

## CITY OF DENTON CITY COUNCIL MINUTES

November 17, 2015

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, November 17, 2015 at 2:00 p.m. in the Council Work Session Room at City Hall.

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

ABSENT: Council Member Roden

### 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 November 17, 2015.

Council Member Wazny requested that Items 4C, 4D and 4EE be pulled for individual consideration.

Council Member Johnson asked about Item 4DD dealing with buying new trucks for Solid Waste. He questioned if these would be similar trucks as were currently in service or ones that might assist with the conditions of dumpsters on sidewalks.

Vance Kemler, General Manager of Solid Waste and Recycling Services, stated that these trucks would replace the current trucks going out of service. Staff would return at a later date for a discussion on the options for the Downtown/University service area.

Mayor Watts stated that Item 4JJ, the agreement with Zayo, did not have a time limit on the agreement and questioned if that was intentional.

Howard Martin, Assistant City Manager, stated that the agreement would allow Zayo to look at the integrity of the system. He did not know how long that period of time would be to evaluate the system and determine all of the items needed to run fiber through the County/DISD system.

City Attorney Burgess stated that the agreement only gave permission to access the current infrastructure and inspect what was there. It did not allow them to add any new infrastructure which would be a separate agreement if needed.

### 3. Work Session Reports

- A. ID 15-989 Receive a report, hold a discussion, and provide staff direction regarding the City of Denton Solid Waste & Recycling Department proceeding with a proposed multi-year landfill mining capital project.

Vance Kemler, General Manager of Solid Waste and Recycling Services, presented details of the proposal. His discussion included the motivation for landfill mining for protection of water resources, recovery of resources, extending the landfill's useful life, recycling the use of the land and protecting the global climate. Financial considerations, the technical requirements, mining

projects in the United States, and the alignment of the project with the Strategic Plan were reviewed.

Council Member Briggs asked about the estimated time for the 30 acres.

Kemler stated that it should be no more than 5-10 years.

Council Member Hawkins asked about the number of employees and new equipment needed.

Kemler stated that there would be about 8-12 people and about 10-12 pieces of equipment.

Mayor Pro Tem Gregory asked if this would add to the odor of the landfill.

Kemler stated that odor was one of the primary issues looked at in this operation. It would not be as bad as in some of the areas of the landfill as the equipment would help keep the odor on site.

- B. ID 15-1037 Receive a report from DME staff, hold a discussion, and offer staff guidance regarding potential utilization of Gas Insulated technology within DME electric utility substations.

Phil Williams, General Manager-DME, presented background on the possible solution of a Gas Insulated Substation in the Eagle Substation area. The reasons for considering such technology were reviewed, areas for consideration to use the technology, key differences of GIS versus air insulated substations, differences in costs of the two types of substations, and presented photo simulations of the two types of substations. He also presented information concerning performance/reliability and operations/maintenance.

Council discussion included costs for these types of substations, personnel needed, cost differences, size of footprints of the two types of substations, costs that were not included for the aesthetics for the development of the site, and consideration of the end users of these two substations in term reliability.

Williams stated that there were still three options for the Eagle Substation. Staff was recommending an Air Insulated Substation on the Green Site.

- C. ID 15-1220 Receive a report, hold a discussion, and give staff direction regarding a proposed commercial development on the west side I-35 E, north of Wind River Lane, in south Denton that includes a Buc-ee's Travel center as an anchor and a potential incentive for the project.

Council Member Johnson left the meeting during the discussion of Work Session Item C.

Council Member Wazny stated that there was a citizen who would like to speak on this issue and requested Council allow her to address the Council. Consensus of the Council was to allow the speaker to make her presentation.

Elma Walker stated that she was opposed to the proposal of a Buc-ee's in the location due to noise, congestion, and pollution.

Aimee Bissett, Director of Development Services, reviewed the Buc-ee's Travel Center Proposed Development details. The presentation included the proposed location, current zoning, future land use map, overlay conditions, amenities of the land features, green space and landscaping requirements, access improvements, neighborhood meeting results, incentives. Samples of what other cities had done for the developer and the current incentive proposal were reviewed.

Council discussion included setback requirements, reasons why gas pumps were in the back of the property, lighting features, whether the pond qualified for storm water retention, whether current zoning would allow the travel center or a truck stop without the overlay considerations, traffic considerations, and the requested sign variance.

Beaver Aplin, President of Buc-ee's, felt that they had gone to great lengths to provide an aesthetically pleasing commercial development on the commercially zoned property.

