

## CITY OF DENTON CITY COUNCIL MINUTES

February 2, 2016

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, February 2, 2016 at 4:30 p.m. in the Council Work Session Room at City Hall.

**PRESENT:** Council Member Roden, Council Member Johnson, Mayor Watts, Council Member Hawkins, Council Member Briggs, Mayor Pro Tem Gregory, and Council Member Wazny.

**ABSENT:** None.

### 1. Citizen Comments on Consent Agenda Items

There were no citizen comments for Consent Agenda Items.

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

Council Member Wazny stated that she would like an outline of what Consent Agenda Item E consisted of and requested to pull Item S for individual consideration.

City Manager Campbell stated that the applicant had withdrawn his request for Public Hearing A so it would not be considered.

Bill Bunselmeyer, Energy Services and Business Development Manager, addressed Item E which he noted did not involve the Renewable Denton Plan. This was for various other DME projects.

Mayor Watts questioned if this contract were not approved, would this require a FTE for DME.

Bunselmeyer stated that it would probably take several FTEs due to the frequent traveling to Austin to attend the week long meetings.

Mayor Watts questioned the last time hourly rates were negotiated.

Bunselmeyer stated it had been the same rate for several years.

Council Member Johnson requested to pull Consent Agenda Item B for individual consideration.

Council Member Hawkins questioned Consent Agenda Item N regarding the compensation study and where the scope of the study landed as individual council members had given their recommendations to staff.

City Manager Campbell stated that staff would be doing analysis and comparisons with the private sector.

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

### 1. Closed Meeting:

- A. ID 16-094 Deliberations regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071. Receive information from staff and discuss, deliberate, and provide staff with direction regarding the potential acquisition of real property interests located generally south of the 2400 Block of Shady Oaks Drive, in the Mary Austin Survey, Abstract number four, in the City of Denton, Denton County, Texas; where discussion had, deliberation, and direction given, by the Denton City Council in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third party. Consultation with the City's attorneys regarding legal issues associated with the acquisition of the real property interests described above; discussion of these legal matters in an open meeting would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation. [Brinker Substation]
  
- B. ID 16-137 Deliberations regarding Real Property - Under Texas Government Code, Section 551.072; and Consultation with Attorneys - Under Texas Government Code, Section 551.071. 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 J. White Survey, Abstract 1433 and generally in the 3100 block of Colorado Boulevard, City of Denton, Denton County, Texas. Consultation with the City's attorneys regarding legal issues associated with the potential acquisition of the real property interests described above where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation. (Fire Department)
  
- C. ID 16-163 Consultation with Attorneys - Under Texas Government Code Section 551.071. Consult with the City's Attorneys on the status, strategy, and potential resolution of litigation styled, Bishop v. City of Denton, Texas and Darius M. Porter, Cause No. 4:14-CV-608, currently pending in the US District Court for the Eastern District of Texas, Sherman Division.
  
- D. ID 16-182 Deliberations Regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071. Receive information from staff, discuss, deliberate and provide staff with direction regarding the potential acquisition, exchange, lease or value of real property located generally in the 200 block of West Hickory and the 200 Block of West Mulberry in the City of Denton, Denton County, Texas. Consultation with the City's attorneys regarding legal issues associated with the potential real property matter 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.

- E. ID 16-183 Consultation with Attorneys - Under Texas Government Code, Section 551.071. Consultation, discussion, deliberation and receipt of information from the City's attorneys involving legal matters relating to the annexation or extension/renewal of non-annexation agreements for eligible properties, and to provide the City's attorneys with direction, where a public discussion of these legal matters would clearly conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.

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

**1. PLEDGE OF ALLEGIANCE**

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

**2. PROCLAMATIONS/PRESENTATIONS**

- A. ID 16-134 Go Red for Women

Mayor Watts presented the proclamation for Go Red for Women.

**3. PRESENTATION FROM MEMBERS OF THE PUBLIC**

- A. Review of procedures for addressing the City Council
- B. Receive Scheduled Citizen Reports from Members of the Public.
  1. ID 16-088 Gricelda Samano regarding a sign ordinance issue at 602 E. McKinney Street.

Ms. Samano requested to place a sign outside her store. She was having difficulty getting approval for the sign.

Council Member Roden asked what types of problems she was having with putting up the sign.

Samano stated that the pole was abandoned in 2007 and was told that it needed to be removed.

Council Member Johnson asked if she had made a request to the City.

Samano stated she had not.

Council Member Johnson suggested she speak with the Planning Department on options for a sign.

