

CITY OF DENTON CITY COUNCIL MINUTES

January 16, 2018

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, January 16, 2018 at 1:00 p.m. in the Council Work Session Room at City Hall, 215 E. McKinney Street, Denton, Texas.

PRESENT: Council Member Hudspeth, Council Member Briggs, Council Member Duff, Council Member Ryan, Council Member Gregory, Mayor Pro Tem Bagheri, and Mayor Watts.

ABSENT: None.

1. Closed Meeting:

- A. ID 18-084 Consultation with Attorneys - Under Texas Government Code, Section 551.071. Consult with the City's attorneys regarding status and legal issues associated with an engagement to complete an audit and investigation previously initiated by the City's former Internal Auditor, and legal analysis relating to preliminary findings associated with said audit and investigation, where a public discussion associated with these legal matters would clearly conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.
- B. ID 18-106 Deliberations regarding Personnel Matters - Under Texas Government Code, Section 551.074. Discuss and deliberate regarding the evaluation of candidates and the appointment/employment of a City Auditor.

Following the completion of the Closed Meeting, the City Council convened in a Work Session to consider the following items:

1. Work Session Reports

- A. ID 18-009 Receive a report, hold a discussion and give staff direction regarding current and near-term Texas Department of Transportation projects in Denton.

Mark Nelson, Director of Transportation, stated that there were four major projects in the works – 35Express Project, Mayhill Road, FM 2181, and US 377.

The 35Express Project extended from the I-35E Dallas Drive/Business 77 ramp south to the I-35E/Mayhill Road intersection. There were four components to this project — adding the third general purpose lane on I-35E, enhancing capacity of the Loop 288 intersection under I-35E; adding a new underpass connecting Brinker Road to the southbound I-35E frontage road; and adding a southbound to northbound Texas U-turn at the I-35E/Mayhill Road intersection. Construction on this project began in March 2017 and was scheduled to be completed by January 2019.

The four components of the project included — I-35E, Main Lane Shift was to complete a segment of new southbound frontage road from the existing southbound off-ramp near the Goodwill Store

to just south of the Achievers Gymnastics facility. This was scheduled to be completed by early February which would allow TxDOT to begin the following lane shifts. Phase 1 Step 1 was to move the southbound frontage road traffic to the new southbound frontage road; move the main lane or general purpose traffic on I-35E to the old southbound frontage road detour and move the northbound general purpose traffic to the current southbound I-35E general purpose lanes. The new southbound to northbound Texas U-turn was part of the Phase 1 Step 1 project and should open to traffic in March 2018.

Phase 1 Step 2 was that traffic from the existing northbound general purpose lanes would shift to the current southbound general purpose lanes to allow for the construction of the northbound general purpose lanes and bridges at Loop 288 and Brinker. This was estimated to be completed by July 2018. Phase 2 was that northbound and southbound general purpose lanes would be shifted to the newly constructed northbound lanes which would then allow for the construction of the southbound general purpose lanes and bridges. Phase 2 would also include construction of a segment of new southbound frontage road at Loop 288, and the completion of the intersections at Loop 288 and Brinker Road. Estimated completion was January 2019.

The I-35E Loop 288 Access currently consisted of two lanes in each direction with dedicated left turns from the left lane and optional left/thru from the right lane. There was one sub-standard Texas U-turn from the southbound frontage road to the northbound frontage road. Once completed the Loop 288 intersection would consist of four lanes in each direction with the two inside lanes used for left turns and the two outside (right) lanes used for through traffic. Texas U-turns would be constructed for the north to south movement, as well as the south to north movement.

The I-35E Brinker Access currently consisted of Brinker Road “T’d” into the northbound frontage road just south of several restaurants and west of the Hilton Garden Inn, providing right in/right out access to the northbound frontage road. Once completed, Brinker Road would be connected to the southbound frontage road via a newly constructed underpass under I-35E. The Brinker Road intersection would have three lanes in each direction with the inside lane dedicated for left only and the remaining two lanes for through traffic. A signal would also be constructed as part of the project. Estimated completion was January 2019.

The I-35E Mayhill Access Improvements would add a southbound to northbound Texas U-turn at Mayhill Road.

