

CITY OF DENTON CITY COUNCIL MINUTES

November 5, 2013

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, November 5, 2013 at 3:00 p.m. in the Council Work Session Room.

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

ABSENT: Mayor Burroughs

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 5, 2013.

Council Member Gregory stated that Consent Agenda Items C, D and E were agreements for buying interlocal purchases with other cities. He questioned if other cities entered the same kind of agreements with the city of Denton.

City Manager Campbell stated that it did happen and that just recently another city had entered into an agreement with Denton for technology services.

The Council convened in a Closed Session at 3:07 p.m. to consider the following:

1. Closed Meeting:

A. Deliberations regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorney - Under Texas Government Code Section 551.071.

1. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the potential purchase of certain real property interests located in the T. Toby Survey, Abstract No. 1288, City of Denton, Denton County, Texas, and generally located along the west side of North Locust Street between Hercules Lane and Loop 288. 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.
2. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the potential purchase of certain real property interests located in the James Perry Survey, Abstract No. 1040, John Scott Survey, Abstract No. 1222, John Bacon Survey, Abstract No. 1541, and the John Davis Survey, Abstract No. 326, City of Denton, Denton County, Texas, and generally located along Western Boulevard between Airport

Road and Jim Christal Road. Consultation with the City's attorneys regarding legal issues associated with the potential acquisition and condemnation of the real property described above where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation.

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

1. Consultation with the City's attorneys regarding legal advice pertaining to street maintenance fees where a public discussion of this legal matter would conflict with the duty of the City's Attorneys to the City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.
2. Consult with City's attorneys regarding legal issues and legal challenges arising out of municipal ordinances regulating the operation and location of credit access businesses, including Denton ordinance 2013-073 and possible amendments thereto, as well as the status and strategic considerations associated with litigation pending in the 16th District Court of Denton County, Texas styled ACE Cash Express v. City of Denton, cause no. 2013-10564-16.
3. Consult with and provide direction to City's attorneys regarding legal issues and strategies associated with Gas Well Ordinance regulations and Fire Code regulations relating to gas well drilling and production and safety issues regarding 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/or impacts of federal and state law and regulations as it concerns municipal regulatory authority and matters relating to enforcement.

Following the completion of the Closed Session, the Council returned to the Work Session items.

3. Receive a report, hold a discussion, and give staff direction regarding the proposed 2014 Bond Program.

Chuck Springer, Director of Finance, stated that the formal agenda contained an item for the beginning of appointments to the Bond Committee. The actual resolution would be considered at the November 19th Council meeting. The Communication Program would include information on the city website, a press release, information on social media, eNews Group, DTV and the Employee newsletter. Direction from the Council was to form a 50 member committee with 7 members appointed by each council member. It was not determined if the Council would appoint the chair.

Mayor Pro Tem Kamp stated that was what had been done with prior bond committees.

Council Member Engelbrecht questioned if there were co-chairs in the past.

Mayor Pro Tem Kamp stated that historically only one chair was appointed in the past. Because of the size of the committee, subcommittees were often used.

Council Member Engelbrecht stated that he would like to keep the idea open for co-chairs.

Council Member Roden stated that he would like to have the Council appoint the chair. Council should keep each other informed of the names they were considering.

Council Member Engelbrecht questioned if the names could be submitted to staff.

City Manager Campbell suggested submitting the names to the City Secretary.

Council Member Roden stated that he would be looking for diversity in his appointments.

Mayor Pro Tem Kamp stated that she would be seeking people who might not have thought to submit an application but who would be a good addition to the committee.

Council Member Gregory stated Council should take into consideration the applications which had been submitted but because this was such an important issue, there was a need for diversity on the committee. The committee would also be explaining the bond program to the public so individuals needed to be representative of the community.

Springer stated that the Committee Charge included the following projects: (1) Fire Stations #3 and #4 reconstruction; (2) \$12 million for street reconstruction, and (3) Magnolia Street Drainage Phase 2 – Hinkle Project.

Council Member Roden stated that he was taken off guard by the third item on the construction list, the Magnolia Street Drainage Phase 2. He didn't remember adding that item that high in the list.

