

CITY OF DENTON CITY COUNCIL MINUTES

December 3, 2013

After determining that a quorum was present, the City Council of the City of Denton, Texas convened in a Work Session on Tuesday, December 3, 2013 at 4:00 p.m. in the Council Work Session Room.

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

ABSENT: Council Member Hawkins

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 December 3, 2013.

City Attorney Burgess stated that the posting for Item 6A was not correct and recommended that Council open the public hearing, wait on action on the item and continue it to the December 17th meeting.

3. Receive a report, hold a discussion and give staff direction regarding replacement of the Eureka! Playground in South Lakes Park.

Emerson Vorel, Director of Parks and Recreation, stated that the playground was 19 years old. It was a well-used playground in the system but had aged over the years. An associated topic with the playground was the fact that the lumber that was used had arsenic although it was sealed every year. The time had come to replace the playground. Staff recognized this would be a sensitive project in terms of those using it and those who worked on the original playground. Staff was requesting guidance on what the replacement playground would look like. The Park Foundation volunteered to work on fundraising for the replacement. The project sequence would be (1) accept the replacement project, and (2) develop a vision on what the playground would look like. One option was a steel and plastic playground. Another option was a newer version of Eureka!. An option would be to have a 2-5 year old playground and a 5-12 playground that was separated with a fence. Elements of the playground would be constructed with recycled plastic - not wood. The surfacing would be poured in place with a rubberized product topped with granulated rubber. That product would replace the wood fiber currently in all of the playgrounds. However, that material was very expensive compared to the wood fiber. Another element of a new playground would be equipment/surfacing for special needs children.

Consensus of the Council was to continue with the proposed design and approach but also look for other options to consider.

Council Member Engelbrecht suggested expanding the parking and have a public transportation stop near the area.

4. Receive a report, hold a discussion and give staff direction regarding a proposed Hotel/Convention Center.

Jon Fortune, Assistant City Manager, presented an update on the progress of the convention center and highlighted the changes made.

The Master Development Agreement was essentially the same document as previously provided. Insurance provisions included liquor liability as well as a business interruption policy required in the sublease. The only change in the site plan was the delineation of the hotel site versus the site of the convention center. Definitions were revised in the City-UNT lease and also updated the rent table. The insurance indemnity provisions were also refined.

Fortune noted that the City-Convention Center sublease included language to help qualify conditions to allow for a change in management of the Convention Center. Language was also inserted to clarify the maintenance language and responsibility of the City in terms of ongoing capital maintenance. Insurance changes were similar to the master development agreement. The UNT land lease was still under discussion. UNT was scheduled to consider that at their December 10th meeting.

Mayor Burroughs asked about the decision making process for the traffic circle in the neighborhood.

Fortune stated that at this time it was not a TxDOT funded project nor was it a component of the funding for the convention center or hotel. The concept was brought forward to TxDOT for the area. Funding was currently the issue and staff was looking at viable opportunities for funding.

Mayor Burroughs felt that there were congestion mitigation issues in the area and the project should rank high on a list due to the conditions.

Mayor Pro Tem Kamp stated that staff would be considering options through COG and RTC. She noted that the design was acceptable to the neighborhood and to TxDOT.

Council Member Roden asked about conversations with the DISD and the County regarding the project.

Fortune stated that over the past year, there had been multiple conversations with the DISD. The DISD always indicated that they would be agreeable once they saw the details. Staff had more one-on-one conversations with individual County Commissioners. Staff was ready to make a presentation to the full Commissioners Court once the agreement was signed. If a TIRZ was not approved by the two entities, it would pose a serious threat to the project. Questions to consider were whether they would participate and how much were they willing to participate.

Council discussed the impact of the I35 construction on the project and the timing of the project.

Council Member Engelbrecht stated that he would like a calendar of events in terms of construction and what was known today for the I35. He felt the road should be completed before the project was completed. The traffic circle should be targeted for a completion date that coincided with the completion of the hotel.

Following the completion of the Work Session, the Council convened in a Closed Meeting at 5:05 p.m. to consider the items listed below.

1. Closed Meeting:

A. Consultation with Attorney - Under Texas Government Code Section 551.071; and Deliberations regarding Economic Development Negotiations - Under Texas Government Code Section 551.087.

1. Receive a report, hold a discussion, and give staff direction regarding a Reimbursement Agreement with Rayzor Investments, Ltd. for Tax Increment Reinvestment Zone Two (TIRZ II) with respect to infrastructure improvements within TIRZ II. This discussion shall include commercial and financial information the City has received from Rayzor Investments, Ltd. which the City Council seeks to enter into a Reimbursement Agreement for TIRZ II, where City Council seeks to have commercial or industrial businesses 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 incentives.

This item was not discussed.

B. Consultation with Attorney - Under Texas Government Code Section 551.071

1. Consultation with the City's attorneys regarding legal advice concerning the leasing of land and financing of a proposed Hotel/Convention Center facility of University of North Texas property located at I-35 and North Texas Boulevard where a public discussion of this legal matter would conflict with the duty of the City's attorneys to the City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.

C. 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 James Perry Survey, Abstract No. 1040, John Scott Survey, Abstract No. 1222, John Bacon Survey, Abstract No. 1541, and the John Davis Survey, Abstract No. 326, City of Denton, Denton County, Texas, and generally located along Western Boulevard between Airport Road and Jim Christal Road. 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.

Regular Meeting of the City of Denton City Council at 6:30 p.m. in the Council Chambers at City Hall, 215 E. McKinney, 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. Police Appreciation Day

Mayor Burroughs presented the proclamation for Police Appreciation Day.

2. Denton Calvary Academy Lady Lion Volleyball Appreciation Day

Mayor Burroughs presented the proclamation for Denton Calvary Academy Lady Lion Volleyball Appreciation Day.

