

CITY OF DENTON CITY COUNCIL MINUTES

July 21, 2015

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, July 21, 2015 at 11:00 a.m. in the Council Work Session Room at City Hall.

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

ABSENT: None.

1. Citizen Comments on Consent Agenda Items

There were no citizen comments on Consent Agenda Items.

2. Requests for clarification of agenda items listed on the agenda for July 21, 2015.

Council Member Hawkins asked for an overview of how the traffic flow would work in regards to Consent Agenda R.

Noreen Housewright, Senior Engineer, presented information on how project started. UNT requested to keep Highland one-way and remove parking from Avenue D to Highland. UNT also wanted two-way traffic at the Coliseum. These changes could accommodate those requests.

Council Member Wazny asked that Consent Agenda Q be pulled for separate consideration.

Council Member Gregory asked about Consent Agenda C in regards to any potential conflicts if a home were in a historic preservation district.

Rodney Patterson, Building Official, stated that there were specific designations for properties in a historic designation. There were some exceptions for remodels plus provisions which would minimize any conflicts.

Mayor Watts stated that one provision in the code for ventilation required installing additional mechanical to bring fresh air into the home because the house had to be so tight due to the Energy Code. He had a problem with that as it seemed in opposition to each other. Several builders expressed concern that it would prevent them from providing affordable new home construction.

Council Member Hawkins agreed and asked what the percentage was the City was trying to reach above the Energy Code.

Patterson stated that currently it was 4% above the base line of the city ordinance. The fresh air requirement was not an Energy Code requirement but rather fell under indoor air requirements.

Council Member Wazny stated that she would like to have contractors present when they discussed this provision. She felt that it may also be directed to carbon monoxide poisoning.

Mayor Watts stated that he understood that Denton was in a non-attainment area and that the State adopted certain energy codes versions. Because of that there was very little movement for remodeling due to those requirements.

Patterson stated that even a COG amendment had to be presented to the State to be approved to be an equivalent before COG could publish those documents. If Denton wanted its own amendment, it would have to be submitted to A&M for approval.

Mayor Watts commented on the amount of dollars for the contract related to Consent Agenda S.

City Attorney Burgess noted that the contract was related to the NRG lawsuit.

Mayor Watts suggested moving the citizen reports currently at the end of meeting ahead to the start of the meeting. Council was in agreement with that change.

Mayor Watts also noted that Work Session C would be held until later in the meeting.

3. Work Session Reports

- A. ID 15-536 Receive a report, hold a discussion, and give staff direction regarding the results of the 2015 citizen and business surveys.

Alison Ream, Administrative Services Manager, stated that National Research Center (NRC) had conducted two separate surveys. The National Citizen Survey (NCS) centered on a community livability report while the National Business Survey (NBS) centered on a business climate report. She introduced Damema Mann from the National Research Center who presented the results of the two surveys.

Mann stated that the NCS and NBS looked at community characteristics and governance. NCS looked at citizen participation and NBS looked at business climate and workforce. Results were focused around eight topics. She presented the study methods for both the citizen and business surveys as well as the National Benchmark Comparisons.

The Community Survey had key focus areas for the upcoming two years which centered on safety and the economy. The Business Survey's key focus areas were mobility and economy.

Key Finding #1 indicated that Denton residents enjoyed a high quality of life and Denton business owners and managers valued the community as a place to do business. Key Finding #2 indicated that the economy was important to residents and business owners and ratings overall were positive. Key Finding #3 indicated that mobility ratings varied and represented an area for opportunity in Denton. Key Finding #4 indicated that residents and business owners were pleased with Denton communications and customer service by the City. Highlights and conclusions indicated that (1) the quality of life and Denton as a place to live and do business received positive ratings, (2) economy was important and ratings were positive, (3) mobility represented an area of opportunity and (4) survey respondents were pleased with Denton communications.

Mayor Pro Tem Gregory questioned how often a survey should be done.

Mann stated that they recommend every two years

Council Member Wazny asked about the cost of survey.

Ream stated that it was \$40,000 for both surveys.

Council Member Wazny asked if the city's website had been tried for responses. She had several requests from citizens who wanted to do it on the website.

Ream stated that they wanted results based on demographics that applied to the whole city and not self-selecting. A self-select could be considered next time but was not as representative a sample and was not as random.

Council Member Roden requested a copy of the prior survey for comparison and what was the City's follow-up.

Ream stated that staff could provide the last results and that one of the reports was a comparison of the two surveys in broad terms.

Bryan Langley, Assistant City Manager, stated that a key outcome from the prior survey was streets and became the basis for the Strategic Plan.

B. DCA15-0002a Receive a report and hold discussion regarding adding "Craft Alcohol Production" to the Denton Development Code.

Aimee Bissett, Interim Director of Planning and Development, stated that this was a proposed addition to the Denton Development Code (DDC) to allow for craft alcohol production. There had been recent interest from business owners to locate microbreweries in the Downtown area. Currently there was no provision for that in the DDC and the proposal was to add craft alcohol production to the list of uses in the DDC. The current classification for this type of business was light manufacturing which was not permitted in Downtown as a primary use but was permitted if an accessory to a restaurant or retail. The proposal would be to permit microbreweries Downtown without allowing all light manufacturing, require onsite consumption at least Downtown, maintain an appropriate scale for Downtown and not affect restaurants that brew beer as an accessory use.

The definitions, zoning districts, and comparisons with the Dallas and Denton proposals were reviewed. The Planning and Zoning Commission recommended approval as did staff.

Council discussed the limitation of the size of the building to 10,000 square feet, the area of the Downtown for the microbrewery locations, conditions that might be added to a SUP such as size of the building, and time of deliveries.