Howard Martin, Assistant City Manager, stated that it did not make sense to do Hinkle Drive if the underlying drainage was not done. That had been discussed at the prior Council planning session. He didn't want all of the projects to be Council driven, he want them to be citizen driven.

Council Member Gregory requested a list of individuals who served on the prior bond committee in order to have some continuity on the new committee.

Council Member Engelbrecht also requested the list of members from the 2005 committee.

Springer asked if Council wanted to remove the Hinkle from the list.

City Manager Campbell stated that it would be indicated that these three items were suggestions from Council. A presentation would be made regarding the importance of the drainage project along with the street project on Hinkle.

Springer continued with the committee charge to focus on existing facilities and infrastructure; recommend the overall size, tax rate implications, and projects for the 2014 election; consider public art based on Council policy, and the committee would formally end on August 1, 2014.

4. Receive a report, hold a discussion, and give staff direction regarding a transportation user fee.

City Manager Campbell stated that this item would take about 30 minutes.

Consensus of the Council was to consider this item after the completion of the regular session.

Regular Meeting of the City of Denton City Council at 6:47 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. Proclamations/Awards

There were no proclamations/presentations for this meeting.

3. CITIZEN REPORTS

There were no citizen reports scheduled for this meeting.

4. CONSENT AGENDA

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

Ordinance No. 2013-305

- A. Consider adoption of an ordinance of the City of Denton, Texas authorizing the expenditure of funds for payments by the City of Denton for electrical energy transmission fees to those cities and utilities providing energy transmission services to the City of Denton; and providing an effective date (File 5388-Electrical Energy Transmission Fees for Fiscal Year 2013-14 in the total amount of \$2,856,319.94). The Public Utilities Board recommends approval (7-0).

Ordinance No. 2013-306

- B. Consider adoption of an ordinance authorizing the City Manager to execute a Cooperative Purchasing Program Agreement with the North Central Texas Council of Governments (NCTCOG) under Section 791.001 of the State of Texas Government Code, and to authorize the City of Denton to participate in the NCTCOG Cooperative Data Program; authorizing the expenditure of funds therefor; and declaring an effective date (File 5355-Cooperative Program Agreement with the North Central Texas Council of Governments for Cooperative Data Program (CDP) in the amount of \$6,000).

Ordinance No. 2013-307

- C. Consider adoption of an ordinance of the City of Denton authorizing the City Manager or his designee to execute a contract with the Houston-Galveston Area Council of Governments (H-GAC) for the acquisition of one (1) flushing/vacuum truck for the City of Denton Wastewater Collections department; and providing an effective date (File 5393-Purchase of Vacuum/Flushing Truck awarded to Rush Truck Center, Houston in the amount of \$98,572 for the cab/chassis and GapVax, Inc. in the amount of \$197,475 for the truck body for a total award of \$296,047). The Public Utilities Board recommends approval (7-0).

Ordinance No. 2013-308

- D. Consider adoption of an ordinance authorizing the City Manager to execute an Interlocal Cooperative Purchasing Program Agreement with the City of DeSoto, Texas under Section 271.102 of the Local Government Code, to authorize City of Denton contracts for the purchase of various goods and services; authorizing the expenditure of funds therefor; and declaring an effective date (File 5368-Interlocal Agreement with the City of DeSoto).

Ordinance No. 2013-309

- E. Consider adoption of an ordinance authorizing the City Manager to execute an Interlocal Cooperative Purchasing Program Agreement with the North Central Texas Council of Governments (NCTCOG) under Section 791.001 of the State of Texas Government Code, to authorize City of Denton contracts for the purchase of various goods and services; authorizing the expenditure of funds therefor; and declaring an effective date (File 5387-Interlocal Agreement with the North Central Texas Council of Governments for Electronic Warrant Payment Services).

Ordinance No. 2013-310

- F. Consider adoption of an ordinance of the City of Denton, Texas authorizing the City Manager to execute an agreement between the City and Fred Moore Day Nursery School to provide Community Development Block Grant funds for improvements to the facility at 821 Cross Timber Street, Denton, Texas; authorizing the expenditure of funds therefore, not to exceed \$268,400; and providing for an effective date.

