

CITY OF DENTON CITY COUNCIL MINUTES

March 3, 2015

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, March 3, 2015 at 1:00 p.m. in the Council Work Session Room at City Hall.

PRESENT: Mayor Pro Tem Engelbrecht, Council Member Gregory, Council Member Hawkins, Council Member Johnson, Council Member Roden, Council Member Ryan, and Mayor Watts.

ABSENT: None.

1. Citizen Comments on Consent Agenda Items

There were no citizen comment cards submitted.

2. Requests for clarification of agenda items listed on the agenda for March 3, 2015.

Council Member Roden asked about Consent Agenda Item GG. He questioned how a determination was made in the legislative session on what to highlight using a resolution and what did not get a resolution.

Mayor Watts stated that he had requested the resolution at the request of the consultants in Austin.

John Cabrales, Assistant City Manager, stated that the City's legislative program contained many different issues. That program presented the guidelines for issues that were priorities. Within those guidelines were key issues including local control and the bill in question. The bill would erode local control thus the consultants requested the proposed resolution.

Council Member Roden felt that the item should be pulled from the Consent Agenda to highlight it. He questioned the resolution with Consent Agenda Item FF in terms of the boundary line going through Denton.

Cindy Jackson, Historic Preservation Officer, stated that the map was difficult to read but was definitely in Denton County.

Council Member Roden asked if there was any controversy surrounding this proposal.

Jackson stated that it was a very positive issue. The Historic Landmark Commission had recommended alternative Route B as did Denton County.

Council Member Johnson asked that Item I on the Consent Agenda regarding the LEEP Program be pulled for separate consideration. In regards to Item S on the Consent Agenda for the noise variance for University construction, he would like staff to think about this major project similar to Hickory Street. Businesses were receiving code violations for banners they put up to help customers find their business during the construction. He felt during times when businesses were adversely affected due to road construction, variances for banners or wind devices should be allowed to help citizens know the businesses were still open.

Mayor Pro Tem Engelbrecht noted that Consent Agenda Item S did not mention a limit on the noise level.

Emerson Vorel, Director of Parks and Recreation, stated that there was no maximum required and no recommendation by staff.

Mayor Pro Tem Engelbrecht requested that the item be pulled for separate consideration to add a limit on the noise level.

Council Member Roden noted that the item was more of a time of day request rather than a dB reading.

Mayor Watts stated that Items I, S and GG would be pulled for separate consideration.

City Attorney Burgess stated that Council had individual non-annexation agreement packets associated with each of the items. A motion should include the additional non-annexation agreements.

3. Work Session Reports

Mayor Watts indicated that Item D on the Work Session would be considered first.

D. ID 15-189 Receive a report, hold a discussion, and give staff direction regarding the FY 2013-14 Comprehensive Annual Financial Report and annual audit.

Chuck Springer, Director of Finance, presented the results of the report which contained positive results of the audit and no management comments indicating concerns with internal controls over the finances of the City. The unassigned balance in the General Fund went up slightly and ended strongly.

Sara Weager, representing the outside auditing firm Dempsey, stated that the audit was a favorable audit with an unmodified opinion and no material weaknesses on the Internal Control report. There was also an unmodified opinion on the federal programs.

A. SI15-0002 Receive a report; hold a discussion and give staff direction on Planning and Development projects and priorities.

Brian Lockley, Director of Planning and Development, stated that this was the third presentation in a series of presentations regarding activities in the Planning Department. This presentation would deal with development projects and priorities. The discussion would center on Planning and Development Programs and Services, core functions and operations, project prioritization goals, project prioritization criteria, recommendations on projects and program priorities.

Core functions and operations of the different divisions were reviewed in terms of Development Services for the Planning Division; the Building Inspections Division; and Gas Well Inspections. Core functions and operations for Neighborhood Services included Community Improvement Services, Community Development, and the Neighborhood Planning Section.

City Council Committees and Boards and Commissions typically initiated projects for the Planning Division. Project Prioritization Goals helped ensure proper allocation of resources, maintain and improve service delivery to external and internal customers, achieve the goals of the Council and City Manager, establish a consensus on the priority of projects underway and present the breadth and depth of projects and Council's expectations for completion. The projects were prioritized by (1) projects that had made considerable progress towards completion, (2) projects that were committed to the Denton community, (3) projects that were funded, and (4) projects that had influence on other aspects of the organization.