Mayor Watts questioned if there could be a circumstance when a SUP would not be allowed.

City Attorney Burgess stated that if there were no conditions for the SUP, it could be denied. Traditionally there was a presumption that the SUP would be allowed but with conditions. The City Council convened in a Closed Meeting at 12:42 p.m. to consider the specific items listed below under the Closed Meeting section of this agenda.

1. Closed Meeting:

- A. ID 15-534 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 real estate matters related to the site selection for the DME Hickory substation, presently located at the intersection of West Hickory and South Bonnie Brae in the City of Denton, Texas, and concerning certain real property within the immediate vicinity, specifically Lots 1, 2, and 3 of the Oak Street Terrace Addition, and the potential acquisition of real property interests. Consultation with the City's attorneys regarding legal issues associated with the condemnation or acquisition of the real property interests 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. (Hickory Substation) [ID 15-542, 15-543, 15-544]

- B. ID 15-558 Deliberations regarding Real Property - Under Texas Government Code Section 551.072; 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 Easement Grant and Abandonment Agreement of certain real property interests located in the Jeremiah Fisher Survey, Abstract No. 421, City of Denton, Denton County, Texas, and generally located in the 2200 Block of E. Ryan Road, west of the Ryan Road-Teasley intersection. 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. (Denton West Lift Station Upgrade)[ID 15-559]

- C. ID 15-560 Deliberations regarding Real Property - Under Texas Government Code Section 551.072; 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 acquisition of real property interests situated in the S. McCracken Survey Abstract Number 417, City of Denton, Denton County, Texas (located generally within the 2200 block of E. Sherman Drive). Consultation with the City's attorneys regarding legal issues associated with the acquisition or condemnation of the real property interests referenced above where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation. (Fire Station No 4 Rebuild)[ID 15-561]

- D. ID 15-527 Consultation with Attorneys - Under Texas Government Code, Section 551.071; Deliberations regarding Real Property - Under Texas Government Code, Section 551.072.

Discuss, deliberate and receive information from staff and provide staff with direction pertaining to the potential sale of real property interests owned by the City of Denton located in the G. Walker Survey, Abstract 1330, and Lot 1, Block 1, Lake Dallas Storage Addition, both in Denton County, Texas, and located generally south of F. M. Highway 426 (East McKinney Street) between Mayhill Road on the west and South Trinity Rd. on the east. Consultation with the City's attorneys regarding legal issues associated with the potential acquisition or condemnation 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. (Atmos Lake Dallas Storage Facility).

Council returned to the Work Session to consider Item 3.C.

- C. ID 15-569 Receive a report, hold a discussion, and provide staff direction regarding promotion and advertising functions currently being performed by the Convention and Visitors Bureau (CVB).

Bryan Langley, Assistant City Manager, stated that the promotion and advertising functions for the City were performed by the CVB. He reviewed the background of hotel occupancy taxes and the CVB funding background. As a result of increasing financial commitments to the CVB, the HOT Committee recommended a work session discussion on the CVB functions and in particular the advantages and disadvantages of contracting with CVBG versus providing functions through an in-house operation. Historically Denton contracted with the CVB to perform the promotion and advertising functions for the City; to promote tourism, not economic development or business retention.

Advantages of a CVB contract were (1) the CVB was not governed by state/city procurement policies and (2) staff was solely focused on the visitor industry. Disadvantages included a diminished level of control for the City. Advantages of an in-house Visitor Program included (1) direct accountability to the funding source, (2) utilized existing resources and systems within the city, (3) interaction and coordination with other internal departments, (4) more control over activities, and (5) long term organizational stability. Disadvantages of an in-house Visitor Program included (1) it would be governed by state/city procurement policies and (2) adherence to city entertainment policies which could be amended by the City Council as needed such as alcohol usage at City events.

Each type of structure could be successful. Staff had surveyed fifteen cities with six having in-house programs and nine utilizing a CVB contract. Staff was asking for direction on how to proceed and/or whether additional information was needed.

Council Member Johnson noted that conversations concerning the Downtown Visitor Center and the convention center project should not be confused. As the City grew, it made sense to review whether to continue in the same practice or to do it differently.

Mayor Watts felt it would be important to have up-to-date information on the stewardship of funds. With other cities, most funds went to a CVB arrangement versus Denton which also funded festivals, etc.

Bob Moses, Chair of the Advisory Board of the CVB, stated that he had worked with the CVB for about 17 years. His thought was that it had worked smoothly and worked well and should not be changed at this time. Address any problems rather than change the process.

Council Member Johnson suggested having a plan for the Visitor Center and to think through the structure so that there wasn't a duplication of effort and funding. Clearly defined roles and responsibilities were needed.

Council Member Roden asked if the need for additional staff for the Downtown facility was part of the funding discussion.

Langley stated correct that there would be three positions.

Council Member Wazny felt that the type of convention center had an effect on the size of the staff. A city owned facility would require a larger staff but Denton's proposed center would be privately owned with not as large of staff needed. What was decided at this time might be different in the future.

Council Member Roden asked about the funding resources for staffing at a convention center and whether the funding would come from other sources or if the idea was that the additional staffing for the convention center would also be covered by HOT funds.

Council Member Johnson stated that the HOT Committee did not have a conversation to tap General Fund dollars for additional staffing. The conversation was not to move the CVB from the Chamber back to the City but rather a conversation with the entire Council on the growth

Chuck Carpenter, President-Chamber of Commerce, stated that this model of the CVB with the City was unique and worked very well.

Council discussed with CVB representatives the overseeing of the funding provided by the City to the CVB, how this item was a good review of the procedures of the CVB, and the reaffirming of the good working relationship between the CVB and the City. Council requested periodic updates from the CVB to go to the Council.