2. ID 16-116 Chole Terrell regarding the safety of Bell Avenue.

Ms. Terrell stated that the students at TWU were concerned about the traffic conditions on Bell Avenue that ran through the main part of the campus. She requested something be done to help keep the students safe. There were also problems with Oakland Street and the line of sight when cars were parked on the street.

3. ID 16-170 Pat Smith regarding letter of commendation for Denton Police Dept. from Denton Bible Church.

Mr. Smith thanked the Police Department for their help with the bomb threat that the church received on Christmas Eve. Their help assisted them in holding a service that night without incidence.

C. Additional Citizen Reports

1. Ken Gold spoke on the Denton Renewable Plan and asked for a bond election if the plan went through.
2. Deborah Armintor agreed with Mr. Gold regarding a consultant to study the renewable plan. A citizen's vote was very important for the process and a vote on the plan would show what the citizens wanted.

**4. CONSENT AGENDA**

Council Member Hawkins motioned, Mayor Pro Tem Gregory seconded to approve the Consent Agenda and accompanying ordinances and resolutions with the exception of Items B and S which would be considered individually and with the alternate lease provided to Council regarding Item O. On roll call vote, Council Member Roden "aye", Council Member Johnson "aye", Mayor Watts "aye", Council Member Hawkins "aye", Council Member Briggs "aye", Mayor Pro Tem Gregory "aye", and Council Member Wazny "aye". Motion carried unanimously.

Ordinance No. 2016-018

- A. ID 16-083 Consider adoption of an ordinance ordering an election to be held in the City of Denton, Texas on May 7, 2016 and, if a runoff election is required on June 18, 2016 for the purpose of electing Council Members to Places 5 and 6 and electing a Mayor to Place 7 of the City Council of the City of Denton, Texas; prescribing the time and manner of the conduct of the election to be in accordance with an agreement with the Election Administrator of Denton County; providing a severability clause; providing an Open Meetings clause; and providing an effective date.

Ordinance No. 2016-020

- C. ID 16-099 Consider adoption of an ordinance accepting competitive proposals and awarding a public works contract for the renovation of an existing pre-engineered metal building located at 651 South Mayhill Road for the City of Denton Solid Waste Department; providing for the expenditure of funds therefor; and providing an

effective date (RFP 5866-awarded to Links Construction, LLP in the amount of \$522,743). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2016-021

- D. ID 16-100 Consider adoption of an ordinance of the City Council of the City of Denton, Texas, authorizing the City Manager to execute a professional services agreement for architectural, structural, mechanical, and electrical design services in support of the design of the new City of Denton Household Chemical Collections Facility to be located at 1527 South Mayhill Road; providing for the expenditure of funds therefor; and providing an effective date (File 5906 awarded to Nelson+Morgan Architects, Inc. in the not-to-exceed amount of \$239,935). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2016-022

- E. ID 16-101 Consider adoption of an ordinance of the City of Denton, Texas authorizing the City Manager to execute a First Amendment to a Professional Services Agreement by and between the City of Denton, Texas and Resolved Energy Consulting, LLC, for services relating to Denton Municipal Electric projects that include without limitation, Electric Reliability Council of Texas (ERCOT), Public Utilities Commission of Texas (PUCT), and other regulatory activities respecting the City of Denton's Electric Utility; authorizing the expenditure of funds therefor; providing an effective date (File No. 5332 in the additional amount not-to-exceed \$520,000; aggregating a total not-to-exceed \$1,040,000). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2016-023

- F. ID 16-103 Consider adoption of an ordinance of the City of Denton, Texas approving the sale of (i) an approximate 2.902 acre tract of land, and (ii) an approximate 24.293 acre tract of land, both being situated in the G. Walker Survey, Abstract No. 1330, City of Denton, Denton County, Texas, to the successful bidder, Atmos Energy Corporation, a Texas and Virginia corporation for the total consideration of \$1,244,668.00; authorizing the City Manager to execute a Contract of Sale between City of Denton, ("Owner") and Atmos Energy Corporation ("Buyer"), further; in accordance with Texas Local Government Code 253.001, to execute a deed to Atmos Energy Corporation, together with any other documents necessary to sell and convey said real property; and providing an effective date (Bid 5994-Sale of Real Property Located in Pecan Creek Area).

Ordinance No. 2016-024

- G. ID 16-104 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for the purchase of electric utility pad-mounted switchgears to be stocked in the City of Denton Distribution Center; providing for the expenditure of funds therefor; and providing an effective date (RFP 5985-awarded to Anixter Power Solutions in the three (3) year not-to-exceed amount of \$6,000,000).