Planning Division, Building Inspections Division, Gas Well Inspections, Community Improvement Services, Community Development, Neighborhood Planning, Development Services projects were reviewed.

Staff was requesting Council direction on projects and priorities for Development Services in the Planning Division, Building Inspections Division, Gas Well Inspection Division, as well as projects and priorities for Neighborhood Services in terms of Community Improvement Services, Community Development Services and Neighborhood Planning.

Council Member Johnson stated that in terms of neighborhood services, applications from the community were up drastically. He questioned who decided which requests to work on from boards and commission and directives from Council; who decided whether or not staff could do various projects.

Lockley stated that they did not have the resources to do everything. Several boards were working on various projects and were given a time frame when Planning could work on an item.

Johnson stated that in his opinion, staff should say to Council that given everything they had to do, they couldn't do something right now. He felt there should be a mechanism based on goals and directions from Council that staff should be able to say to a board/commission that they could not take that on.

Lockley stated that one of the goals of the presentation was to get Council direction on how to address the various situations from boards and commissions.

Council Member Johnson suggested Building Inspections consider a goal that would take into consideration different tracts for small and large developments. Given the volume of inspection and permit applications, he felt a goal was needed to look at processes from a customer's point of view and to use more technology to be able to complete inspections.

Council Member Roden suggested thinking about individual council member requests and to meet more with boards and commissions to find out what was important to their respective committee.

Council Member Gregory stated that if individual council members were creating extra reports and assignments, a procedure might be needed that the report or assignment would only be done if a majority of the Council was interested in that project. A report to Council could also be prepared from various Boards and Commissions to determine if Council wanted a project or report done.

Lockley continued with a review of the staff recommended projects and priorities for 2015.

Council discussed Building Inspections projects concerning food trucks in terms of Denton collecting sales tax from their sales, personal property tax and who inspected that it was being done.

Council Member Johnson suggested breaking the projects and priorities into smaller groups to get the tasks done rather than a larger group of projects. Create a list that could really get done or pull people out of daily tasks in order to get the projects completed

Council reviewed what projects were on the list and what projects were left off. Staff would prepare an Informal Staff Report with what was on and off the lists which would be presented at a future meeting.

B. SI15-0001a Receive a report; hold a discussion, and give staff direction regarding proposed criteria for Tree Fund Expenditures and initial tree planting projects.

Brian Lockley, Director of Planning and Development, stated this was a follow-up discussion to respond to Council questions. Staff was seeking direction on moving forward on various projects and amendments to the tree fund criteria.

Haywood Morgan, Urban Forester, stated that staff was requesting City Council direction on (1) proposed tree fund criteria, (2) five proposed expenditure projects, (3) additional funding authorization for Arbor Day celebrations, and educational material, (4) fall tree planting, and (5) approximate total amount of tree fund expenditures.

Tree Fund Expenditure Criteria – the proposed criteria included biannual distribution of existing and future tree fund dollars in percentages in terms of tree planting and maintenance, purchase of wooded property to preserve, city-wide tree inventory, education of citizens and developers, special considerations by permitted uses including performing and maintaining a city-wide tree inventory to identify hazardous trees, assist in city-wide planning for future insect and disease management, inventory activities that improve maintenance efficiencies and thoroughness of tree work on city properties.

Council Member Johnson stated that performing inventories was helpful but he was concerned about hiring an outside company to do the work.

Morgan stated that it might be possible to have the inventories done in conjunction with UNT students.

Council Member Johnson stated that the purpose of the tree mitigation fund was to replant trees or for education. He was concerned that there was a fund growing like crazy and the tendency was to use the funds for such items as studies but not for tree planting. He wanted to keep it to planting trees. If an inventory was done, the dollars should not come from this fund.

Council Member Roden stated that there was a difference between preservation and maintenance such as city liability. He was sure the City was already doing that but was not in favor of moving

it to take out of the tree fund. He was also concerned about the percentages which could be affected by how much was used each year. He suggested a cap on some of the percentages so as to not spend too much in certain areas.