The I-35E Dallas Drive closure and detour and impacts to Teasley Lane — the project called for the closure of the Dallas Drive entrance ramp to southbound I-35E and it would be closed for the duration of the project to allow for reconstruction of the I-35E/Loop 288 bridge structure. The official detour directed southbound Dallas Drive traffic to the northbound frontage road near the I-35E entrance ramp to the I-35E/Teasley Lane northbound to southbound Texas U-turn. This permitted traffic to access the southbound frontage road to continue south on I-35E.

The Mayhill Road Project was from US 380 to Colorado Boulevard. This project would widen the existing two-lane roadway to a four-lane divided roadway with sidewalks and bike paths. Construction was expected to be completed in 2021.

The FM 2181/Teasley Lane Project was from Lillian Miller south to the City of Denton/Corinth City Limits near the intersection of FM 2499. This TxDOT project would widen the existing two-

lane rural roadway to a six-lane divided roadway, add traffic signals at Robinson and Sundown; and provide sidewalks on both sides of the roadway. Construction was estimated to be completed by January 2020.

The US 377/Fort Worth Drive Project was from I-35E south to 1/4-mile south of FM 1830. The project would widen US 377 from a two-lane rural roadway to a six-lane roadway and replace the existing UPRR bridge over US 377. Improvements to the intersection at FM 1830/US 377/Hobson Lane would also be incorporated as part of the project.

Council Member Ryan requested something in the Friday report regarding the Hobson Lane Communication plan.

Nelson stated that communications efforts included bi-weekly meetings with the TxDOT Area Office and following the Dallas District TxDOT PIO for press releases; including information in Resident Newsletters; posting updates on the City's website and social media; monthly TxDOT On-System Report; TxDOT Press Releases; social media alerts for traffic impacts and changes; and staff exploring development of a listserv for TxDOT updates; distributing information to the Chamber of Commerce, Denton Convention & Visitors Bureau, and other outlets; and at the State of the City event.

Council Member Gregory asked if there was a local contribution amount.

Nelson stated it was approximately \$2 million.

- B. ID 18-016 Receive a report, hold a discussion, and give staff direction regarding the City of Denton's policies for Tax Abatement and Incentives and Public Improvement Districts.

Caroline Booth, Director of Economic Development, stated that the City of Denton policy for tax abatement and incentives was first approved in 1989 and must be approved every two years. Most recently it was approved in April 2016 with no significant changes. Public Improvement District Guidelines for Mixed-Use or Residential PIDS were first approved in 2007 and amended in April 2014 to add the option of revenue bond sales for construction financing. She stated that these policies were tied to the Strategic Plans and Core Values of the City of Denton.

Booth stated that staff had suggested some formatting changes to improve organization, clarity, and readability. They proposed expanding the General Provisions to define Denton's economic development goals and target industries. They proposed expanding the Definitions section as well as bringing all existing incentive programs – the ED Investment Fund and the Based Aircraft Incentive – under this policy. The EDP Board agreed with the proposed changes but asked staff to clarify that while businesses in target industries were preferred, not being in a target industry did not disqualify a business from applying for an incentive if it met other requirements under the policy.

Staff proposed a change to specify a maximum term of 10 years for Chapter 380 agreements to ensure reliability of analysis declines beyond a 10-year horizon and to be consistent with state law on the term of tax abatements. The EDP Board desired to preserve the flexibility for Chapter 380 terms beyond 10 years but don't limit options – the option to grant more than one 10-year phase

with thresholds to initiate subsequent phases and the option to reduce the percentage of incentive over the term of the grant. Staff proposed to exclude retail projects except those that addressed retail leakage in the Denton market – the project must generate at least \$15 million in annual taxable sales to be considered and sales tax rebates would be capped at 50% of sales tax receipts. The EDP Board proposed re-wording to “prioritize retail projects that address retail leakage in the City of Denton” and define “retail” and “leakage”.

Mayor Watts stated that he was good with the EDP Board comments, but would like the option for flexibility.

Gregory asked how they handled a new business that was looking to relocate here and wanted to find out what they were eligible for. Booth said they would have them complete an application and run some scenarios.

Staff proposed to remove existing capital-investment based framework and additional factors - retain \$5 million minimum value of structure and business personal property to be considered for a tax incentive. The EDP Board proposed retaining some additional factors, such as use of green technologies, local hiring and contractors and community involvement, but don't tie to increased percentage of incentive.