Ordinance No. 2013-311

- G. Consider approval of the Public Art Committee's recommendation to select Christie Wood as the artist for the sculpture of Pops Carter as public art for the

City of Denton; and declare an effective date. The sculpture will cost \$29,200 and will be consistent with the City of Denton Public Art policy approved by Resolution R2013-021, and be funded with Hotel Tax revenues previously authorized and encumbered for such purpose. The Public Art Committee recommends approval with a vote of 6-0.

Ordinance No. 2013-312

- H. Consider adoption of an ordinance of the City of Denton, Texas, authorizing the Mayor to execute a Second Amendment to Interlocal Cooperation Agreement Street Right-of-way Use License (the "Amendment"), between the Denton County Transportation Authority ("DCTA") and the City of Denton, Texas ("CITY"), as attached hereto and made a part hereof as Exhibit "A", the amendment amending that certain Interlocal Cooperation Agreement Street Right-of-way Use License ("Interlocal Agreement"), by and between the City and DCTA, Amendment providing for additional street right-of-way of the CITY to DCTA to construct, operate and maintain bus shelters and related bus passenger amenities in locations more particularly described in the Amendment; and providing for an effective date.

Ordinance No. 2013-313

- I. Consider adoption of an ordinance of the City of Denton, Texas authorizing the City Manager or his designee to execute a Contract of Sale (herein so called), as attached hereto and made a part hereof as Exhibit "A", by and between North Locust Properties, LLC (the "Owner"), and the City of Denton (the "City"), regarding the sale by Owner and purchase by the City of a 2.493 acre tract of land, more or less, situated in the T. Toby Survey, Abstract No. 1288, in the City of Denton, Denton County, Texas, as more particularly described in Exhibit "A" to the Contract of sale (the "Property Interests"), for the purchase price of One Hundred Seventy Two Thousand Seven Hundred One and no/100 dollars (\$172,701.00) (the "Purchase Price") authorizing the City Manager, or his designee, to make an offer to purchase the property interests from the Owner for such purchase price, and execute and deliver any and all other documents necessary to accomplish closing of the transaction contemplated by the Contract of Sale; authorizing the expenditure of funds therefore, and providing an effective date. (The Public Utilities Board recommends approval (7-0).

Ordinance No. 2013-313

- J. Consider adoption of an ordinance of the City of Denton, Texas, nunc pro tunc, correcting an inadvertent mistake in Ordinance No. 2004-233 relating to the authority of the Historic Landmark Commission, specifically its adoption of Section 35.7.6.10d of the Denton Development Code; providing for a penalty in the maximum amount of \$2,000.00 for violation thereof; providing for severability, savings and supersedure; and providing for an effective date.

Ordinance No. 2013-314

- K. Consider adoption of an ordinance authorizing the City Manager to execute an Interlocal Cooperative Purchasing Program Agreement with the University of North Texas Murphy Center for Entrepreneurship under Section 791.001 of the

State of Texas Government Code, to authorize City of Denton contracts for the purchase of various goods and services; authorizing the expenditure of funds therefor; and declaring an effective date (File 5382-Interlocal Agreement with the University of North Texas Murphy Center for Entrepreneurship for Leadership Development Training in the amount of \$26,400).

5. ITEMS FOR INDIVIDUAL CONSIDERATION

- A. Consider appointments to the Citizens Bond Advisory Committee for the proposed 2014 Bond Election.

Chuck Springer, Director of Finance, stated that as discussed in the Work Session, this was the Council's first opportunity to make appointments to the Citizens Bond Committee. The item would be listed again on the November 19th Council agenda.

Council Member King appointed Tim Crouch, Greg Johnson, Gus Seligmann, and Reggie Hill.

Council Member Hawkins appointed Joe Alford, Scott Campbell, Glenn Ferris and Larry Parker.

Council Member Engelbrecht appointed Karen DeVinney and Alex Lieban.

Council Member Roden appointed Keith Shelton, Kimberly Villareal-Sagert and Collette Johnson.

Mayor Pro Tem Kamp appointed Randy Robinson, Hank Dickinson, Elisa Stevenson, and Mary Ann McDuff.

Council Member Gregory appointed Dale Tampke, Janet Shelton and Sharon Barnhill.