Mayor Watts questioned that if the fund was to plant trees that had been removed, why was a city-wide inventory in there as well as education of citizens and developers. Those categories of funding needed to be capped at a nominal amount. He questioned if the fund was for a tree awareness environment or just to plant trees and suggested that it might be necessary to revisit the goals of the fund to make sure they were still relevant.

Council Member Ryan stated that he did not have a problem spending money on a stand of trees but felt it was important to look at what types of trees were in the stand. He felt it was necessary to watch the percentages to make sure they met the needs.

Council Member Johnson stated that he did not like percentages and felt that funds should be taken out only to purchase trees, purchase wooded property and only a small percentage for education. The purpose of the fund was not to educate people and developers and not to do a tree inventory. Other functions such as inventory or maintenance should not be coming out of the fund. It was for buying and planting trees.

Mayor Pro Tem Engelbrecht stated that he did not have a problem with a cap on education. In older neighborhoods where there were mature trees, there was the need to trim and manage the trees with little understanding on how to do the process. Education through a neighborhood area on how to manage the trimming of trees would be important in that instance.

Council Member Gregory questioned the maintenance as to whether it was removing stakes and not irrigating when it was no longer needed.

Morgan stated that a statement could be added that the maintenance would cover new tree maintenance.

Morgan reviewed the proposed planting projects for Carl Young Park, North Pointe Park, North Lakes East, North Lakes West and South Lakes Park. The projected cost of the plantings was \$394,078. Staff was suggesting that Carl Young and North Pointe Parks be done first and the others be done in fall plantings.

Council discussed manual versus automated watering costs and costs per tree.

Mayor Pro Tem Engelbrecht suggested studying different sizes of trees when planting as it might be better to consider two inch trees instead of three inch trees. He also suggested looking at places where trees could be moved from rather than being destroyed.

Morgan stated that the fifth expenditure for fall planting projects was still to be determined but also expanded Denton's Arbor Day events to purchase educational materials as needed. Educational materials would include growth award road sign, educational materials, on-campus Arbor Day plantings, Quakertown Park commemorative tree planting with a total estimated cost for 2014-15 at \$10,066.

Lockley stated that staff was looking for Council direction on the tree fund expenditure criteria and the related assigned percentages. He had heard that Council would like to leave the amounts open and not assign a percentage.

Council Member Johnson stated that he would recommend no percentages. Other than specific maintenance to the planting of a tree and education specific to growing the tree canopy no percentages would be used. Staff would use their expertise on when to plant, the types of trees to plant and get the trees planted.

Mayor Watts suggested using 95% for tree planting or purchase and 5% for education with staff using their expertise to do that.

Council Member Gregory stated that there would be no money for a future canopy survey.

Council Member Johnson stated that the funding would have to come out of another fund.

Council Member Gregory was in favor of proceeding with the staff recommendation and to have a report next year to see if modifications were needed.

Council Member Ryan suggested a minimum of 95% of the funds on tree plantings and buying of tree stands.

Council Member Johnson was agreeable with that recommendation.

Council Member Hawkins was in favor of that option. If KDB requested money for their project, Council could entertain that request.

Council Member Roden questioned if staff would be coming back every time there were expenditures for the fund.

Lockley stated that this proposal would set policy but staff was moving forward to get through the spring and fall plantings and then come back with an update on how the fund was being spent.

Council Member Roden stated that he would like a plan to get the plantings in the hands of private citizens.

Mayor Watts stated that the direction from Council was that at least 95% of the fund would go to planting trees and or buying tree land and the rest would be for education. A report was requested from KDB on what part would be 95% and what part 5% projects. Council was in favor of the five projects.

Council Member Johnson recommended spending a minimum of 50% of what came in the fund from the prior year. If there was going to be a fund, spend it on trees.

Consensus of the Council was to see how the fund was spent over the next year before agreeing to implement Council Member Johnson's recommendation. Council was in favor of the Arbor

Day additional funding and to have staff look at amendments to the DDC to allow planting on private property.

C. SI15-0009 Receive a report, hold a discussion and give staff direction regarding recommended revisions to Chapter 33 (Signs and Advertising Devices) of the Denton Code of Ordinances to define and regulate political signs, consistent with the limitations imposed by Texas Local Government Code §216.903, and Texas Election Code §61.003 and §85.036.