Council discussion continued with types of customers that would use the facility, fuel costs, creation of new jobs, and energy efficiency on the sites,

Council Member Johnson returned to the meeting following the completion of the discussion of Work Session C.

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

1. Closed Meeting:

- A. ID 15-1035 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 along both the east and west sides of South Mayhill Road between Spencer Road to the north and Quailcreek and Old Edwards Road to the south in the City of Denton, Denton County, Texas; where discussions 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. [Pockrus to Mayhill Transmission Route]
- B. ID 15-1178 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 of real property interests located along the east side of Bernard St. between Eagle Drive to the north and Collins Street to the south, in the City of Denton, Texas; where discussions had, deliberation, and direction given 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; where 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. [Eagle Substation]

- C. ID 15-1198 Consultation with Attorney's - Under Texas Government Code, Section 551.071. Consult with the City's attorneys regarding legal issues associated with the revocation of an SUP for Akers Towing where a public discussion of these legal matters would conflict with the duty of the City's attorneys under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.
- D. ID 15-1218 Deliberations regarding real property under Texas Gov't Code Section 551.072; Consultation with Attorneys under Texas Gov't Code Section 551.071. Receive information from staff, discuss, deliberate, and provide staff with direction regarding the potential acquisition of real property located at 301 E. McKinney, Denton, Texas where deliberation 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 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 15-1219 Deliberations regarding Economic Development Negotiations - Under Texas Government Code Section 551.087. Receive a report and hold a discussion regarding economic development issues regarding a proposed amendment to the economic development program grant agreement between the City of Denton and WGBP Investments, LTD. This discussion shall include commercial and financial information the City Council has received from WGBP Investments, LTD, a business prospect 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; deliberate the amendment of the economic development program grant agreement between the City of Denton and WGBP Investments, LTD.
- F. ID 15-1221 Deliberations regarding Economic Development Negotiations - Under Texas Government Code Section 551.087. Receive a report and hold a discussion regarding a proposed economic development program grant agreement between the City of Denton and BUC-EE's, LTD. This discussion shall include commercial and

financial information the City Council has received from BUC-EE's, LTD, a business prospect 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; deliberate the economic development program grant agreement between the City of Denton and BUC-EE's, LTD.

Following the completion of the Closed Meeting, a quorum of the City Council convened in an Open Meeting in the City Council Chambers. Council Member Roden, District 1, participated by videoconference during this Open Meeting.

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 15-1085 Presentation of the National Procurement Institute 2015 Achievement of Excellence in Procurement Award to the City of Denton Materials Management staff.

Mayor Watts presented the National Procurement Institute 2015 Achievement of Excellence in Procurement Award to the City's Materials Management staff.

**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 15-1112 Monica Jones regarding Animal Services, Code Enforcement, forged names and grand larceny.

Ms. Jones was not present at the meeting.

- 2. ID 15-1118 Christopher Klabunde regarding Johnson's Backyard Garden Workshare Program and farm update.

Mr. Klabunde presented a fall harvest update for Johnson's Backyard Garden. He felt the urban environment could intersect with farming. The farm produced over 60 varieties of vegetables. They had a work share program and provided food for up to 250 families in the Metroplex area. He felt that the farm was an asset to the City and should be encouraged.

- 3. ID 15-1119 Ryan Crocker regarding farming the City parks - urban farming in Denton.

Mr. Crocker pointed out that urban farming was part of the 2030 plan. He stated that he had an idea about expanding the farming program to farming in the parks. Each neighborhood could have the opportunity to have farming if they had access to the parks.

C. Additional Citizen Reports - This section of the agenda permits any person not registered for a citizen report to make comments regarding public business on items not listed on the agenda. This is limited to four speakers per meeting with each speaker allowed a maximum of four (4) minutes.

1. Ken Gold urged the Council to slow down on the gas fired generators in order to find out more information and requested a public hearing to hear from the citizens.
2. Misty Gold also urged the Council to find out more information regarding a gas generators and encouraged a public hearing on the issue.
3. Elida Tamez spoke regarding the City's proposed renewal energy program and urged a public hearing for citizens to express views on the proposal.
4. Ed Soph spoke regarding the lack of public discourse regarding DME's proposed renewal energy program and was concerned about the economic risks of gas fired generators, air emissions and federal mandates in the future.