Council Member Roden point out the Committee would consist of 50 members and that the information concerning the committee was listed on the website.

First Reading

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

Phil Williams, Executive Director-DME, stated that Denton would be entering into a franchise agreement with the city of Corinth in order to provide electrical services within Corinth's city limits. As this was a franchise agreement, three readings were required. This item would appear on the next two Consent Agendas for consideration.

No action was required on this item at this time.

6. PUBLIC HEARINGS

- A. Hold a public hearing and consider adoption of an ordinance regarding a rezoning of approximately 75.3 acres from Neighborhood Residential 2 (NR-2) to a Neighborhood Residential 3 (NR-3) zoning district. The subject property is generally located on the south of Ryan Road, north of the Kansas City Southern Railroad, approximately 950 feet east of FM1830 and approximately 800 feet west of Forrest Ridge Road. (Z13-0006) The Planning and Zoning Commission recommends approval (6-1).

Brian Lockley, Director of Planning and Development, presented the information on this rezoning case. The applicant was requesting the rezoning of the property from Neighborhood Residential 2 to Neighborhood Residential 3 zoning district. If the rezoning request was approved, the applicant had indicated a desire to develop the area into a single-family home subdivision. There were several site constraints that reduced the developable area. The western portion of the property contained a gas well and frac-water pond permitted in 2011. There were also other gas wells on the property that had been approved but at this time had not been drilled. Any development on the site would need to meet the setback requirements from the existing gas wells of 250 feet per the Denton Development Code. The applicant was in the process of negotiation of the surface rights/mineral rights. He reviewed the future land use, current zoning, site photos of the property, and an analysis of the criteria. Neighborhood concerns included increased traffic, school overcrowding, and increased density. The Planning and Zoning Commission recommended approval 6-1. The dissenting vote was in regards to the traffic in that area. The Development Review Committee recommended approval of the request.

Mayor Pro Tem Kamp asked if Ryan Road would be widened.

Lockley replied correct.

Council Member Gregory asked for an explanation in the difference in the number of homes to be constructed with NR-2 versus NR-3.

Lockley stated that the difference would be based on the density of the property. NR-3 would be 3.5 units per acre that could be developed.

Council Member Gregory questioned the ingress/egress to property.

Lockley stated that there would have to be a secondary access to be provided in addition to Ryan Road.

Council Member Gregory asked if there was something that could be done either with this rezoning case or in the future that would notify a future property owner regarding the gas wells.

Lockley stated that the gas well plats would be approved so that as it became part of the plat, the property owner would be able to find the approved plat. The negotiations of the surface rights should also be recorded as a way to notify potential property owners of the wells.

Council Member Roden asked who on the Planning and Zoning Commission was concerned about the traffic.

Lockley stated that it was Chair Schaake.

Council Member Roden asked if there were permits for more gas wells in process.

Lockley indicated on the site plan the gas wells being drilled, the sites not drilled and wells not on the site. There were two wells adjacent to but not on the site.

Council Member Roden asked if “not drilled” meant allowed on the site but not permitted.

Lockley stated that they were platted for the development but not permitted.

Council Member Roden asked about additional requirements that were allowed to be added to a zoning case.

City Attorney Burgess stated that the new gas well drilling ordinance had setback requirements.

Council Member Roden asked about notifications to potential property buyers including the option of signage.

City Attorney Burgess stated Legal had looked into drafting an ordinance to require some type of notice in the Development Code. For now, the suggestion of giving notice through the plat notice would meet some of the concerns from the Council and the public.

Council Member Roden asked if, as the applicant moved forward, he would have to come back before Council or the Planning and Zoning Commission.

Lockley stated not for the zoning, but would have to come before the Planning and Zoning Commission for the plat.

Council Member Hawkins questioned the 3.5 maximum homes per unit.

Lockley stated that was the maximum, because then it got into the right-of-way dedication and other issues.

Council Member Engelbrecht stated that if the zoning was approved, could the Council still discuss the plat notes before that plat went before Planning and Zoning Commission.

Lockley replied correct.

Council Member Engelbrecht stated that the language on there was very important. He wanted to make sure when a title search was completed, that it would lead to the gas well notes.

Lockley stated that there were standard notes for plats but additional note requirements could be added.