Lancine Bentley, Community Services Manager, stated that the revisions to the sign ordinance dealt with provisions for political signs. The current ordinance did not have a definition for political signs or limitations. She reviewed the background on state law and the current city regulations in terms of private property and polling places. The ordinance would codify what the state law already allowed.

Consensus of the Council was to proceed with drafting an ordinance.

Following the completion of the Work Session, the City Council convened in a Closed Meeting at 4:11 p.m. to consider the specific items listed below under the Closed Meeting section of this agenda.

1. Closed Meeting:

A. ID 15-186 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 further information regarding the purchase of certain real property interest located in and around the Township II area, and generally south and west of Colorado Blvd., south of Foxhollow, north and east of Angelina Bend Dr. and west of Valley Creek Rd. 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. (Township II Park Property Acquisition Project [Greenbelt Tracts 1,2,4] & [ID 15-187 Denton 68 Joint Venture])

This item was not considered.

B. ID 15-146 Consultation with Attorneys - Under Texas Government Code, Section 551.071.

Discuss, deliberate, and receive information from the City's attorneys pertaining to the legal consequences of negotiation and extensions of non-annexation agreements in areas of the City's extraterritorial jurisdiction, and provide the City's attorneys with direction, 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 or legal proceedings.

- C. ID 15-210 Deliberations regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071.

Receive information from staff, discuss, deliberate, and provide staff with direction regarding the potential acquisition of real property interests generally located in the G. Walker Survey, Abstract No. 1330, City of Denton, Denton County, Texas, for the construction, expansion and use of electric power transmission lines. Consultation with the City's attorneys regarding legal issues associated with the acquisition of the real property interests in the area 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.(Pockrus/Teasley TM line)[ID-15-209]

- D. ID 15-196 Deliberations regarding Consultation with the City Attorney - 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 a proposed economic development incentive agreement for Business Air (BAM Denton Management Ventures, LLC). This discussion shall include commercial and financial information the City Council has received from Business Air which the City Council seeks to have locate, stay, or expand in or near the territory of the city, and with which the City Council is conducting economic development negotiations; including the offer of financial or other incentive 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.

- E. ID 15-197 Deliberations regarding Consultation with the City Attorney - 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 a proposed economic development incentive agreement for West Gate Business Park (WGBP Investments, LTD). This discussion shall include commercial and financial information the City Council has received from West Gate Business Park which the City Council seeks to have locate, stay, or expand in or near the territory of the city, and with which the City Council is conducting economic development negotiations; including the offer of financial or other incentive 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 15-192 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 Jerry Patterson, Commissioner, Texas General Land Office v. City of Denton Texas, Cause No. D-1-GN-14-004628 currently pending in the 53rd District Court of Travis County and Texas Oil and Gas Association v. City of Denton, Cause No. 14-09833-431 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.

This item was discussed after the completion of the regular meeting.

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.

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 15-110 Severe Weather Awareness Week

Mayor Watts presented the proclamation for Severe Weather Awareness Week.

B. ID 15-208 Library Larry's Big Day

Mayor Watts presented the proclamation for Library Larry's Big Day.

3. CITIZEN REPORTS

A. ID 15-188 Mary Anderson regarding the ability to put hardie board siding on new construction in the Oak-Hickory Street Historic District.

Ms. Anderson stated the Historic Landmark Commission had turned down her request to build a garage out of hardie board. The garage could not be seen from the street so it would not be against the historic nature of the area. She had support from a number of neighbors to use the material.

Council Member Roden asked Ms. Anderson about the inability to appeal the Historic Landmark Commission decision.

Anderson stated that technically she had not been denied the garage but could not use the hardie board. Everything else was approved but not the hardie board.

B. ID 15-207 Pepper Rivers regarding parking permits for home health care and hospice providers at apartment complexes.

Ms. Rivers was not present at the meeting.

C. ID 15-214 Pat Smith regarding Denton for Fair Towing.

Pat Smith stated that he was a member of a citizen group who were interested in fair towing in Denton. Success in Denton had made parking in some areas very challenging. People were being towed for questionable circumstances and the fees were very high. He reviewed how the fees were supposed to work and how the towing fees actually worked. His concern was that the fees were out of balance with other offences.

