

CITY OF DENTON CITY COUNCIL MINUTES

May 10, 2011

After determining that a quorum was present, the City Council convened in a 2" Tuesday session on Tuesday, May 10, 2011 at 4:00 p.m. in the City Council Work Session Room.

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

ABSENT: None

1. Receive a report and hold a discussion regarding the potential purchase and renovation of the Golden Triangle Mall.

Linda Ratliff, Director of Economic Development, stated that the Herring Group and Weitzman Group, two Dallas area retail developers, were currently in negotiations with Chase Bank regarding a possible joint purchase of the Golden Triangle Mall. Staff was currently meeting with Herring and Weitzman regarding a possible public/private partnership.

Gar Herring, Herring Group presented information on the current state of the mall, a renovation plan, case studies of other malls they had worked with, and the possibility of a public/private partnership. He reviewed the background of the Herring Group and presented previous projects in the area they had been involved with such as Allen, McKinney and Cedar Hill.

Herb Weitzman, Weitzman Group, presented information indicating their commercial real estate brokerage services.

Herring stated that a strong fundamental of the mall was the location and felt that it was the best real estate in Denton with a site plan that still worked. Past practices for the mall had been very limited capital improvements to keep the mall competitive in terms of the exterior appearance, common areas, property signage and tenant storefronts which were outdated and tired. Chase Bank hired the Weitzman Group to oversee the leasing and management of the mall since September 1, 2010. The mall had major retailers with short term leases and without substantial investment, the mall would continue with fractured ownership of parcels. Their goal was to make mall shopping, dining and entertainment a destination for all of Denton.

Their plan to make the mall new again involved renovation projects so as to be exciting, different and modern; bringing in new and stronger shops and restaurants. A renovation plan would consist of (1) constructing a new exterior facade; (2) redesign and enhance mall entrances; (3) upgrade the landscaping; (4) renovate the mall common area with new lighting, flooring and furniture; (5) update tenant storefronts and interiors to match the newest prototypes; (6) install new proper signage; and (6) secure long-term commitments from the anchor stores. A renovation study showed that national fashion tenants were needed, more sit down restaurants, entertainment, fast casual dining, and securing significant renovations of the anchor stores.

Without a major renovation, the sales and property tax base for the mall and adjacent properties would continue to erode at an accelerated pace. A public/private partnership, in the form of an economic development agreement, was being considered that would involve a site plan, design, platting variances, signage, code compliance, etc. A public/private partnership would look at what was best for the mall. Redevelopment needed to achieve minimum acceptable returns for investors and those economic returns had to be competitive with similar investments. The current plans did not achieve that minimum acceptable return void which an economic development agreement would fill.

Herring continued that components of an economic development agreement were different for a mall than for a ground up development and traditional incentives in other economic development agreements might not be applicable. Current Chapter 380 agreements were a performance based package. Their proposal had no upfront cash requested from the City but did ask for City participation in upfront costs of certain projects with direct public benefits such as parks. The economic development agreement might contain types of incentives and terms that were unique and creative to this situation.

Mayor Burroughs asked if the time frame for the incentives would be brought forward soon.

Herring stated correct as they were trying to get a quick time frame to present the proposal.

Council Member Engelbrecht noted that the plan did not include the expansion of any of the facilities and that it was a common complaint that the stores were undersized.

Herring stated that they had talked to several stores about increasing size.

Council Member Heggins asked about bringing in upscale stores that other areas did not have.

Herring stated that would make the merchandizing level significantly higher. They did not want to overshoot the market by out-pricing what consumers could buy. They wanted strong national brands but also local unique brands that would survive.

Council Member Heggins asked about the possibility of adding a second floor to the mall.

Herring stated that there were constrictions in doing that because of the parking ratio. Parking decks would have to be built which were very expensive and the mall did not receive enough rent to offset the cost of parking spaces.

Council Member Gregory asked how the mall saw itself in relationship to Rayzor Ranch.

Herring stated that he was focused on Golden Triangle Mall, securing stores there and picking up new people. There were still lot of retailers who wanted to come to the Denton market. Some of those could come to the mall.

Council Member Gregory asked if the current anchors at the mall might leave for Rayzor Ranch.