Council reconvened in Closed Meeting at 2:00 p.m. to consider the following items:

- E. ID 15-565 Consultation with Attorneys - Under Texas Government Code, Section 551.071; Deliberations regarding Economic Development Negotiations - Under Texas Government Code, Section 551.087.

Receive a report and hold a discussion regarding legal and economic development issues regarding economic development incentives for a business prospective in the Cole Ranch

Development. This discussion shall include commercial and financial information the City Council may receive from the business owners which the City seeks to have locate, stay, or expand in or near the territory of the City, and with which the City Council is conducting economic development negotiations, including the offer of financial or other incentives. Also hold a discussion with the City's attorneys on the referenced topic where the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the provisions of the Texas Open Meetings Act, Chapter 551 of the Texas Government Code.

- F. ID 15-566 Deliberations regarding Personnel Matters - Under Texas Government Code Section 551.074.

Deliberate and discuss the appointment and duties of public officers to boards or commissions exercising discretionary or rule making power as opposed to purely advisory powers, which includes without limitation the Health and Building Standards Commission, the Historic Landmark Commission, the Planning and Zoning Commission, and the Zoning Board of Adjustment.

- G. ID 15-570 Consultation with Attorneys - Under Texas Government Code, Section 551.071.

Consult with and provide direction to City's attorneys regarding legal issues and strategies associated with the current Gas Well Ordinance, and proposed Gas Well Ordinance amendment, regulation of gas well drilling and production within the City Limits and the extraterritorial jurisdiction, including: Constitutional limitations, statutory limitations upon municipal regulatory authority; statutory preemption and vested rights; impacts of federal and state law and regulations; impacts of gas well drilling upon protected uses and vice-versa; current and proposed extension to moratorium on drilling and production; other concerns about municipal regulatory authority or matters relating to enforcement of the Gas Well Ordinance, both current and proposed; settlement matters concerning gas well drilling in the City; surface development issues involving surface and mineral estates; and legal matters associated with a citizen's initiative ordinance and pending litigation styled *George P. Bush, Commissioner, Texas General Land Office v. City of Denton Texas*, Cause No. 15-02058-362 currently pending in the 362nd District Court of Denton County and *Texas Oil and Gas Association v. City of Denton*, Cause No. 14-08933-431 currently pending in the 431st District Court of Denton County regarding hydraulic fracturing 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.

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

Council Member Briggs left the meeting.

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 15-514 Parks Foundation presentation of a donation from the Denton Area Teachers Credit Union to the City of Denton for the Eureka 2 project.

The Parks Foundation received a check from DACTU for \$100,000 for the Eureka 2 project.

- B. ID 15-582 Resolution of Appreciation for Linda Holley

Mayor Watts read the Resolution of Appreciation for Linda Holley.

Mayor Pro Tem Gregory motioned, Council Member Roden seconded to approve the Resolution of Appreciation. On roll call vote, Mayor Pro Tem Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Wazny "aye", and Mayor Watts "aye". Motion carried unanimously.

3. CITIZEN REPORTS

Mayor Watts stated that the four individuals scheduled to speak at the end of meeting would be moved to the start of the meeting so they would not have to wait until the end of the meeting for their reports.

- A. Review of procedures for addressing the City Council.

- B. Receive citizen reports from the following:

- A. ID 15-541 Monica Jones regarding a complaint on Animal Control.

Ms. Jones was not present at the meeting.

- B. ID 15-572 Jerry Yensan regarding the City's interpretation of a boundary on a gas well plat.

Mr. Yensan read a statement regarding his survey of a piece of property on Windsor Drive at Bonnie Brae. There was a gas well located on the site which resulted in a disagreement regarding the reverse setback distance from the well site to a proposed church development.

- C. ID 15-574 Luisa Feliz translating for Bolivar Diaz regarding interpretation of gas well boundaries.

Ms. Feliz read a statement from Mr. Diaz regarding the building of a new church on property located at Windsor and Bonnie Brae. That site had a gas well located near it. However, they had been unable to obtain a building permit for the church due to the distance requirements regarding the well site.

- A. ID 15-537 Willie Hudspeth regarding City Hall.

Mr. Hudspeth felt that the administration was not onboard with the citizens and that the citizens were frustrated with the administration. Rules should help the citizens and not hurt them. People were dropping off items at his property which were not his and Code Enforcement kept sending him letters regarding those items but they were not his.

B. ID 15-573 Kent Key regarding gas well plats.

Mr. Key felt that there were problems in the City that citizens needed help with. The gas well plats needed to be addressed. Large homes were needed in Denton but could not be developed due to the gas well regulations plus the flood plain regulations. Citizens needed help to understand the problems associated with the gas well regulations. Some regulations needed to be changed in order to allow for development.

C. ID 15-575 A.C. Adam regarding buffer zone area around gas wells.

Mr. Adam echoed the sentiments of Mr. Yensan and Mr. Key. He felt that development of the area would be beneficial to the City. He also felt a reasonable distance from the well head to the development would be better than the current regulations.

D. ID 15-586 Nell Yeldell regarding weeds, water and health hazards at 516 E. Prairie.

Ms. Yeldell was not present at the meeting.

4. CONSENT AGENDA

Council Member Hawkins motioned, Council Member Johnson seconded to adopt the Consent Agenda and accompanying ordinances and resolutions with the exception of Item Q which would be considered individually. On roll call vote, Council Member Roden "aye", Council Member Johnson "aye", Mayor Watts "aye", Council Member Hawkins "aye", Mayor Pro Tem Gregory "aye", and Council Member Wazny "aye". Motion carried unanimously.