Ordinance No. 2016-025

- H. ID 16-106 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for tree trimming services for Denton Municipal Electric (DME); providing the expenditure of funds therefor; and providing an effective date (RFP 5991-Electric Utility Line Tree Trimming Services awarded to ABC Professional Tree Services, Inc., in a three (3) year not-to-exceed amount of \$3,849,256.50). The Public Utilities Board recommends approval (6-0).

The minutes listed below were approved.

- I. ID 16-113 Consider approval of the minutes of October 30, November 2, November 10, and November 17, 2015.

Ordinance No. 2016-026

- J. ID 16-115 Consider adoption of an ordinance adopting the Denton County, Texas Hazard Mitigation Action Plan (HazMAP), of which the City of Denton is a party, and providing for an effective date.

Ordinance No. 2016-027

- K. ID 16-118 Consider adoption of an ordinance approving a City sponsorship in an amount not to exceed \$5,700 of in-kind services and resources for the 31st Annual Texas Storytelling Festival to be held in the Civic Center located at 321 E. McKinney Street from March 10-13, 2016; and providing an effective date.

Ordinance No. 2016-028

- L. ID 16-122 Consider adoption of an ordinance approving a contract for a three (3) year comprehensive service plan for maintenance and tuning of the City of Denton Municipal Laboratory Perkin Elmer Inductively Coupled Plasma Mass Spectrometer which is available from only one source and in accordance with Texas Local Government Code 252.022, such purchases are exempt from the requirements of competitive bidding; and providing an effective date (File 6047-awarded to PerkinElmer Health Sciences, Inc. in the three (3) year not-to-exceed amount of \$87,937.30). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2016-029

- M. ID 16-136 Consider adoption of an ordinance of the City Council of Denton, Texas, authorizing the City Manager to execute the "Utility Adjustment Agreement Amendment No. 003 to Agreement No. 35E-U-0503" to the original "Project Utility Adjustment Agreement" in the amount of \$436,470.09; facilitating and authorizing water and wastewater line relocations for the Interstate Highway 35E project, in substantial conformity with the previously executed Texas Department of Transportation agreements with the Developer, AGL Constructors, which is a consortium composed of Archer Western Contractors, LLC, Granite Construction Co. and Lane Construction company; and the Texas Department of Transportation; authorizing the expenditure of funds therefor; and providing an effective date. The Public Utilities Board recommends approval (6-0).

Ordinance No. 2016-030

- N. ID 16-172 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for a Compensation and Classification Study for non-civil service City of Denton employees; providing for the expenditure of funds therefore; and providing an effective date (RFP 5972-awarded to Ulibarri-Mason Global HR, LP in a not-to-exceed amount of \$124,087.80)

Ordinance No. 2016-031

- O. ID 16-179 Consider adoption of an ordinance of the City of Denton, Texas approving a Building Lease Agreement between the City of Denton and 4SR Mulberry, LLC, related to the properties located at 215 West Hickory Street and 216 West Mulberry Street, Denton, Texas, 76201; providing authority for the City Manager to execute the agreement subject to final language approval by the City Attorney; and providing an effective date.

Ordinance No. 2016-032

- P. ID 16-180 Consider adoption of an ordinance of the City of Denton, Texas approving a Subordination, Non-Disturbance and Attornment Agreement between the City of Denton, 4SR Mulberry, LLC, and the National Bank of Texas at Fort Worth, related to the properties located at 215 West Hickory Street and 216 West Mulberry Street, Denton, Texas, 76201; providing authority for the City Manager to execute the agreement subject to final language approval by the City Attorney; and providing an effective date.

Ordinance No. 2016-033

- Q. ID 16-181 Consider adoption of an ordinance of the City of Denton, Texas approving a Right of First Refusal between the City of Denton and 4SR Mulberry, LLC, related to the properties located at 215 West Hickory Street and 216 West Mulberry Street, Denton, Texas, 76201; providing authority for the City Manager to execute the agreement subject to final language approval by the City Attorney; and providing an effective date.

Ordinance No. 2016-034

- R. ID 16-186 Consider adoption of an ordinance of the City of Denton, Texas setting dates, times, and place for public hearings on the proposed annexation of certain property by the City of Denton, Texas, authorizing and directing the City Secretary to publish notice of such public hearings.

Ordinance No. 2016-036

- T. ID 16-188 Consider adoption of an ordinance of the City of Denton, Texas providing authorization of an Interlocal Cooperation Agreement between the City of Denton, Texas ("City") and Denton County, Texas ("County") regarding the County's use of the City's dark fiber facilities; and providing for an effective date.

Item B was considered.

Ordinance No. 2016-019

- B. ID 16-084 Consider adoption of an ordinance ordering a Recall Election to be held in the City of Denton, Texas, on May 7, 2016 for the purpose of determining whether City Council Member Council Member Hawkins shall be removed from District 4 of the City Council of the City of Denton, Texas by recall; prescribing the time and manner of the conduct of the election to be in accordance with an agreement with the Election Administrator of Denton County; providing a severability clause; providing an Open Meetings clause; and providing an effective date.