#### **4. CONSENT AGENDA**

Council Member Hawkins motioned, Mayor Pro Tem Gregory seconded to adopt the Consent Agenda and accompanying ordinances and resolutions with the exception of Items C, D and EE. On roll call vote, Council Member Roden "aye", Council Member Johnson "aye", "aye", Council Member Hawkins "aye", Council Member Briggs "aye", Mayor Pro Tem Gregory "aye", Council Member Wazny "aye", and Mayor Watts. Motion carried unanimously.

##### Ordinance No. 2015-334

- A. ID 15-848 Consider adoption of an ordinance of the City of Denton authorizing the City Manager or his designee to execute a purchase order through The Interlocal Purchasing System (TIPS) Cooperative Purchasing Program Contract#02042315 for the partial replacement of the roof at the City of Denton Civic Center by way of an Interlocal Agreement with the City of Denton; and providing an effective date (File 5923-awarded to CBS Mechanical, Inc. in the amount of \$153,308).

##### Resolution No. R2015-038

- B. ID 15-974 Consider approval of a resolution supporting the tax credit application to the Texas Department of Housing and Community Affairs (TDHCA) for the McKinney Denton Apartments Project; and providing for an effective date.

##### Ordinance No. 2015-337

- E. ID 15-1044 Consider adoption of an ordinance of the City of Denton authorizing an agreement between the City of Denton, Texas and the Children's Advocacy Center for Denton County, incorporated for providing aid to the City of Denton Police

Department in the investigation of child abuse cases; providing client and clinical services to victims of child abuse and non-offending family members; providing for the expenditure of funds in the amount of \$105,891.00 therefor; and providing for an effective date.

Ordinance No. 2015-338

- F. ID 15-1081 Consider adoption of an ordinance authorizing the City Manager to execute an agreement between the City of Denton and the Denton Air Fair, Inc. (PY2016) providing for the payment and use of hotel tax revenue; and providing an effective date. (\$11,290 - Hotel Occupancy Tax Committee recommends approval 3-0)

Ordinance No. 2015-339

- G. ID 15-1082 Consider adoption of an ordinance authorizing the City Manager to execute an agreement between the City of Denton and the Denton Black Chamber of Commerce (PY2016) providing for the payment and use of hotel tax revenue; and providing an effective date. (\$16,572 - Hotel Occupancy Tax Committee recommends approval 3-0)

Ordinance No. 2015-340

- H. ID 15-1083 Consider adoption of an ordinance authorizing the City Manager to execute an agreement between the City of Denton and the Denton Community Market, Inc. (PY2016) providing for the payment and use of hotel tax revenue; and providing an effective date. (\$10,500 - Hotel Occupancy Tax Committee recommends approval 3-0)

Ordinance No. 2015-341

- I. ID 15-1084 Consider adoption of an ordinance authorizing the City Manager to execute an agreement between the City of Denton and the Denton Community Theatre, Inc. (PY2016) providing for the payment and use of hotel tax revenue; and providing an effective date. (\$25,000 - Hotel Occupancy Tax Committee recommends approval 3-0)

Ordinance No. 2015-342

- J. ID 15-1089 Consider adoption of an ordinance authorizing the City Manager to execute an agreement between the City of Denton and the Denton Chamber of Commerce (Convention and Visitors Bureau) (PY2016) providing for the payment and use of hotel tax revenue; and providing an effective date. (\$1,117,395 - Hotel Occupancy Tax Committee recommends approval 3-0)

Ordinance No. 2015-343

- K. ID 15-1090 Consider adoption of an ordinance authorizing the City Manager to execute an agreement between the City of Denton and Denton County, Texas (Denton County Office of History and Culture) (PY2016) providing for the payment and use of hotel tax revenue; and providing an effective date. (\$150,000 - Hotel Occupancy Tax Committee recommends approval 3-0)

Ordinance No. 2015-344

- L. ID 15-1091 Consider adoption of an ordinance authorizing the City Manager to execute an agreement between the City of Denton and Denton Dog Days, Inc. (PY2016) providing for the payment and use of hotel tax revenue; and providing an effective date. (\$16,086 - Hotel Occupancy Tax Committee recommends approval 3-0)

Ordinance No. 2015-345

- M. ID 15-1092 Consider adoption of an ordinance authorizing the City Manager to execute an agreement between the City of Denton and the Denton Festival Foundation (PY2016) providing for the payment and use of hotel tax revenue; and providing an effective date. (\$91,309 - Hotel Occupancy Tax Committee recommends approval 3-0)