Ordinance No 2015-197

A. ID 15-465 Consider adoption of an ordinance amending Chapter 29 of the Code of the City of Denton, Texas, to provide for the adoption of the International Fire Code, 2012 Edition; providing for amendments thereto; re-establishing permit fees; providing for a penalty in the amount of \$2,000.00 for violations thereof; providing for severability; repealing all ordinances in conflict therewith; and providing for an effective date.

Ordinance No. 2015-198

B. ID 15-476 Consider adoption of an ordinance authorizing the City Manager, or his designee, to execute a Contract of Sale (herein so called), as attached thereto and made a part thereof as Exhibit "A", by and between the City of Denton, (the "City") and Jeffrey Craig Cook, individually and as Independent Administrator of the Estate of Herschell D. Cook, deceased (referred to collectively herein as "Seller"),

regarding the sale and purchase of fee simple to a tract of land lying and being situated in the City and County of Denton, State of Texas, and being a part of Lot No. Three (3), Block Twenty (20) of the Original Town of Denton, an addition to the City of Denton, Denton County, Texas, located generally in the 100 block of Industrial Street in the City of Denton, Denton County, Texas, as more particularly described in the Contract of Sale, (the "Property Interests"), for the purchase price of One Hundred Thirty Seven Thousand Five Hundred Dollars and No/100 (\$137,500.00), and other consideration, as prescribed in the Contract of Sale; authorizing the expenditure of funds therefor; and providing an effective date. (Industrial Park Property Acquisition project: Cook)

Ordinance No. 2015-199

- C. SI15-0015 Consider adoption of an ordinance of the City of Denton, Texas to adopt the 2012 International Building Code (IBC), the 2012 International Residential Code (IRC), the 2012 International Plumbing Code (IPC), the 2012 International Mechanical Code (IMC), and the 2012 International Fuel Gas Code (IFGC) as amended by the City providing a penalty for violation; providing for severability; repealing all ordinances in conflict therewith; and providing an effective date.

Approved the minutes listed below.

- D. ID 15-538 Consider approval of the minutes of May 4, May 5, May 12, May 19, May 26, June 2, June 9 and June 16, 2015.

Ordinance No. 2015-200

- E. ID 15-539 Consider adoption of an ordinance of the City of Denton authorizing an agreement between the City of Denton, Texas and Greenbelt Alliance of Denton County for the purpose of capital needs; providing for the expenditure of funds; and providing for an effective date. (\$800)

Ordinance No. 2015-201

- F. ID 15-540 Consider adoption of an ordinance of the City of Denton authorizing an agreement between the City of Denton, Texas and Denton Assistance Center, Inc. for funds that will be used for "Serve Denton" Services; Providing for the expenditure of funds; and providing for an effective date. (\$1,900)

Ordinance No. 2015-202

- G. ID 15-542 Consider adoption of an ordinance of the City of Denton, Texas authorizing the City Manager, or his designee, to execute a contract of sale between the City of Denton, Texas ("City"), as Buyer, and Serendipity Business Interests, LLC Property ("Owner") to acquire fee title to a 0.138-acre tract situated in the E. Pulchalski Survey, Abstract No. 996, legally described as Lot 2, of Oak Street Terrace Addition, an addition to the City of Denton, Denton County, Texas and more particularly described in Exhibit "1", for the purchase price of Ninety Five Thousand Dollars and no cents (\$95,000.00), and other valuable consideration, as prescribed in the contract of sale ("Agreement"); authorizing the expenditure of funds; and providing an effective date. (Hickory Street DME Substation assemblage)

tract: Serendipity Business Interests)

Ordinance No. 2015-203

H. ID 15-543 Consider adoption of an ordinance of the City of Denton, Texas authorizing the City Manager, or his designee, to execute a contract of sale between the City of Denton, Texas ("City"), as Buyer, and Mankins Property ("Owner") to acquire fee title to a 0.138-acre tract situated in the E. Pulchalski Survey, Abstract No. 996, legally described as Lot 3, of Oak Street Terrace Addition, an addition to the City of Denton, Denton County, Texas and more particularly described in Exhibit "1", for the purchase price of One Hundred Fifteen Thousand Dollars and no cents (\$115,000.00), and other valuable consideration, as prescribed in the contract of sale ("Agreement"); authorizing the expenditure of funds; and providing an effective date. (Hickory Street DME Substation assemblage tract: Mankins Property)

Ordinance No. 2015-204

I. ID 15-544 Consider adoption of an ordinance of the City of Denton, Texas authorizing the City Manager, or his designee, to execute a contract of sale between the City of Denton, Texas ("City"), as Buyer, and Neblett Property ("Owner") to acquire fee title to a 0.164-acre tract situated in the E. Pulchalski Survey, Abstract No. 996, legally described as Lot 1, of Oak Street Terrace Addition, an addition to the City of Denton, Denton County, Texas and more particularly described in Exhibit "1", for the purchase price of One Hundred Forty Five Thousand Dollars and no cents (\$145,000.00), and other valuable consideration, as prescribed in the contract of sale ("Agreement"); authorizing the expenditure of funds; and providing an effective date. (Hickory Street DME Substation assemblage tract: Neblett Property)

Ordinance No. 2015-205

J. ID 15-546 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 the design of the Hickory Creek Basin Peak Flow Detention Facility; providing for the expenditure of funds therefor; and providing an effective date (File 5768-awarded to Hazen and Sawyer, P.C. in an amount not-to-exceed \$427,368). The Public Utilities Board recommends approval (5-0).