D. ID 15-215 Harrison Wicks regarding towing in Denton.

Mr. Wicks felt that there needed to be increased equity between tow truck operators and citizens. He reviewed a tow ordinance comparison with area cities. The conclusion of the comparison was that the average towing fee was \$104 and nine of eleven cities required tow companies to have a city issued license to operate. His recommendation was to develop a comprehensive ordinance to cover non-police initiated towing, require all tow companies to have a city issued license, set a reasonable tow fee in the range of \$125, require a bill of rights of owners be provided to people when charged for non-consent tow and provide a link on the city website to the TDLR website.

Council Member Gregory questioned why some cities had as many as three different towing rates.

Wicks stated that was for a distinction for heavier loads for the towers.

Council Member Roden questioned what a license would accomplish in terms of policy.

Wicks stated that currently tow operators were not registered in Denton and there were concerns about where they came from and their motive.

Council Member Roden asked about sign regulations in other cities.

Wicks stated that State law regulated the signs which were another issue in Denton as there were varying types of signs in Denton.

Council Member Roden asked about the interplay between towers and apartment owners and if apartment owners hired them to protect their residents.

Wicks stated that he had talked with some property owners who felt it was not their issue. Wicks felt it was their issue as there were numerous cases where cars parked in visitor's spots and still got towed.

4. CONSENT AGENDA

Mayor Watts indicated that Consent Agenda Items I, S and GG would be pulled for separate consideration.

Mayor Pro Tem Engelbrecht motioned, Council Member Roden seconded to adopt the Consent Agenda and accompanying ordinances and resolutions with the exception of Items I, S, and GG. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

Approved the noise exception listed below.

A. ID 15-151 Consider a request for an exception to the Noise Ordinance for the purpose of the St. Patrick's on Walnut Street festival. Live music will be played on an outdoor stage located in the 100-115 block of Walnut Street, for the purpose of a downtown street festival on March 13, 2015. An exception is specifically requested to increase sound levels from 70 to 75 decibels and for an extension for hours from 10 p.m. to 11 p.m. Staff recommends approval.

Resolution R2015-004

B. ID 15-158 Consider approval of a resolution approving the 2014 Tax Increment Reinvestment Zone Number One (Downtown TIF) Annual Report; and declaring an effective date. The Downtown TIF Board recommends approval 5-0.

Ordinance No. 2015-050

C. ID 15-159 Consider adoption of an ordinance directing the publication of Notice of Intention to issue \$18,800,000 in principal amount of Certificates of Obligation of the City of Denton for General Government and Solid Waste projects; and providing for an effective date. The Audit/Finance Committee recommends approval (3-0).

Ordinance No. 2015-051

D. ID 15-160 Consider adoption of an ordinance directing the publication of Notice of Intention to issue \$80,125,000 in principal amount of Certificates of Obligation of the City of Denton for Waterworks and Sewer System and Electric System projects; and providing for an effective date. The Audit/Finance Committee recommends approval (3-0).

Resolution R2015-005

E. ID 15-161 Consider approval of a resolution allowing Chestnut Tree LC., to be allowed to sell alcoholic beverages at St. Patrick's on Walnut, March 13, 2015, upon certain conditions; authorizing the City Manager or his designee to execute an agreement in conformity with this resolution; and providing for an effective date.

Resolution R2015-006

F. ID 15-162 Consider approval of a resolution allowing DI2-Denton1, LLC, DBA Lone Star Attitude Burgers, to be allowed to sell alcoholic beverages at St. Patrick's on Walnut, March 13, 2015, upon certain conditions; authorizing the City Manager or his designee to execute an agreement in conformity with this resolution; and providing for an effective date.

Resolution R2015-007

G. ID 15-163 Consider approval of a resolution allowing Denton Sweetwater Grill & Tavern, to be allowed to sell alcoholic beverages at St. Patrick's on Walnut, March 13, 2015, upon certain conditions; authorizing the City Manager or his designee to execute an agreement in conformity with this resolution; and providing for an effective date.

Resolution R2015-008

H. ID 15-164 Consider approval of a resolution allowing Roosters Roadhouse Inc. dba Roosters, to be the sole participant allowed to sell alcoholic beverages at 35 Denton, March 14 & 15, 2015, upon certain conditions; authorizing the City Manager or his designee to execute an agreement in conformity with this resolution; and providing for an effective date.