Council Member Gregory asked if the home owners would see the plat notes or would that be in the documents signed at closing.

Lockley stated that the potential buyer would get a survey with the dimensions of their lot and their house. However model homes, etc. sometimes included the additional information. They could always go to the County and pull the plat themselves. There were not a lot of other options that he was aware of for those conditions.

The Mayor Pro Tem opened the public hearing.

The following individuals spoke during the public hearing:

Thomas Fletcher, Engineer with Kimley Horn, spoke in favor. He discussed the issue of access. They had been working with the DISD to resolve the issue of access to the west of the elementary school. In order to meet the fire code additional access points would be required. He stated that the proposed development was consistent with the neighboring area and fit within the existing uses in that area and the Denton Plan. Regarding the gas well ordinance, the maximum density would be 263 versus 150 with the NR-2. Regardless of NR-2 or NR-3, the development would have to meet the setback requirements of the gas well ordinance.

Council Member Gregory asked if Creekdale would be widened to make it more into a fully functional street.

Fletcher stated that the road would be widened with a 65 foot right-of-way which they would be dedicating the additional right-of-way to meet the requirement.

PS Arora, Wastewater Division Manager, stated that based on the mobility plan Ryan Road would be secondary arterial street so it would be widened.

Council Member Gregory questioned the gas well sites.

Fletcher stated that the two gas well sites located within the boundaries were never drilled or used. The surface rights for those wells had expired and because of that, they had to obtain surface waivers.

Council Member Roden questioned that the total distance was between the existing gas well site that was not on the property and the houses.

Fletcher stated that the existing well site was on the property. He identified the existing well site and the proposed residential development. Within the plat the gas well would have to meet the standards of the ordinance.

Council Member Roden questioned if the development would be planned to go as close to the well site as possible.

Fletcher stated that they were in the development phases of the site plan and that there might be some buffer built in. There would not be a large buffer in addition to the requirement. The gas well was on a 7 acre tract by itself which included the floodplain and the frac pond.

Council Member Hawkins stated that there would be no home within 1200 feet of the gas well.

Fletcher stated that the ordinance allowed for residential development within 250 feet of the approved site plan. The 1200 foot separation had to do with drilling a new well.

Mayor Pro Tem Kamp stated that it was a matter of which was developed first.

Council Member King stated that the property was already zoned residential and the proposal was for a different residential zoning.

Fletcher replied correct.

Dotty Thompson, 440 W Ryan Rd., Denton, 76210 – opposed.

Tara Linn Hunter Long, 804 W Hickory St., Denton, 76201 - opposed

Cathy McMullen, 805 Ector St., Denton, 76201 – opposed.

Brendan Carroll, 2223 Houston Place, Denton, 76201 – opposed.

Mayor Pro Tem Kamp reminded citizens that this was a zoning case and the zoning of the property.

Rachel Brewers, 4529 Lacewood Dr., Denton, 76201 - opposed

The Mayor Pro Tem closed the public hearing.

Council Member Hawkins stated that he would be voting in favor of the zoning case. This was a zoning case requesting a change in residential zoning. Changing the designation would match the zoning in the surrounding area. He hoped that future buyers would be aware of the potential of buying a home in a gas well area but this was a zoning case.

Council Member Roden questioned if the developer would be willing to set back the nearest house to 1200 feet to the well site.

Fletcher stated that if the nearest house was set back 1200 feet, there would not be any development. If that were the case, they would be better off to not even request the zoning change as currently with their existing zoning, they would be able to build homes within 250 feet of the well.

Council Member Gregory stated that the zoning change would increase the density by 75%. He was having trouble with the increased density as the homes across the street were NR-2.

Fletcher stated that the Denton Plan discussed having a variety of uses and trying to build a well balance of various uses.

Council Member King reminded citizens this was not a gas well case. This was residential zoning to residential zoning. Adding houses around the school seemed logical, especially since the developer had been working with the DISD.

Mayor Pro Tem Kamp stated there was more NR-4 adjacent to the property.

Council Member King motioned; Council Member Hawkins seconded to adopt the ordinance.