Ordinance No, 2015-206

K. ID 15-550 Consider adoption of an ordinance accepting competitive proposals and awarding a public works contract for the construction of a pre-cast security fence for the City of Denton Kings Row Substation; providing for the expenditure of funds therefor; and providing an effective date (RFP 5818-awarded to The Turner Company in the not-to-exceed amount of amount of \$340,770.85). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2015-207

L. ID 15-551 Consider adoption of an ordinance approving a contract for the supply of decorative paint to color mulch chips for the City of Denton Beneficial Reuse

Division which is only available from a single 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 5844-awarded awarded to TH Glennon Company, Inc. in the annual estimated amount of \$25,000 for a three (3) year not-to-exceed amount of \$75,000). The Public Utilities Board recommends approval (7-0).

Ordinance No. 2015-208

M. ID 15-552 Consider adoption of an ordinance approving a contract for the purchase of four (4) utility truck bodies for the City of Denton Wastewater Collections, Electric Operations, Water Distribution, and Traffic Control departments which are available from a single 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 5871-awarded to General Body Manufacturing Company in the not-to-exceed amount of \$109,171). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2015-209

N. ID 15-553 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for the purchase of Electric Utility Overhead Distribution Pole Line Hardware for Transmission Line Under Build for Denton Municipal Electric (DME); and providing an effective date (RFP 5775-awarded to HD Supply in the three (3) year not-to-exceed amount of \$1,000,000).

Ordinance No. 2015-210

O. ID 15-559 Consider adoption of an ordinance authorizing the City Manager of the City of Denton, Texas ("City") to execute, for and on behalf of the City, an Easement Grant and Abandonment Agreement ("Agreement"), by and between the City and DENTON WEST JOINT VENTURE ("Owner"), providing for (a.) the granting to the City of easement for Lift Station purposes, encumbering 0.127 acre tract; and (b.) the granting to the City of easement for Ingress and Egress purposes, encumbering a 0.052 acre tract; and (c.) the granting to the City of a Street Right-of-Way deed, encumbering a 0.333 acre tract; and (d.) the abandonment ("Abandonment") by the City of (i) that certain Sanitary Sewer Easement, from M. K. Buchanan to the City, recorded in Volume 645, Page 79, Deed Records, Denton County, Texas; and (ii) that certain Public Utility Easement, from M. K. Buchanan to the City, recorded in Volume 626, Page 123, Deed Records, Denton County, Texas; (collectively, the "Abandonment Tracts"), all tracts situated in the Jeremiah Fisher Survey, Abstract N0. 421, Denton County, Texas and being generally located at the 2200 block East Ryan Rd.; authorizing the expenditure of funds therefore; making findings; providing a savings clause; and providing an effective date. (Denton West Lift Station Upgrade) (Recommended for approval by PUB 6-0)

Ordinance No. 2015-211

P. ID 15-561 Consider adoption of an ordinance of the City of Denton, Texas authorizing the City Manager, or his designee, to execute a Contract of Sale, as

attached thereto and made a part thereof as Exhibit "A", by and between Jason Rose, (the "Owner"), and the City of Denton, Texas, (the "Buyer"), regarding the sale and purchase of fee simple to a 1.227 acre tract, more or less, situated in the S. McCracken Survey, Abstract No. 817, located in the City of Denton, Denton County, Texas, as more particularly described in the Contract of Sale, located generally in the 2100 Block of East Sherman Drive (the "Property Interests"), for the purchase price of One Hundred Sixty Five Thousand Dollars and No Cents (\$165,000.00), and other consideration, as prescribed in the Contract of Sale; authorizing the expenditure of funds therefor; and providing an effective date. (Denton Fire Station No. 4 Rebuild Project)

Ordinance No. 2015-213

R. ID 15-564 Consider adoption of an ordinance concerning the removal of parking and changing of Highland Street, from North Texas Boulevard to Avenue D, from one-way, eastbound, to two-way and the changing of Avenue D, from Maple Street to Highland Street, from two-way to one way, northbound as attached to the ordinance (Exhibit 1) and providing an effective date. The Traffic Safety Commission recommends approval (5-0).

Ordinance No. 2015-214

S. ID 15-571 Consider adoption of an ordinance of the City Council of the City of Denton, Texas authorizing the City Manager to execute a supplemental and amended engagement letter with Lloyd Gosselink Rochelle & Townsend, P.C. for Professional Legal Services relating to the pending litigation entitled the City of Denton, Texas V NRG Power Marketing, LLC; authorizing the expenditure of funds therefor; providing an effective date (File No. 5771 - in the additional amount of not-to-exceed \$500,000, aggregating not-to-exceed \$595,000). The Public Utilities Board recommends approval (6-0).

Item Q was considered.

Ordinance No. 2015-212

Q. ID 15-562 Consider adoption of an ordinance of the City Council of the City of Denton, Texas, affirming, Texas, affirming the commitment of the City of Denton, Texas to the North Texas Boulevard Bridge in conjunction with the 35Express project in the amount of \$396,372 and authorizing the City Manager, or his designee, to execute a letter of intent between the Texas Department of Transportation, Archer Western Contractors, LLC Granite Construction Company and Lane Construction Company and the University of North Texas to initiate final design; and providing an effective date.

Mark Nelson, Director of Transportation, presented details of the project. The North Texas Blvd. bridge was the only bridge that would receive full enhancements on the redesign for the project. Medallions would be designed at the bridge depicting UNT and the city of Denton. The agreement with UNT looked at cost sharing the enhancements to improve safety and aesthetics on the pedestrian walkways. Landscaping would also be done as well as pedestrian light

structures to enhance safety of the area. A design concept was submitted to TxDOT and ACL with a cost estimate of \$700,000 with the cost share for the City at \$396,000.

Council Member Hawkins asked about which accounts the money would be coming from and if COs were being issued.