Ordinance No. 2015-346

- N. ID 15-1093 Consider adoption of an ordinance authorizing the City Manager to execute an agreement between the City of Denton and the Greater Denton Arts Council (PY2016) providing for the payment and use of hotel tax revenue; and providing an effective date. (\$129,852 - Hotel Occupancy Tax Committee recommends approval 3-0)

Ordinance No. 2015-347

- O. ID 15-1094 Consider adoption of an ordinance authorizing the City Manager to execute an agreement between the City of Denton and the Denton Holiday Festival Association, Inc. (PY2016) providing for the payment and use of hotel tax revenue; and providing an effective date. (\$7,700 - Hotel Occupancy Tax Committee recommends approval 3-0)

Ordinance No. 2015-348

- P. ID 15-1096 Consider adoption of an ordinance authorizing the City Manager to execute an agreement between the City of Denton and the Central Business District Association, Inc., d/b/a Denton Main Street Association (PY2016) providing for the payment and use of hotel tax revenue; and providing an effective date. (\$25,369 - Hotel Occupancy Tax Committee recommends approval 3-0)

Ordinance No. 2015-349

- Q. ID 15-1097 Consider adoption of an ordinance authorizing the City Manager to execute an agreement between the City of Denton and the North Texas State Fair Association (PY2016) providing for the payment and use of hotel tax revenue; and providing an effective date. (\$125,000 - Hotel Occupancy Tax Committee recommends approval 3-0)

Ordinance No. 2015-350

- R. ID 15-1098 Consider adoption of an ordinance authorizing the City Manager to execute an agreement between the City of Denton and the Tejas Storytelling Association, Inc. (PY2016) for the payment and use of hotel tax revenue; and



providing an effective date. (\$52,747 - Hotel Occupancy Tax Committee recommends approval 3-0)

Ordinance No. 2015-351

- S. ID 15-1099 Consider adoption of an ordinance authorizing the City Manager to execute an agreement between the City of Denton and Texas Filmmakers' Corporation (PY2016) providing for the payment and use of hotel tax revenue; and providing an effective date. (\$8,269 - Hotel Occupancy Tax Committee recommends approval 3-0)

Ordinance No. 2015-352

- T. ID 15-1100 Consider adoption of an ordinance authorizing the City Manager to execute an agreement between the City of Denton and the Kiwanis Club of Denton, Breakfast (Turkey Roll Bicycle Rally) (PY2016) providing for the payment and use of hotel tax revenue; and providing an effective date. (\$4,850 - Hotel Occupancy Tax Committee recommends approval 3-0)

Resolution No. R2015-039

- U. ID 15-1130 Consider approval of a resolution to the City Council of the City of Denton, Texas authorizing the filing and acceptance of a contract with the Solid Waste & Recycling Department (SW&R) and Mill Branch, LLC, for the SW&R to purchase mitigation credits to offset impacts to the Waters of the United States in accordance with the U.S. Army Corps of Engineers Section 404 permit and the Texas Commission on Environmental Section 401 certification requirements, in the preparation, development and submittal of a permit application for lateral expansion and associated services pertaining to the City of Denton Landfill (MSW Permit #1590a); authorizing the expenditure of funds in the stated amount of \$249,690, and providing an effective date.

Ordinance No. 2015-353

- V. ID 15-1136 Consider adoption of an ordinance of the City Council of Denton, Texas, authorizing the City Manager to execute the "Utility Adjustment Agreement Amendment (UAAA) No. 002 to Agreement No. 35E-U-0503" to the original "Project Utility Adjustment Agreement" in the amount of \$1,627,185.71; 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).

Approved the minutes listed below.

- W. ID 15-1149 Consider approval of the minutes of September 1, September 15, October 5, October 6, October 13, and October 20, 2015.

Ordinance No. 2015-354

- X. ID 15-1152 Consider adoption of an ordinance of the City of Denton authorizing the City Manager or his designee to execute a contract through the Buy Board Cooperative Purchasing Network for the acquisition of a motor grader, roller, and backhoe for the City of Denton Street Department; and providing an effective date (File 5981-awarded to Holt CAT in the amount of \$435,717.29).

Ordinance No. 2015-355

- Y. ID 15-1153 Consider adoption of an ordinance of the City of Denton authorizing the City Manager or his designee to execute a contract through the Houston-Galveston Area Council of Governments (H-GAC) Cooperative Purchasing Program for the acquisition of two (2) Pierce Velocity Pumper Fire Engines for the City of Denton Fire Department; and providing an effective date (File 5987-awarded to Siddons-Martin Emergency Group, LLC in the amount of \$1,180,082).