Staff proposed the addition of minimum thresholds for New Development – Denton Central Appraisal District (DCAD) valuation of the project must be at least 80% of the eligible investment submitted in the incentive application; for Expansion/Redevelopment – DCAD valuation of the incremental increase in value must be at least 50% of the eligible investment submitted in the incentive application; and Jobs — actual jobs created must be at least 80% of what was submitted in the application. The EDP Board proposed allowing the ability for an incentivized company to request an amendment to its incentive agreement if it did not meet the minimum threshold; allowing for a proportional reduction in the incentive if the threshold was missed; and do not terminate an incentive if a company did not meet its threshold in a given year, but did not make an incentive payment in that year.

Staff proposed the addition of jobs-based incentive option for businesses that do not meet the \$5 million minimum value of structures and business personal property of \$15 million in annual taxable sales – criteria could include net new jobs created with wages above the Denton County median or net new knowledge-based or high-skilled jobs created in one of Denton’s target industry sectors. The EDP Board expressed concern regarding a business with no significant capital investment being easily able to leave the community, desire for a minimum threshold of jobs created to be eligible to apply for such an incentive, and possible use of total payroll as a threshold.

Booth stated that Public Improvement Districts were an economic development tool intended to fund public improvements and/or municipal services in a defined geographic area. PIDs were funded by special assessments (fees) paid by the landowners who benefit from them. PID projects could be “pay as you go” or tax exempt bonds could be issued by a city. The main benefit to cities was the potential to increase quality of development through better amenities. The main benefit to developers was that the use of tax-exempt debt to provide funding for public infrastructure could reduce capital requirements and increase rate of return. Economic Development did some research and reviewed 15 cities with PID policies or guidelines in place.

Booth stated that a number of inquiries had been made for PIDs in Denton, but only one had been established - Rayzor Ranch PID No. 1 (mixed use) was established in March 2014. The reimbursement agreement was approved by Council in March 2016 and the Service and Assessment Plan and Finance Plan required by state law had not been submitted by the developer.

Due to a recent surge in developer inquiries about new PIDs, City Council requested a work session regarding the City's PID guidelines. Staff discussed proposed changes with the Finance and Legal Departments and City Manager's Office. Staff proposed changes to the guidelines were to develop a PID application; establish an interdepartmental task force to review PID applications (Economic Development, Development Services, Legal and Finance); require a service and Assessment Plan and Finance Plan prior to establishment of a PID; require a developer-funded, City-administered Fiscal Impact Analysis prior to the establishment of a PID; and require a minimum home value threshold with the option of greater than the median City of Denton home value or median Denton County home value based on the most recent ACS Census. EDP Board comments included the development of lower-end housing created a burden on the City and DISD and suggested use of a market-value or current average new home value basis for the threshold. A general concern was expressed about home buyers not being aware of or fully understanding why they would be required to pay a PID assessment, especially after the initial owner.

Council discussed whether there was a need to use PIDs as a tool for residential or commercial developments; restrictions of PIDs; the need for a policy; and whether to consider on a case-by-case-basis.

Consensus of Council was to draft a policy to reflect that the City does not have PIDs and bring it back to Council.

Following the completion of the Work Session, the City of Denton City Council will convene in a Special Called Meeting to consider the following items:

1. ITEMS FOR INDIVIDUAL CONSIDERATION

Resolution No. R2018-001

- C. ID 18-101 Consider approval of a resolution approving the issuance of Revenue Bonds by New Hope Cultural Education Facilities Finance Corporation on behalf of CHF - Collegiate Housing Denton, L.L.C. in an aggregate principal amount not to exceed \$100,000,000; recognizing that the City of Denton is not responsible for issuing the Revenue Bonds and has no financial obligation to pay any principal of or interest on the Revenue Bonds; making certain findings in connection therewith; and providing an effective date.

Tony Puente, Director of Finance, stated that the New Hope Cultural Education Facilities Finance Corporation proposed, on behalf of the Town of New Hope, Texas, to issue revenue bonds for the purpose of aiding Texas Woman's University in financing the cost for construction of a 900-bed student housing facility and dining facility, along with site development and various amenities and improvements on the campus of Texas Woman's University. The project was located at a location bordered by Administration Drive to the South, Bell Avenue to the West and University Drive to the North on the Texas Woman's University Campus in Denton.

Puente stated that the City of Denton's consent was required prior to the Project's financing. The Bonds would be payable from revenues of the borrower and the City of Denton would have no obligation for payment of the Bonds, nor shall any of its assets be pledged for payment for the Bonds.