Nelson stated that it was his understanding that the funding proposal to use COs was a typical option to finance the expense.

Council Member Wazny stated that she had a problem spending almost \$400,000 to make a pretty bridge. She knew that it was an entrance to the City and to UNT but she had to be a good steward of the City's money. Issuing the COs was also a problem as citizens had a problem issuing large sums of money through COs for such expenses. The citizens did not have an opportunity to weigh in on this type of debt.

City Manager Campbell stated that there were other options but this was what typically was done.

Chuck Springer, Director of Finance, stated that other options might include General Obligation bonds. The debt package had funds for miscellaneous street projects and miscellaneous sidewalk projects. It was still debt and would have the same interest rate as the COs. Other options were to cash fund by one-time funding out of the General Fund balance or fund it through ongoing revenues through the General Fund as another option. One reason to issue debt was so that individuals using the asset paid for the asset.

Council Member Roden knew that the project was a combination of different items and was a significant portion of the public art component for the bond issue. The top of the bridge was primarily a safety issue for students crossing over from the dorms on the other side of the highway. The debate was the public art policy and tying it to public streets.

Springer stated that part of 2012 bond election for street improvements included \$400,000 for public art. That public art money needed to be associated with improvements approved by the voters and needed to be spent on street projects.

Council Member Roden felt that the aesthetics issue had been vetted during the 2012 election but the other issue was a safety issue that had been vetted through the Mobility Committee and Council.

Council Member Wazny stated that there was a pedestrian bridge over the freeway that would remain. In terms of using the art money it was only \$300,000 out of the needed \$396,000. She understood the safety issues but was it was still a lot of money.

Council Member Johnson stated that he was on the Advisory Committee which felt this would be a good use of the public art money at this time. Much of the cost was for the pedestrian walkway and the barriers to protect the citizens walking in the area.

Council Member Hawkins stated that Council had been talking about this project for several years. He felt the partnership with UNT and the intergenerational equity was a good issue.

Mayor Pro Tem Gregory stated that he was satisfied with the amount of opportunity citizens had to speak on the issue. It was more than just aesthetics; it was about connectivity and safe passage going over the highway.

Council Member Roden 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", and Mayor Pro Tem Gregory "aye", Council Member Wazny "nay". Motion passed with a 5-1 vote.

5. PUBLIC HEARINGS

Ordinance No. 2015-215

- A. Z15-0012 Hold a public hearing and consider an initial zoning of Neighborhood Residential 1 (NR-1) on approximately 4.495 acres of land generally located approximately 760 feet east of South Trinity Road and 2,600 feet north of East McKinney Street (FM 426). The Planning and Zoning Commission recommends approval (7-0).

Aimee Bissett, Interim Director of Planning and Development, stated that this was an initial zoning case from Rural Zoning to Neighborhood Residential-1. She reviewed the zoning map, future land use map, background of the zoning of the property, and analysis of the surrounding properties. The criteria for approval were reviewed which the proposal met. The Planning and Zoning and staff recommended approval.

The Mayor opened the public hearing.

Leo Miller, 3091 Swisher, Denton, 76208, spoke in support.

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", Mayor Pro Tem Gregory "aye", and Council Member Wazny "aye". Motion carried unanimously.

Ordinance No. 2015-216

- B. S15-0002 Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, regarding a Specific Use Permit (SUP) for Multi-Family Dwellings in Neighborhood Residential Mixed Use (NRMU) and Neighborhood Residential Mixed Use 12 (NRMU-12) zoning district and use classifications. The approximately 11.4 acre site is generally located on the south side of McKinney Street (FM 426), approximately 1,000 feet west of Mockingbird Lane; and providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; providing a severability clause and an effective date. The Planning and Zoning Commission recommends approval (7-0) with conditions.

Aimee Bissett, Interim Director of Planning and Development, stated that this was a specific use permit for a multi-family development on McKinney. She presented the location map, current

zoning, future land use map, and original site plan. The applicant revised the site plan to incorporate the recommendations by the Planning and Zoning Commission. The criteria for approval were presented which the proposal met. The Planning and Zoning Commission recommended approval subject to the conditions. The staff recommendation was for approval with the first two conditions.

The Mayor opened the public hearing.

No one spoke during the public hearing.

The Mayor closed the public hearing.

Council Member Hawkins motioned, Mayor Pro Tem Gregory seconded to adopt the ordinance with the conditions recommended by the Planning and Zoning Commission. On roll call vote, Council Member Roden "aye", Council Member Johnson "aye", Mayor Watts "aye", Council Member Hawkins "aye", Mayor Pro Tem Gregory "aye", and Council Member Wazny "aye". Motion carried unanimously.

Ordinance No. 2015-217

- C. Z15-0005 Hold a public hearing and consider adoption of an ordinance to the City of Denton, Texas, amending Ordinance No. 2007-032 which provided for a zoning change to a Neighborhood Residential 3 (NR-3) zoning district classification and use designation along with an overlay district, in order to modify conditions related to design criteria in the overlay on approximately 31 acres of land generally located on the southwest corner of Hinkle Drive and Windsor Street in the City of Denton, Denton County; and providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; providing a severability clause and an effective date. The Planning and Zoning Commission recommends approval (6-1), subject to conditions.