Ordinance No. 2015-356

- Z. ID 15-1154 Consider adoption of an ordinance of the City of Denton authorizing the City Manager or his designee to execute a contract through the Buy Board Cooperative Purchasing Network for the acquisition of two (2) flushing trucks for the City of Denton Wastewater Collections Department; and providing an effective date (File 5988-awarded to Rush Truck Center in the amount of \$486,061.25). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2015-357

- AA. ID 15-1155 Consider adoption of an ordinance ratifying the expenditure of funds by the City Manager for the emergency purchase and installation of a twenty (20) ton heating, ventilation and air conditioning (HVAC) unit to provide cooling for critical Denton Municipal Electric and Technology Services operations and in accordance with provisions of Section 252.022 of the Local Government Code exempting such purchases from requirements of competitive bidding; and providing an effective date (File 5984-awarded to Tech Plan, Inc. in the amount of \$62,690).

Ordinance No. 2015-358

- BB. ID 15-1156 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 engineering and right-of-way acquisition services associated with the City of Denton FM 2181 Utility Relocations Project; providing for the expenditure of funds therefor; and providing an effective date (File 5973-awarded to Freese and Nichols, Inc. in an amount not-to-exceed \$1,072,977). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2015-359

- CC. ID 15-1157 Consider adoption of an ordinance accepting competitive proposals and awarding a public works contract for the construction of the Mayhill Road Utility Improvements for the City of Denton; providing for the expenditure of funds therefor;

and providing an effective date (RFP 5911-awarded to Canary Construction, Inc. in the amount of \$114,442). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2015-360

DD. ID 15-1158 Consider adoption of an ordinance of the City of Denton, Texas providing for, authorizing, and approving the purchase of four (4) side load and two (2) front load refuse truck bodies for the City of Solid Waste Department, which are available from only one source and in accordance with Chapter 252.022 of the Texas Local Government Code such purchases are exempt from the requirements of competitive bidding; and providing an effective date (File 5978-awarded to DaDee Manufacturing, LLC in the amount of \$794,156.92). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2015-361

FF. ID 15-1161 Consider adoption of an ordinance of the City of Denton, Texas providing for, authorizing, and approving the purchase of one (1) rear load refuse truck body for the City of Solid Waste Department, which is available from only one source and in accordance with Chapter 252.022 of the Texas Local Government Code such purchases are exempt from the requirements of competitive bidding; and providing an effective date (File 5979-awarded to McNeilus Truck and Manufacturing Co. in the amount of \$78,148). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2015-362

GG. ID 15-1163 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for purchase and installation of trees for the City of Denton parks, medians, right-of-ways, public buildings, and other City departments, as needed; providing for the expenditure of funds therefore; and providing an effective date (RFP 5933-awarded to Fannin Tree Farm Sales, LLC in the (3) year not-to-exceed amount of \$450,000).

Ordinance No. 2015-363

HH. ID 15-1169 Consider adoption of an ordinance of the City of Denton, Texas authorizing the approval of a 2nd Amendment to a contract with Ultimate CNG, LLC. for the purchase of temporary mobile compressed natural gas (CNG); providing for the expenditure of funds therefor; and providing an effective date (File 5464-providing for an additional expenditure amount of \$1,300,000 with the total contract amount not-to-exceed 1,895,000). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2015-364

II. ID 15-1170 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for Concrete Crushing Services for the City of Denton Solid Waste Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 5910-awarded to Big City Crushed Concrete in the three (3) year not-to-exceed amount of \$300,000). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2015-365

- JJ. ID 15-1215 Consider adoption of an ordinance of the City of Denton, Texas approving and authorizing the city manager, or his designee, to execute an agreement between the City of Denton, Denton Independent School District ("DISD") and Zayo Group, LLC ("Zayo") to allow Zayo access to the City's Right-of-Way where DISD fiber conduit is located for the limited purpose of inspecting and proofing DISD conduit and indemnifying and holding the City harmless; and declaring an effective date.

Council considered Item C.

Ordinance No. 2015-335

- C. ID 15-1022 Consider adoption of an ordinance amending Chapter 23 of the City of Denton Code of Ordinances by adding Article V "Non-Consent Towing;" providing a severability clause; providing a savings clause; providing for a penalty not to exceed \$500 for violations of this ordinance; and providing an effective date.