Herring stated competition might result in that. Retailers wanted to be in the Denton market but the Golden Triangle Mall was not currently where they wanted to be.

Mayor Burroughs noted that the sales at the mall were much less over the past 10 years. He felt that it was not that there were fewer people or less demographics, it was just that people were not shopping in Denton. There was a lot of sale potential in Denton.

Following the completion of the Work Session, the City Council convened in a Special Called Meeting.

1. Consider adoption of an ordinance on first reading to voluntarily annex approximately 1.148 acres of land located within the City's Extraterritorial Jurisdiction (ETJ) in accordance with Chapter 43 of the Texas Local Government Code. The site is located on the west side of Country Club Road; just north of the Education Center at Denton; between Ryan Road to the north and Brush Creek Road to the south. The Planning and Zoning Commission recommends approval (5-0). (A11-0001)

Mark Cunningham, Director of Planning and Development, stated that there had been two previous public hearings on the proposal. The property was part of DH-5 which was annexed on May 4, 2010 and which was subject to a non-annexation agreement. Section 5A of the agreement, governing the subject property, stated that if the owner filed an application or plan of development or otherwise commenced development on any portion of the property inconsistent with the Development Plan provided in Section 2, then Sections 1 and 3 of the agreement would be void. The development done on property was inconsistent with the non-annexation agreement but a service use agreement was already in progress when the non-annexation agreement was done. Staff was not recommending annexation of the entire site, just a small portion of a parking lot which would be considered the new development. The second reading of the ordinance would be on June 5, 2011.

Council Member King asked if the road work that was required could be done so as to be affordable for the property owners.

Cunningham stated that as staff went through the review process, they would consider all options.

Mayor Pro Tem Kamp motioned, Council Member Engelbrecht seconded to adopt the ordinance. On roll call vote, Council Member King "aye", Council Member Watts "aye", Council Member Heggins "aye", Council Member Gregory "aye", Council Member Engelbrecht "aye", Mayor Pro Tem Kamp "aye", and Mayor Burroughs "aye". Motion carried unanimously.

2. Consider a request for an exception to the Noise Ordinance for the level of decibels and the hours of operation for the purpose of a fundraiser with live music on Saturday, May 21, 2011 at a residence located at 1000 Myrtle Street. The fundraiser will benefit the start-up of an independent publication. The exception is requested for extension of the hours of operation for amplified sound from 10:00 p.m. to midnight and for the level of decibels to be increased from 70 decibels to 80 decibels. Due to residential property located east of the event location, staff recommends allowing amplified sound until midnight with sound levels not to exceed 70 decibels.

Emerson Vorel, Director of Parks and Recreation, showed a picture of the property illustrating where the location was and the surrounding businesses. He stated that there were no homes located on the block requested for the fundraiser. The music would end by midnight with approximately 100 guests expected.

Council Member Engelbrecht motioned, Council Member Heggins seconded to approve the staff recommendation to allow amplified sound until midnight with sound levels not to exceed 70 decibels. On roll call vote, Council Member King "aye", Council Member Watts "aye", Council Member Heggins "aye", Council Member Gregory "aye", Council Member Engelbrecht "aye", Mayor Pro Tem Kamp "aye" and Mayor Burroughs "aye". Motion carried unanimously.

3. 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.

There were no items suggested by Council.

Following the completion of the Special Called Meeting, the City Council convened in a Closed Meeting to consider the following:

1. Closed Meeting:

A. Consultation with Attorneys -Under Texas Government Code, Section 551.071.

1. Consultation, discussion, deliberation, and receipt of information from the City's attorneys regarding potential litigation with Denton County Electric Cooperative, Inc. d/b/a CoServ Electric and CoServ Gas, Ltd. relating to disputes concerning franchise issues, where public discussion of 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.
2. Consultation, discussion, deliberation, and receipt of information from the City's attorneys regarding Oncor Electric Delivery Company relating to proposed increase in rates, where public discussion of 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.

With no further business, the Mayor reconvened the Open Meeting and adjourned in Open Session.

MARK A. BURROUGHS
MAYOR
CITY OF DENTON, TEXAS

JENNIFER WALTERS
CITY SECRETARY
CITY OF DENTON, TEXAS