3. CITIZEN REPORTS

A. Review of procedures for addressing the City Council.

B. Receive citizen reports from the following:

1. Carol Soph regarding disclosure policy for urban development.

Ms. Soph indicated that a disclosure agreement was being considered alerting prospective buyers of nearby gas wells. She felt that a lot of information had been left out of the notice. She provided the Council with information on what effects chemicals from gas well drilling and fracking had on a person's body.

4. CONSENT AGENDA

Council Member King motioned, Council Member Roden seconded to approve the Consent Agenda and accompanying ordinances and resolutions. On roll call vote: Mayor Burroughs, Mayor Pro Tem Kamp, Council Member Engelbrecht, Council Member Gregory, Council Member King, Council Member Roden – "aye". Motion carried unanimously.

Resolution No. R2013-039

A. Consider approval of a resolution casting votes for membership to the Board of Directors of the Denton Central Appraisal District; and declaring an effective date.

Ordinance No. 2013-331

- B. Consider adoption of an ordinance of the City of Denton, Texas authorizing the approval of a First Amendment to a contract for vehicle and equipment parts, by and between Genuine Parts Company dba NAPA Integrated Business Solutions and the City of Denton, Texas, providing for the expenditure of funds therefor; and providing an effective date (Bid 4739-Providing for an additional expenditure amount of \$2,700,000 with the total contract amount not-to-exceed \$11,804,355.53).

Ordinance No. 2013-332

- C. Consider adoption of an ordinance of the City of Denton authorizing an agreement between the City of Denton, Texas and Denton Holiday Lighting; providing for the expenditure of funds therefore; and providing for an effective date. (\$1,000)

Ordinance No. 2013-333

- D. Consider adoption of an ordinance authorizing execution of a franchise agreement with the City of Denton, acting through its electric utility, granting a franchise to maintain, and operate facilities within the City of Corinth for the delivery and sale of electricity; providing for the payment of a fee for the use of the public rights-of-way; providing that such fee shall be in lieu of other charges; setting forth the term of the franchise; and providing an effective date. (Third Reading)

5. ITEMS FOR INDIVIDUAL CONSIDERATION

- A. Consider nominations/appointments to the City's Boards and Commissions.

1. Airport Advisory Board

Mayor Burroughs nominated Jim Clark.

2. Community Development Advisory Committee

Mayor Burroughs nominated Mary Beth Cottingham.

3. Human Services Advisory Committee

Council Member Roden nominated Bryce Olsen.

4. Public Art Committee

Mayor Pro Tem Kamp nominated Brian Wheeler.

5. Zoning Board of Adjustment

There were no nominations to the Zoning Board of Adjustment.

6. Citizens Bond Advisory Committee

Council Member Hawkins appointed Dan Proctor.

Council Member Gregory appointed Robert Bostick and Sara Hoffman.

Council Member Engelbrecht appointed Ira Weinstein and Amanda Austin.

Council Member Roden motioned, Council Member Engelbrecht seconded to approve the above nominations. On roll call vote: Mayor Burroughs, Mayor Pro Tem Kamp, Council Member Engelbrecht, Council Member Gregory, Council Member King, Council Member Roden – “aye”. Motion carried unanimously.

6. PUBLIC HEARINGS

- A. Hold a public hearing and consider making a recommendation to the City Council regarding amendments to the City's Gas Well Ordinance, Denton Development Code Subchapter 22, pertaining to certain definitions and to the sequence of permits necessary for construction, drilling, and production activities. (DCA 13-0003) The Planning & Zoning Commission recommends approval (7-0).

Mayor Burroughs stated that the City Attorney's Office had indicated that the posting on the agenda was not sufficient to consider the ordinance; however, the public hearing would be opened. If someone spoke at this meeting, he/she would not be able to speak at a later meeting on the same item.

Brian Lockley, Director of Planning and Development, presented the information on the item. He indicated that these were amendments to Subchapter 22, pertaining to certain definitions and the sequence of permits necessary relating to gas well drilling and production activities and clarified the current practice with the Code. The first amendment revised the definition of gas well permit. It identified the entity issuing the gas well permit as the Department, defined in the Code Subchapter 23 as the Planning and Development Department. It also clarified the City's current practice and included additional activities in the definition that currently were described in the Code Section 35.22.7.

The second amendment added a requirement for approval of a fire code operational permit. The fire code operational permit would be the last step prior to drilling the well.

The Mayor opened the public hearing.

No one spoke during the public hearing.

Comment cards were submitted by:

Rhonda Love, 1921 Hollyhill Lane, Denton, - in support making it retroactive to all wells
Angel Bravo, 2269 W. Oak, Denton, 76201 – in support
Pepper Cunningham, 912 Avenue A, Denton, 76201 – in support

Mayor Pro Tem Kamp motioned, Council Member Engelbrecht seconded to continue the item and the public hearing to a date certain, December 17, 2013. On roll call vote: Mayor Burroughs, Mayor Pro Tem Kamp, Council Member Engelbrecht, Council Member Gregory, Council Member King, Council Member Roden – “aye”. Motion carried unanimously.

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.

Council Member Gregory noted the Holiday Lighting Festival to be held Friday.

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

Mayor Burroughs noted that Council would be reconvening in Closed Session.

The following item was considered in Closed Session at 7:25 p.m.

- B. Consultation with Attorney – Under Texas Government Code Section 551.071.
2. Receive a report and hold a discussion with the City's attorneys regarding the City of Denton's Sign Ordinance.

With no further business, the Council convened into Open Session at 8:15 p.m. and adjourned.

MARK A. BURROUGHS
MAYOR
CITY OF DENTON, TEXAS

JENNIFER WALTERS
CITY SECRETARY
CITY OF DENTON, TEXAS