Mayor Watts indicated that Item C and D would be discussed together.

Lt. David Mays, Denton Police Department, presented information on the items. He noted that these two items were the culmination of a lot of citizen input. He presented the background information on the proposal and reviewed the allowable state fees and other fees allowed by Texas Division of License Regulations. A Task Force was formed to study and recommend the fees for towing plus developed a Towing Bill of Rights.

Pat Smith spoke in favor of the proposal.

Mayor Pro Tem Gregory motioned, Council Member Roden 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.

Ordinance No. 2015-336

- D. ID 15-1023 Consider adoption of an ordinance of the City of Denton, Texas, establishing fees for non-consent towing within the City of Denton pursuant to Chapter 23, Article V of the Code of Ordinances of the City of Denton, Texas, titled Non-Consent Towing; providing that a schedule of fees shall be maintained on file in the Office of the City Secretary; providing a savings clause; providing a severability clause; and providing an effective date.

This item was discussed with Item C.

Mayor Pro Tem Gregory 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.

Resolution No. R2015-040

- EE. ID 15-1160 Consider approval of a resolution of the City of Denton, Texas affirming its support of the Texas Department of Transportation's planned widening of FM-426, (McKinney Street) at the earliest opportunity; and providing an effective date. The Mobility Committee recommends approval (3-0).

Mark Nelson, Director of Transportation, stated that the resolution was in support of the planned widening of FM 426 as soon as possible by the Texas Department of Transportation. The Mobility Committee had recommended approval.

Council Member Briggs motioned, Mayor Pro Tem Gregory seconded to approve the resolution. 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. ITEMS FOR INDIVIDUAL CONSIDERATION**

Resolution No. R2015-040

- A. ID 15-1159 Consider approval of a resolution creating an ad hoc City Council Committee to consider and review operations, procedures, policies, regulations and naming of the City of Denton Community Event Center to be located at 121 Exposition Street, Denton, Texas and to advise the City Council with regard to these matters; and providing an effective date.

Mark Nelson, Director of Transportation, stated that this resolution would establish an ad hoc committee to assist with the planning of the Community Event Center on Exposition. The resolution created a three member committee until 2018 or until the Center was designed. Mayor Pro Tem Gregory, Council Member Johnson and Council Member Roden had requested to serve on the Committee.

Council Member Johnson motioned, Mayor Pro Tem Gregory seconded to approve the resolution. On roll call vote, 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.

- B. ID 15-1135 Consider nominations/appointments to the City's Boards, Commissions, and Council Committees: Parks, Recreation, and Beautification Board; Traffic Safety Commission; and City of Denton Community Event Center Committee.

Jennifer Walters, City Secretary, presented the vacancies for consideration. She noted that Mayor Watts had nominated Frances Punch to the Parks, Recreation and Beautification Board; Council Member Hawkins had nominated Jim Owen to the Traffic Safety Commission; and Mayor Pro Tem Gregory, Council Member Johnson and Council Member Roden would serve on the Community Event Center Committee.

Council Member Hawkins motioned, Mayor Pro Tem Gregory seconded to approve the nominations. 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. PUBLIC HEARINGS**

### Ordinance No. 2015-366

- A. Z15-0015a Hold a public hearing and consider a rezoning of approximately 15.02 acres from Planned Development District 12 (PD-12) to a Regional Center Commercial Downtown (RCC-D) District. The subject property is generally located on the south side of South Interstate 35 East, approximately 2,100 feet northwest of Post Oak Drive. The Planning and Zoning Commission recommends approval of this request (7-0).

The Mayor opened the public hearing.

Aimee Bissett, Director of Development Services, presented the background information on the proposal. This was a rezoning for Toyota of Denton. She reviewed the location map, background information on PD-12, and the concept plan amendments in 1986 and 1987. A Detailed Plan had been approved in 2001 and 2004 for Honda of Denton. The zoning map, future land use, and consideration for approval criteria were presented. 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.

### Ordinance No. 2015-367

- B. Z15-0024a 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) District and use classification to a Neighborhood Residential 4 (NR-4) District and use classification on approximately 20.0 acres. The subject property is generally located on the south side of East McKinney Street (FM426), approximately 2,330 feet east of Orr Road, in the City of Denton, Denton County, Texas. The Planning and Zoning Commission recommended approval of this request (7-0).

The Mayor opened the public hearing.

Aimee Bissett, Director of Development Services, presented details on the location map, site data, current and proposed zoning map, concept plan, and considerations for approval. The Planning and Zoning Commission and staff recommended approval.