Speaker Cards were submitted by the following:

Willie Hudspeth spoke regarding the process of recall and the fact that some people had problems with the process. His concern was with how some council members had behaved regarding the collection of signatures.

Pete Kamp spoke against the recall ordinance. She understood the need for the process but the reasons stated in this recall were not appropriate.

Sean Jacobson agreed that Council had to go forward with this vote but felt that there was more to being a representative than being a representative of citizens. He spoke in support of Council Member Hawkins.

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

Item S. was considered.

Ordinance No. 2016-035

- S. ID 16-187 Consider adoption of an ordinance of the City of Denton finding and declaring a restriction contained in the 1933 deed between the IOOF and the City of Denton conveying the said cemetery to the City of Denton prohibiting the use of the said cemetery for the burial of non-white persons to be illegal, unenforceable, unconscionable, contrary and repugnant to the philosophy, principals and beliefs of the City of Denton and that the said restrictive language shall not be enforced or recognized on any city-owned or managed property and providing an effective date.

City Attorney Burgess provided an explanation of what the ordinance did and did not do. In 1933 the City received from IOOF the deed to the cemetery which contained a restriction that the cemetery was only for white persons. In 1948 the Supreme Court ruled that these types of restrictive covenants could not be enforced on real estate. The City had not enforced this deed restriction. This action made the findings that the restriction was illegal and not enforceable. The ordinance would provide that the language shall not be enforced. What the ordinance did not do was change the current practice which allowed non-white persons to be buried in the cemetery. This was not a change in direction but a recognition of an acceptance of a previous ruling and affirmation of city policy.



Willie Hudspeth submitted a Speaker Card to thank the Council for the action for the ordinance and the courage to do it.

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

## **5. PUBLIC HEARINGS**

- A. Z15-0027a Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, regarding a change in the zoning classification from a Neighborhood Residential Mixed Use (NRMU) zoning district and use classification to a Community Mixed Use General (CM-G) zoning district and use classification on approximately 2.1 acres of land generally located at the southwest corner of West University Drive and Ector Street in the City of Denton, Denton County, Texas; adopting an amendment to the City's official zoning map; providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; providing a severability clause and an effective date. (Z15-0027) The Planning and Zoning Commission recommended denial of this request (5-0); therefore, in order to approve the request, a supermajority vote by City Council is required. This rezoning request was withdrawn by the applicant on January 25, 2016.

This item was withdrawn by the applicant and not considered.

### Ordinance No. 2016-037

- B. Z15-0032a Hold a public hearing and consider a request for rezoning to a Neighborhood Residential 4 (NR-4) District for three tracts of land generally located 1,500 feet south of the intersection of Kings Row and North Loop 288, in the City of Denton, Denton County, Texas. Tract 1 is approximately 1.3 acres in size and is currently zoned a Community Mixed Use General (CM-G) District. Tract 2 is approximately 1.08 acres in size and is currently zoned a Neighborhood Residential Mixed Use 12 (NRMU-12) District. Tract 3 is approximately 0.51 acres in size and is currently zoned a Neighborhood Residential 3 (NR-3) District. The Planning and Zoning Commission recommends approval of this request (5-0).

The Mayor opened the public hearing.

Aimee Bissett, Director of Development Services, stated that this was a rezoning of three tracts of land that would permit single family development. She displayed a map of area, reviewed the history of the tracts and surrounding tracts, and considerations of the proposal. Public notifications were reviewed. The Planning and Zoning Commission and staff recommended approval.

No one spoke during the public hearing.

The Mayor closed the public hearing

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

**6. PRESENTATION FROM MEMBERS OF THE PUBLIC**

A. Review of procedures for addressing the City Council. B. Receive Scheduled Citizen Reports from Members of the Public.

1. ID 16-108 Willie Hudspeth regarding City Hall.

Willie Hudspeth commented on provisions of the Charter, traffic on Loop 288 and McKinney; and a request to change the Council rule that repeated citizen presentations had to go to the end of the meetings.

**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

Mayor Watts requested a work session or Informal Staff Report on the standards for a controlled sidewalk plus a survey where the controlled crosswalks were located in the city.

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

There was no continuation of the Closed Meeting.

With no further business, the meeting was adjourned 8:15 p.m.

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CHRIS WATTS  
MAYOR  
CITY OF DENTON, TEXAS

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JENNIFER WALTERS  
CITY SECRETARY  
CITY OF DENTON, TEXAS