Council Member Gregory stated that there were many State regulations that were tilted in favor of the mineral rights owners. Individuals should investigate their home ahead of time to determine if there were special circumstances surrounding it. The current State regulations put this Council in a difficult situation.

Council Member Engelbrecht stated that he would not be voting in favor of this request. He did not see a reason to increase the number of homes to be in close proximity of this well.

On roll vote: Mayor Pro Tem Kamp "aye", Council Member Engelbrecht "nay", Council Member Gregory "nay", Council Member King "aye", Council Member Roden "nay", and Council Member Hawkins "aye". Motion failed with a 3-3 tie.

City Attorney Burgess stated that the motion failed as it was a tie vote.

- B. Hold a public hearing, hold a discussion, and give staff direction regarding the 2013 Water and Wastewater impact fee study.

PS Arora, Wastewater Division Manager, presented the wastewater portion of the proposal. He stated that this would be a brief review of the more detailed presentation that was done in a prior Work Session. Currently there were two zones for the wastewater impact fees. He presented the projects which would be included in the CIP program along with the infill zone information. Staff recommended moving forward with a having only one zone, combining Zone 1 and Zone 2 with a \$2,200 fee. The Public Utilities Board and the Capital Improvements Advisory Committee both agreed with that recommendation.

Council Member Gregory asked if there was change in the recommendation since the last Work Session.

Arora replied no.

Tim Fisher, Water Division Manager, stated that he, too, had made a more detailed presentation at a prior Work Session and this presentation would be a review of that presentation. There were two recommendations on the water proposal. One was from the Capital Improvements Advisory Committee and one from the Public Utilities Board. Staff planned to return on November 19th with the ordinance for Council consideration. The maximum recommended impact fee for Zone 1A (Infill) was \$3,167, for Zone 1B (no Infill) was \$5,250 and for Zone 2 was \$5,753.

Mayor Pro Tem Kamp opened the public hearing.

No one spoke during the public hearing.

Mayor Pro Tem Kamp closed the public hearing.

Mayor Pro Tem Kamp stated that no action was required on this item at this time.

Mayor Pro Tem Kamp stated that Council needed to take action on Individual Item 5B.

Council Member Roden motioned, Council Member Engelbrecht seconded to adopt the ordinance. On roll call vote: Council Member Engelbrecht, Mayor Pro Tem Kamp, Council Member King, Council Member Hawkins, Council Member Gregory, Council Member Roden - aye". Motion carried unanimously.

- C. Hold a public hearing and consider approval of the proposed siting of an electric substation located east of Masch Branch Road and approximately 0.3 miles south of FM 1173 in the northwestern area of Denton Municipal Electric's certificated service territory, in Denton County, Texas.

Brent Heath, Executive Manager of Energy Delivery, presented the background information on this project. The project would construct a new substation near the northwest corner of the Texas Municipal Power Agency 138kV transmission loop to allow interconnection of Oncor and TMPA lines. The interconnection was necessary to provide a new 138kV source for the Denton area. A public meeting was held on September 5th with nine people attending. Four of the six comment cards completed were in favor of Option 1. Existing and proposed photos were provided. Staff and the Public Utilities Board recommended approval of Option 1.

The Mayor Pro Tem opened the public hearing.

Sharon McKee 2009, Vintage Circle, Krum - questioned information about an easement and its requirements.

Phil Williams, General Manager-DME, stated that the project would be an intersection with the Oncor line. The existing TMPA line would stay in place. The Oncor line would be on north side of Ms. McKee's property and TMPA line was on south side of the property.

Mayor Pro Tem Kamp asked Williams to meet with the property owner to answer her questions.

The Mayor Pro Tem closed the public hearing.

Council Member Gregory motioned, Council Member King seconded to approve Option One. On roll call vote: Council Member Engelbrecht, Mayor Pro Tem Kamp, Council Member King, Council Member Hawkins, Council Member Gregory, Council Member Roden – "aye". Motion carried unanimously.

7. CITIZEN REPORTS

There were no citizen reports for this 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 Roden requested that the Council review the 250 foot setback from the surface owner to the gas well.

Council Member Hawkins stated that the Police Chief of Gainesville passed away while on duty. He acknowledged his dedication to the job and the City of Gainesville in their loss.