Justin Bono, applicant, indicated that he was available to answer questions.

The Mayor closed the public hearing.

Council Member Hawkins 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.

Ordinance No. 2015-368

- C. ID 15-1115 Hold a public hearing and consider adoption of an ordinance granting approval, in accordance with Chapter 26 of the Texas Parks and Wildlife Code, of the non-park use of a part of Bowling Green Park for the purpose of installing and maintaining a detention pond outfall for the Fireside Development Project; providing for a notice by the City of Denton, Texas, of non-park use for installation and maintenance of a detention pond outfall and reservation of drainage easement in the event of sale of park; and providing an effective date. The Parks, Recreation and Beautification Board recommends approval (5-0).

The Mayor opened the public hearing.

Jim Mays, Superintendent of Parks and Construction, stated the project was for a drainage outflow from a neighboring development that would provide a detention pond outfall for the project. A public hearing was required due to Texas Parks and Wildlife regulations whenever parkland was going to be used for something other than a park.

Bill Haney, applicant, spoke in favor and noted that the channel would be earthen.

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.

Ordinance No. 2015-369

- D. Z15-0025a Hold a public hearing and consider adoption of an ordinance regarding a rezoning of approximately 15.811 acres from of a Regional Center Commercial Neighborhood (RCC-N) District to an Employment Center Commercial (EC-C) District. The subject property is generally located on the southwest corner of N I-35 and Barthold Road. The Planning and Zoning Commission recommends approval of the request (7-0).

The Mayor opened the public hearing.

Aimee Bissett, Director of Development Services, presented the background information for the site for a rezoning from RCC-N to ED-C. She noted that the Denton Plan 2030 encouraged

Business Innovation in this area. The future land use, comparison of RCC-N versus EC-C uses, and considerations for approval were reviewed. The Planning and Zoning Commission and staff recommended approval.

Jeremy Reece, applicant, stated that he was available to answer questions.

The Mayor closed the public hearing.

Council Member Hawkins motioned, Council Member Briggs 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.

- E. ID 15-1073 Hold a public hearing and consider an ordinance revoking a Specific Use Permit dated August 5, 2014, allowing a wrecker service and impound lot on property located in an Employment Center Industrial (EC-I) zoning and land use district on approximately 1.3 acres, generally located south of Smith Street, east of Dallas Drive, and north of Teasley Lane; and providing an effective date.

The Mayor opened the public hearing.

Aimee Bissett, Director of Development Services, stated that this was a consideration of revoking a specific use permit dated August 5, 2014 allowing a wrecker service and impound lot. She reviewed the SUP conditions and the timeline regarding the property. The considerations for revoking the SUP were presented. Staff was recommending approval of the ordinance revoking the Specific Use Permit.

The following individuals spoke during the public hearing:

Greg Edwards - spoke in opposition

Mayor Pro Tem Gregory questioned how long it would take to come up with a plan to handle runoff for less than 2 acres.

Edwards stated that they got involved in the middle of October of this year and had been working on it for about 3 weeks.

Mayor Pro Tem Gregory stated that all those other months no one was working on plan.

Council Member Hawkins questioned why Condition #3 regarding the fence was not done.

Edwards stated he was not sure. The last he had heard was that a plan had been submitted for the buffer.

Council Member Hawkins stated that last time this was before Council they had gone to bat for the business but nothing seemed to have been done.



Gloria Akers, 715 Dallas Drive, Denton, 76205 – spoke in support. She detailed information concerning the fence and fence permit and associated problem in obtaining the permit.

Council Member Johnson stated that prior Council discussion had lot of debate on whether to give additional time to get the items completed and had specifically asked if the Akers were willing to do the items. It was over a year later and nothing had been done.

Council discussed the problems with no action being taken to date on the items that were required, concerns about pollutants going into the stream, and the delay in erecting a fence.

Ida Martinez, 9830 Angel Bend, Denton, 76208 – spoke in support and presented information concerning the time lapse in completing the requirements.

Greg Edwards spoke again indicating problems with the process, staff and conflicting information.

Joe Akers, 9830 Angel Bend, Denton, 76208 - spoke in support

Council expressed concern that last year specific items had to be done to the property in order to continue business which had been agreed to by the Akers but the items had not been completed. The stream by the property was still being polluted from runoff from the property.

Mr. Akers pointed out that there was a sewer pipe and drainage from the nearby paint store as well.