Mayor Pro Tem Bagheri motioned, Council Member Gregory seconded to approve the resolution. On roll call vote, Council Member Hudspeth "aye", Council Member Briggs "aye", Council Member Duff "aye", Council Member Ryan "aye", Council Member Gregory "aye", Mayor Pro Tem Bagheri "aye", and Mayor Watts "aye". Motion carried unanimously.

Ordinance No. 2018-017

- A. ID 18-092 Consider adoption of an ordinance of the City Council of the City of Denton, a Texas home-rule municipal corporation, providing for, authorizing, and approving the execution by the City Manager, or his designee, of a Base Contract for Sale and Purchase of Natural Gas, between the City of Denton and Enterprise Products Operating, LLC, a Texas limited liability company; Approving the execution of such other and further related documents deemed necessary to effectuate the transactions allowed under this contract by the City Manager or his designee; confirming the City is authorized to purchase natural gas for the Denton Energy Center under Ordinance No. 2014-060; Determining that specific information contained in said contract pertain to a "Competitive Electric Matter" as set forth under the provisions of §§551.086 and 552.133 of the Texas Government Code, as amended; allowing the public to inspect, but not reproduce, the contract as redacted; and, providing an effective date.

George Morrow, General Manager of DME, stated that the NAESB contract was a standard contract that had been developed over time by the energy industry to capture core contract terms, definitions, and procedures which were viewed as standard by the energy industry. The NAESB standard contract was owned by the North American Energy Standards Board and was copyrighted. The copyright meant it could not be released to the general public in a reproducible form. A NAESB contract had been negotiated with Enterprise Products Operating, LLC and acted as a master agreement to facilitate gas transactions for the DEC project, which required a natural gas supply for equipment test purposes. The Public Utilities Board recommended approval.

Council Member Gregory motioned, Council Member Ryan seconded to adopt the ordinance. On roll call vote, Council Member Hudspeth "aye", Council Member Briggs "nay", Council Member Duff "aye", Council Member Ryan "aye", Council Member Gregory "aye", Mayor Pro Tem Bagheri "nay", and Mayor Watts "aye". Motion carried (5-2).

Ordinance No. 2018-018

- B. ID 18-100 Consider adoption of an ordinance of the City of Denton, Texas authorizing the expenditure of funds for payment by the City of Denton for the annual consolidated water quality fee to the Texas Commission on Environmental Quality for operation of the Pecan Creek Water Reclamation Plant; and providing an effective date (File 6693-Consolidated Water Quality Fee in the amount of \$110, 257.93).

Kenneth Banks, General Manager of Utilities, stated that the TCEQ charged an annual Consolidated Water Quality fee for operation of the Pecan Creek Water Reclamation Plant. The

fee was based on the permitted plant capacity of 21 million gallons per day average daily flow and the pollutant loading in the plant effluent included in the plant's discharge permit. The fee payment was mandatory to continue the wastewater plant operation.

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

Ordinance No. 2018-019

- D. ID 18-109 Consider adoption of an ordinance approving an employment agreement for the City Auditor and authorizing the Mayor to execute said Agreement setting the compensation and terms of that employment; authorizing expenditures and actions; and providing an effective date.

Carla Romine, Director of Human Resources, stated that the Council had hired Umash Dulal as the City Auditor and he would be starting February 26.

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

2. 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 Briggs asked for the status of the upcoming closure of the TWU golf course.

Mayor Pro Tem Bagheri asked for information on the Parks Foundation, such as the total number of scholarships supported by the Foundation; fee assessments related to the Denton Youth Sports agreement; and the amount of staffing services provided to the Parks Foundation and any vendor contracts paid by the City for services received by the Parks Foundation.

Council Member Ryan requested a closed session item on releasing Ordinance 2014-060 to be a public document.

Council Member Ryan stated that ordinance numbers were not the same as the File ID numbers listed on the agendas and asked if it was possible for the numbers to be the same in order to facilitate searching for documents.

Mayor Watts stated that the State of the City would be on February 15.

Mayor Watts asked about the traffic signal at the intersection of Fulton and Crescent by Denton High School and that it was no longer there.

With no further business, the meeting was adjourned at 7:45 p.m.

CHRIS WATTS
MAYOR
CITY OF DENTON, TEXAS

JANE RICHARDSON
ASSISTANT CITY SECRETARY
CITY OF DENTON, TEXAS