Agreement. He noted background information on the agreement and authorization for the agreement.

Council Member Hudspeth motioned, Council Member Briggs seconded to adopt the ordinance. On roll call vote, Council Member Hudspeth "aye", Council Member Briggs "aye", Council Member Duff "aye", Mayor Pro Tem Ryan "aye", Council Member Armintor "aye", and Council Member Meltzer "aye". Motion carried unanimously.

- D. ID 18-1435 Consider nominations/appointments to the City's Boards, Commissions, and Committees: Health & Building Standards Commission; Historic Landmark Commission; Library Board; Traffic Safety Commission; Zoning Board of Adjustment; City Hall West Steering Committee; and Oak Gateway Area Plan Steering Committee.

Jennifer Walters, City Secretary, presented the nominations as noted on the Nominations Sheet in the council backup materials.

Council Member Briggs motioned, Council Member Armintor seconded to approve the nominations as noted. On roll call vote, Council Member Hudspeth "aye", Council Member Briggs "aye", Council Member Duff "aye", Mayor Pro Tem Ryan "aye", Council Member Armintor "aye", and Council Member Meltzer "aye". Motion carried unanimously.

Ordinance 18-1444

- E. ID 18-1444 Consider adoption of an ordinance considering all matters incident and related to the issuance, sale and delivery of up to \$31,810,000 in principal amount of "City of Denton Certificates of Obligation, Series 2018A"; authorizing the issuance of the Certificates; delegating the authority to certain City officials to execute certain documents relating to the sale of the Certificates; approving and authorizing instruments and procedures relating to said Certificates; enacting other provisions relating to the subject; and providing an effective date.

Tony Puente, Director of Finance, presented information on the issuance of the Certificates of Obligation. He noted the purpose of the Notice of Intention that was previously approved, the CO funded projects as well as the next steps in the process.

Council questioned the connection of South Mayhill.

Todd Estes, City Engineer, stated that the traffic funneled into Highway 2499 as it crossed under I35E to make a clear connection of the roadway.

Council Member Hudspeth noted that Council was authorizing funding to potentially increase traffic for Highway 2499

Council Member Briggs questioned the use of COs for the projects and what would happen to the funding if one of the listed projects was not done.

Paul Williamson, Real Estate Manager, stated that street reconstruction funding would be paired with street maintenance to help with the road projects throughout the city.

Robert Donnelly spoke on this item, presenting a history on the funding of Mayhill and questioned the difference in the funding as based on the RTC funding and County matching funds.

City Manager Hileman presented the details on the differences in the funding arrangements in terms of additional design costs for the bridge and landscaping, additional utility relocations and right-of-way allocation. The County did not participate in this project as they worked with the Bonnie Brae project and provided RTC funding for other projects around the city.

Council Member Hudspeth motioned, Council Member Meltzer seconded to adopt the ordinance. On roll call vote, Council Member Hudspeth "aye", Council Member Briggs "aye", Council Member Duff "aye", Mayor Pro Tem Ryan "aye", Council Member Armintor "aye", and Council Member Meltzer "aye". Motion carried unanimously.

6. PUBLIC HEARINGS

- A. A18-0002a Conduct the first of two public hearings for a voluntary annexation of approximately 86.47 acres of land generally located north of Hickory Creek Rd, and south of Creekdale View by the City of Denton, Texas.

Cindy Jackson, Development Services, presented the details on the voluntary annexation. She noted this was a voluntary annexation, presented the area for annexation, and the annexation schedule.

The Mayor Pro Tem opened the public hearing.

Abra Nusser, applicant, spoke in favor

Matt Johnson, applicant, spoke in favor

LuAnn Autrey - spoke regarding the trees in the development

The Mayor Pro Tem closed the public hearing.

No action was needed on this item at this time.

- B. ID 18-1337 Hold a second public hearing on a proposal to adopt a tax rate of \$0.620477 with a maximum allowable rate of \$0.637856 per \$100 valuation, which will not exceed the lower of the effective or rollback tax rate.

Mayor Pro Tem Ryan noted that Items B and C would be presented together but voted separately.

The Mayor Pro Tem opened the public hearings for Items B and C.

Tony Puente, Director of Finance, presented the background information on the proposed tax rate. He noted the budgetary priorities, property tax rate, revised proposed General Fund revenue, Capital Improvement funding requests, total budget resource and expenditure summary; and next steps in the process.

LuAnn Autrey spoke during the public hearing and asked that sidewalks be included in the street budget.

Council Member Briggs read a letter from Aaron Kundall who was concerned about increased taxes.

The Mayor Pro Tem closed the public hearing.

No action was required on this item at this time.

- C. ID 18-1338 Hold a public hearing and receive citizen input on the FY 2018-19 Proposed Budget.

The public hearing for this item was considered with Item B.

No action was required on this item at this time.

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

Council Member Armintor

- Staff report from Legal and the Public Health Department regarding options for the use of medical cannabis for medical conditions for the citizens of Denton.

With no further business, the meeting was adjourned at 8:30 p.m.

CHRIS WATTS
MAYOR
CITY OF DENTON, TEXAS

JENNIFER WALTERS
CITY SECRETARY
CITY OF DENTON, TEXAS