Aimee Bissett, Interim Director of Planning and Development, stated that this request was to amend an ordinance created in 2007 to facilitate an active adult single family community. The amendment would be to the overlay on the proposal but not an amendment to the base zoning. She presented the location of the proposal indicating that it would not change the underlying zoning district, permitted uses or density. The future land use and surrounding land uses were also reviewed. The overlay conditions from 2007 included (1) the woods along the south and east boundary of the site would be preserved, (2) a perimeter fence with a "wrought" iron appearance, with taller posts topped by a decorative finial at the corner of each lot would be installed along the perimeter of the site, (3) the setback of the fence would be 50' minimum from the existing curb; rows of shrubbery between the fence and sidewalk would be installed to obtain privacy, (4) the distance from the fence and back of sidewalk would be a minimum of 12- feet, (5) the developer, and later an H.O.A., would take responsibility for maintenance and irrigation of the approximately 3-acre perimeter landscape area, (6) except for glazing, doors, and trim, the exterior of the homes shall be of vitrified clay, brick or stone for all vertical surfaces with a direct load path to the foundation, (7) the following restrictions and conditions shall apply to single- family detached homes - street right-of-way shall be a minimum of 56 feet; parkway width shall be a minimum of 9 feet; sidewalk width shall be a minimum of 5 feet; front yard

setback shall be a minimum of 15 feet; side yard setbacks shall be a minimum of 6 feet; rear yard setback shall be a minimum of 10 feet, except for rear entry garages; rear yard setback shall be a minimum of 20 feet if garages are accessed through the rear of the property; front entry garages shall be setback 12 feet from the front most wall of that unit and (8) three-car garages shall not face the street.

With the proposed conditions, the first two criteria would be removed. The wooded area today was not within the property boundary and not owned by the applicant. The property could not be maintained by the current owner. The perimeter fence requirement would be replaced with another requirement. The current setback of the proposed homes would be 50 feet minimum from the existing curb which prevented the developer from putting a trail inside the development. The proposed change would still provide the same landscape buffer and prior setbacks would be removed to make them consistent with the criteria manual. The setbacks were inconsistent with the DDC and prohibited visibility and safety of the residents.

The criteria for approval was reviewed which the proposal met. The Planning and Zoning Commission recommended approval with six conditions as requested by the applicant. Staff recommended approval minus the ingress/egress recommendation from the Commission.

Mayor Pro Tem Gregory questioned where the access would be located.

Bissett stated that would be determined at the platting phase as the zoning had to be in place first.

Mayor Pro Tem Gregory asked if there would be sidewalks outside the security fence as well along Hinkle and Windsor.

Bissett replied correct.

Mayor Pro Tem Gregory questioned why the staff did not recommend the last Commission recommendation.

Bissett stated the staff recommendation came before the Commission recommendation. It was added by the Commission after the staff recommendation.

Council Member Roden asked if the Planning and Zoning Commission recommendation had been vetted through the Engineering team. He would hate to put in a condition that could not be enforced.

Earl Escobar, Engineering Development Review Manager, stated that the access point would be off Hinkle. The access would be reviewed when the plat was submitted.

Council Member Roden questioned the legal aspect of the wording if enforcement could not be done in terms of the engineering.

Bissett stated that the current language was relatively strong and since it was not certain on the access, the wording might be softened for some latitude.

Council Member Roden asked if the existing trees were on park land.

Julie Wyatt, Associate Planner, stated that in 2007 trees were removed and a condition was put on the property in 2011 for the remaining trees. The trees had been removed by a previous owner.

Council Member Johnson stated that in terms of the bike lane, the developer would have to do a site plan with the bike lane already there. He suggested trusting the staff that any modifications would be ones that were absolutely necessary. He suggested removing that condition and trust staff to make sure the bike lane was not impacted. If it were impacted, the developer would pay for any modifications for it to remain.

The Mayor opened the public hearing.

Thomas Richardson, 707 Northridge, Denton, spoke in favor.

The Mayor closed the public hearing.

Mayor Pro Tem Gregory motioned, Council Member Roden seconded to adopt the ordinance with all of the Planning and Zoning recommendations except for a change in wording for #4 dealing with the ingress/egress affecting the bike lanes. On roll call vote, Council Member Roden "aye", Council Member Johnson "aye", Mayor Watts "aye", Council Member Hawkins "aye", Mayor Pro Tem Gregory "aye", and Council Member Wazny "aye". Motion carried unanimously.

Ordinance No. 2015-218

- D. Z15-0010 Hold a public hearing and consider a rezoning request from Neighborhood Residential Mixed Use (NRMU) and Neighborhood Residential Mixed Use 12 (NRMU-12) zoning district to a Neighborhood Residential 6 (NR-6) zoning district on approximately 20.13 acres of land generally located northwest of the intersection of Pockrus Page Road and Post Oak Boulevard. The Planning and Zoning Commission recommends approval (7-0).

Aimee Bissett, Interim Director of Planning and Development, stated that this was a residential development for the Villages of Carmel. The property would be rezoned to NR-6. She reviewed the location map, vicinity map, zoning map, and future land use map. Major considerations to consider for the rezoning were if there was population to support neighborhood mixed use, the nearest commercial service if zoned residential, and the extension of Post Oak Blvd. The proposal met the criteria. The Planning and Zoning Commission recommended approval; however, the staff recommended denial.

The Mayor opened the public hearing

Justin Bono, applicant, spoke in favor.

Council Member Hawkins asked how many homes would be in the development.

Bono replied about 100 homes.

Council Member Roden stated that most of the comments he was hearing was for the safety of students going to and from Pecan Elementary. He questioned where the sidewalks would be in this project.

Bono stated that they would fund the portion adjacent to their project to Post Oak.

Council Member Johnson questioned that if this rezoning was not successful would the developer put in commercial.

Bono replied no as it was not a good location for a commercial use.

Council Member Wazny stated that NR-6 was consistent with the surrounding areas and the current residents were in favor of residential development.

Leo Miller, 3091 Swisher Road, spoke in favor.