Council Member Engelbrecht read a statement regarding information the Council had received from citizens in the area of Bonnie Brae and Vintage Blvd. regarding gas wells. He informed citizens that Council had this item in Closed Session and certain actions were directed to staff. He had requested additional information for discussion to be placed on the November 19th agenda.

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

There was no continuation of the Closed Meeting.

Following the completion of the Regular Session, the Council returned to the Work Session to consider the item listed below.

4. Receive a report, hold a discussion, and give staff direction regarding a transportation user fee.

Jim Coulter, General Manager of Water, Wastewater and Streets, provided the background information on this topic. Denton currently had 232 million street trips each year on city streets. It was that traffic and that deterioration that currently was not regulated. In August, Chuck Springer, Director of Finance, reviewed increased street maintenance fee options. One of those options was a dedicated street maintenance fee. Staff had looked at a number of different cities throughout the State and currently Austin, Bryan and Corpus Christi all paid street maintenance fees. Residential, multi-family and commercial fees per month information for all three cities

were presented. Coulter provided example of fee calculations for various entities and stated that whatever the fee was, it should be equitable for all.

Engelbrecht stated residents were using the superstores etc, and questioned if the proposal would charge double for these places.

Coulter stated that the traffic engineers had factors that they used for trip generation.

Council Member Roden questioned if the City would assess the universities these user fees.

Coulter stated that the recommendation would be to not exempt any organization from the fee.

Council Member Gregory asked if churches or public schools would be included.

Coulter stated that Corpus Christi included schools but had elected not to do universities. Denton staff tried to include everyone in the process.

Council Member King stated that he appreciated the math and the way it worked out. It just seemed like more of a tax to him. The norm seemed to be to raise rates and charge more instead of finding other ways to go about it.

Council Member Roden questioned if exemptions for people with no cars had been considered. Those people would be using public transportation.

Coulter stated that staff had looked at the Austin ordinance as they had exemptions for some of those situations. Even if a person did not own a car, there were other options such as deliveries, mail, and newspaper delivers that a homeowner might use that were not associated with an automobile.

City Attorney Burgess stated that Austin allowed a provision for a citizen to come forward if he did not have the impacts that would cause him to pay these fees.

Council Member Engelbrecht questioned what revenue would this bring.

Coulter stated that using the model and rate schedule, it would be approximately \$8 million a year. He also noted that there was still a \$4-\$5 million decline each year. To get enough funds for the annual deterioration, the need was to have at least \$12 million per year. Staff was recommending between \$8-\$12 million per year of additional funding be considered as a target for the maintenance fee to effectively improve the condition of the roadway system.

Council Member Gregory felt that the options were to continue to let the roads deteriorate, to increase revenue or to cut services to generate the funds needed. He felt that most of the residents would understand that the roads needed to be improved and that cost.

Coulter stated that the Corpus Christi program involved a 16-18 month process. Many staff hours were involved in the development of the program. Using the Corpus Christi model, Denton's time would probably be less as Corpus Christi had to build it from the beginning.

Council Member King questioned if Denton went down this route, would the \$5 million be asked for each year.

Coulter stated that these funds would go towards maintaining the good streets that could be saved without needing to go into big construction.

Mayor Pro Tem Kamp stated that Council had asked staff to develop a variety of methods for raising these funds.

Council Member Roden felt that the City could not be debt financing all the time to meet the goal but could not get all of the money from the General Fund at one time. He questioned if an incremental program rather than an all-out program at the beginning could be considered. He questioned what could be done to increase the funding incrementally each year without doing it all at once.

Mayor Pro Tem Kamp stated that incremental funding could be done now and be included in the five year plan.

Coulter stated that there was a long term performa that included some of that type of financing.

Council Member Hawkins asked if any of the noted cities had taken this issue to the voters or did the Council decide in each case.

Coulter stated that none of the four cities noted took the issue to an election but one other did and it failed. He noted that if the funding were delayed, more ground would be lost each year and the amount of money needed would continue to grow.

With no further business, the meeting was adjourned at 9:06 p.m.

MARK A. BURROUGHS
MAYOR
CITY OF DENTON, TEXAS

JENNIFER WALTERS
CITY SECRETARY
CITY OF DENTON, TEXAS