Council requested Ken Banks, Environmental Services and Sustainability Director, to present information on the water testing in the area.

Banks displayed a sampling summary for the property and the procedures done for the testing. He noted that this testing was done in response to the ordinance for the continuation of the SUP but that other monthly testing was done throughout the city. Council discussed with Banks the type of pollutant abatement that was necessary on the site

The Mayor closed the public hearing.

City Attorney Burgess noted that the action of Council in 2014 included a condition that the owner was not required to implement Best Management Practices but directed staff to implement a monitoring program.

Mayor Pro Tem Gregory motioned to approve the ordinance to revoke the specific use permit.

Possible terms and conditions for extending the specific use permit were discussed by Council with questions on the process if the permit were revoked and reapplication procedures.

City Attorney Burgess indicated that it appeared that if the permit were revoked, the business would no longer operate. However, she would like to research that more. The Council had full range of powers and latitude to do less than that if desired.

Council Member Johnson offered a friendly amendment to the motion that in ten days of this meeting, the fence would be built, compost berms to the satisfaction of Dr. Banks would be installed and there would be no other code violations on property at that time. Community Improvement Services would do inspections with no violations. If not, the specific use permit would be revoked.

Council considered the friendly amendment in terms of whether ten days was enough time or if that was a set up for failure. Concern was also expressed regarding the integrity of the specific use permit process and the opportunity for prolonged violations.

Following Council discussion Council Member Johnson withdrew his amendment and seconded Mayor Pro Tem Gregory's motion to approve the ordinance to revoke the specific use permit.

The unknown of when and/or if the business could reapply for a new specific use permit was considered by Council. City Attorney Burgess noted that the situation would have to be researched as this would be a revocation and not a denial. Several different versions for amendments were offered in terms of not having a waiting period for resubmitting an application for a permit once all conditions were met.

City Attorney Burgess stated that she had a hesitation to put in that type of condition as they needed to research if that could conflict with State law. She offered another possibility of continuing the case to a date certain to give the applicants time to complete the conditions and if at that date certain, the conditions had not been met, the specific use permit would be revoked at that time.

Mayor Pro Tem Gregory stated that he was not inclined to change his motion but felt that a motion to postpone action to a date certain to the December 15<sup>th</sup> meeting or the first meeting in January might be appropriate due to the uncertainty about whether the reapplication time period would be against state regulations.

Council Member Johnson motioned, Council Member Hawkins seconded to postpone the item to a date certain that being December 15<sup>th</sup>. By that date all items noted in the conditions in the original Council action granting the specific use permit dated August 5, 2014 would be completed. There would not be another public hearing on the issue. On roll call vote, Council Member Roden "aye", Council Member Johnson "aye", Mayor Watts "aye", Council Member Hawkins "aye", Council Member Briggs "aye", and Council Member Wazny "aye". Mayor Pro Tem Gregory "nay". Motion carried unanimously.

Mayor Watts asked for an Informal Staff Report on the impact of revocation and reapplication.

## **7. 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 15-1107 Willie Hudspeth regarding City Hall.

Mr. Hudspeth was not present at 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 Wazny requested a Work Session on the process and feasibility of hiring an energy analyst consulting firm regarding the two new proposed power plants, including the option of selling the coal plant and options for electricity movement in historic neighborhoods to work on neighborhood code.

Council Member Wazny requested a work session to create a citizen task force to work on code along with the Historic Preservation Office.

Council Member Wazny requested a Work Session with Planning regarding Planning's notification system of residents of development projects.

Mayor Pro Tem Gregory requested a Work Session for the Ethics Committee report on a proposed ethics resolution/ordinance.

Council Member Johnson also requested a Work Session on an ethics ordinance for the full Council to weigh in on before doing lots of staff work.

Council Member Johnson suggested postponing a Work Session at this time regarding historic preservation issues until the new Historic Preservation Officer was hired.

Council Member Johnson requested a briefing about the group promoting anarchy in the City.

Council Member Roden requested a Work Session on fiber access in Denton as it was crucial in Downtown plus beyond the Downtown area.

Council Member Hawkins requested an Informal Staff Report regarding the top 15 questions received recently by the City and who those questioned were directed to.

Mayor Watts requested a Work Session regarding the economic development fund for Downtown and possible policy changes to expand it to other parts of the City.

Mayor Watts requested an Informal Staff report regarding the volume and kind of police calls from single room occupancy apartments compared to the rest of 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 at 10:28 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