Comment cards were received from Margaret Lindsey, 3804 Cliffside, Denton; Mary Finley, 3701 Oceanview, Denton; and Bill Kamp, 5100 Pebble Beach Trail, Denton in support.

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", Mayor Pro Tem Gregory "aye", and Council Member Wazny "aye". Motion carried unanimously.

Ordinance No. 2015-219

- E. DCA15-0002 Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, amending "Permitted Uses" in Subchapter 35.5 of the Denton Development Code to add "Craft Alcohol Production" to the use tables with a Limitation and to amend Subchapter 23.2 "Definitions and Terms" to define the use of "Craft Alcohol Production" and allow for the definition of "Restaurant, Brewpub"; providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; providing a severability clause and an effective date. The Planning and Zoning Commission recommends approval (5-0).

Aimee Bissett, Interim Director of Planning and Development, stated that this was a public hearing to amend the Denton Development Code to facilitate microbreweries in the City in the downtown area. Currently the use was classified as light manufacturing. The proposal was to add craft alcohol production to the list of uses in the DDC. It was noted that microbreweries differed from brewpubs. She reviewed current zoning uses and proposal needs. One task was to permit microbreweries Downtown without allowing all light manufacturing. The proposal would require on-site consumption at least Downtown. To promote the walkability of Downtown, staff was also recommending that in certain districts these uses provide an onsite consumption component, such as a taproom or retail sales, for the general public.

The proposed definitions for microbreweries and restaurant brewpub were reviewed along with the limitations for zoning districts. The Planning and Zoning Commission along with staff recommended approval.

Council Member Johnson asked about the on-site consumption requirement in the D-CG district.

Bissett stated that it would be for on-site and/or retail sales in the downtown area.

Council Member Johnson questioned what onsite consumption was.

Bissett stated that it was open to the public at certain hours.

Council Member Wazny stated that she had concerns about anything larger than 10,000 square feet in the downtown area. She would like to keep it at 10,000 feet rather than have more square footage with a Specific Use Permit. The ordinance could be amended later if needed.

The Mayor opened the public hearing.

The following individuals spoke during the public hearing:

Doug Smith, 1210 Shady Oaks Drive, Denton – was in favor but concerned about the 10,000 square feet as that was very large with lots of trucks each day. He felt the zoning should be in light industrial.

Council Member Wazny questioned that if 10,000 feet was too large, what should it be.

Smith replied to limit it to 3,000 barrels per day which would put the square footage at about 3,000 square feet.

Mayor Pro Tem Gregory asked if the trucks would have to come in at all hours or could a set time period be made for deliveries.

Smith stated that with this option a facility larger than what was thought of could be developed. There was also the consideration of waste products that farmers picked up.

Council Member Roden stated that the concept of downtown breweries was growing and asked Smith about the square footage of other facilities he knew of.

Smith stated that they were larger but in a larger city. For example, Fort Collins had large breweries that were outside the downtown area. He felt a good definition would include wording that would require the sale of the majority of the product on site which would keep them to an appropriate size.

Council Member Roden asked if Smith had received concerns from the neighborhood where his microbrewery was located.

Smith stated that they were careful when they chose a place to develop. They had some issues with the residents but not with smells but rather with noise.

Bobby Mullins spoke in favor. He indicated that there was already heavy manufacturing in the downtown area and that there were ways to remedy smells and noise.

Council Member Johnson asked what a realistic production was with a 10,000 facility with no outside storage.

Mullins felt it would be about 15,000 barrels per year.

Council Member Roden stated that it was more expensive to locate in the downtown area rather than other areas.

Mullins stated correct.

Council Member Roden asked what the attraction was to go downtown due to economics.

Mullins stated that it would involve being a part of the growing area of the downtown.

Scott Lindsay, Meadowlark Lane, Denton – spoke in favor

The Mayor closed the public hearing.

Council Member Johnson motioned, Council Member Hawkins seconded to adopt the ordinance.

Council Member Wazny felt that she needed more information on this ordinance. There were issues and concerns expressed by citizens that should be examined such as how many barrels, the hours of trucks, number of trucks, spent grain, etc. She suggested looking at a few other ordinances in terms of protection for citizens and business owners already invested in downtown. Other business owners should be consulted regarding the issue.

Council Member Hawkins stated that the Council would hear from business owners when a SUP was applied for.

Mayor Pro Tem Gregory stated that there were nuisance ordinances already in place for odors.

Council Member Johnson felt staff had researched the proposal and was comfortable with the provisions. He felt it would get smaller breweries rather than larger ones with more production.

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", and Mayor Pro Tem Gregory "aye" and Council Member Wazny "nay". Motion carried with a 5-1 vote.

6. CITIZEN REPORTS

The citizen reports scheduled for this part of the meeting were moved to the beginning of the meeting.

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

Council Member Johnson stated that there was no high speed internet in the Downtown area and that the current provider would not provide high speed internet in the Downtown area. He suggested exploring other options as soon as possible.

Council Member Roden suggested a discussion with the Chamber similar to the one the Council just had regarding the CVB.

Council Member Wazny stated that the Animal Shelter contract with current veterinarian and veterinarian tech were up for renewal in September. She would like to review those contracts in August before the renewal date.

Mayor Pro Tem Gregory requested a Work Session on the possibility of forming a Council Committee on public safety.

Mayor Watts requested an update on townhomes alley ways and trash pickup regulations.

Mayor Watts requested a work session on Council Member Johnson's Internet issue.

Council Member Hawkins requested an Informal Staff Report on a program to help with trash charges and collection fees especially for elderly.

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 9:49 p.m.

CHRIS WATTS
MAYOR
CITY OF DENTON, TEXAS

JENNIFER WALTERS
CITY SECRETARY
CITY OF DENTON