Ordinance No. 2015-053

J. ID 15-171 Consider adoption of an ordinance accepting competitive proposals and awarding a public works contract for underground electric and fiber optic utility locating services for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (RFP 5720-awarded to USIC Locating Services, LLC in the three (3) year not-to-exceed amount of amount of \$1,088,775).

Ordinance No. 2015-054

K. ID 15-172 Consider adoption of an ordinance accepting competitive proposals and awarding a public works contract for tank painting and repair work at the Lake Lewisville Water Treatment Plant and McKenna Park; providing for the expenditure of funds therefor; and providing an effective date (RFP 5671-awarded to NG Painting, LP in the three (3) year not-to-exceed amount of amount of \$2,269,000).

Ordinance No. 2015-055

L. ID 15-173 Consider adoption of an ordinance of the City of Denton, Texas providing for, authorizing, and approving the purchase of a Leica Geosystems robotic total station for the City of Denton Police Department which is available from only one source and in accordance with Chapter 252.022 of the Texas Local Government Code such purchases are exempt from the requirements of competitive bidding; and providing an effective date (File 5732- awarded to Geomatic Resources in the not-to-exceed amount of \$67,865.25).

Ordinance No. 2015-056

M. ID 15-175 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for the mowing of City of Denton parks, medians, right-of-ways, rail trails, and other municipal building areas (Class A,B,C, and Rail Trail); and providing an effective date (RFP 5659-awarded to highest ranked proposer for each item in the three (3) year not-to-exceed amount of \$1,000,000).

Ordinance No. 2015-057

N. ID 15-176 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for trucking services for various City of Denton departments; and providing an effective date (RFP 5739-awarded to Jagoe-Public Company in the three (3) year not-to-exceed amount of \$750,000).

Ordinance No. 2015-058

O. ID 15-177 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for the purchase of precast concrete pull boxes for Denton Municipal Electric; and providing an effective date (RFP 5747-awarded to Oldcastle Precast, in the three (3) year not-to-exceed amount of \$2,000,000).

This item was not considered.

P. ID 15-187 Consider adoption of an ordinance of the City of Denton, Texas determining the public use, need, and necessity for the acquisition of fee title to properties described in the attached Exhibit "A" and located in and around the Township II area generally south and west of Colorado Blvd., south of Foxhollow, north and east of Angelina Bend Dr. and west of Valley Creek Rd., for park land; authorizing the City Manager and City Attorney, or their respective designees, to acquire the property including making initial and final offers, authorizing the use of the power of eminent domain to condemn the properties; and authorizing the City Attorney, or her designee, to file eminent domain proceedings, if necessary, and providing an effective date. (Township II Park Property Acquisition project: Greenbelt tracts 1, 2, and 4, Greenbelt North, Street, and West - Denton 68 Joint Venture [ID 15-186])

Ordinance No. 2015-059

Q. ID 15-190 Consider adoption of an ordinance terminating Tax Increment Reinvestment Zone Number Three, City of Denton, Texas ("Convention Center TIRZ"); authorizing the distribution of tax increment funds of the zone to taxing units

participating in the zone in accordance with the Texas Tax Code; and providing an effective date.

Ordinance No. 2015-060

R. ID 15-204 Consider adoption of an ordinance of the City Council of Denton, Texas authorizing the City Manager to execute "Project Utility Adjustment Agreement (Developer Managed) 35E-U-0503" form TXDOT-DA-U-35-DM-IH 35E; facilitating and authorizing the relocation of water and wastewater utilities for the Interstate Highway 35 project, in substantial conformity with the attached Texas Department of Transportation agreement, with the developer, AGL Constructors, which is a consortium composed of Archer Western Contractors, LLC, Granite Construction Co. and The Lane Construction Company; and the Texas Department of Transportation; authorizing the expenditure of funds therefor; and providing an effective date.

Ordinance No. 2015-061

T. A15-0001 Consider adoption of an ordinance of the City of Denton, Texas providing for acceptance of eligible non-annexation agreement for agricultural, wildlife management, or timberland use properties within an area of land adjacent to and abutting the existing city limits of the City of Denton, Texas generally identified as DH1 of approximately 315 acres located East of H. Lively Road, South side of FM 2449, West side of John Paine Road; providing for severability and an effective date.

Ordinance No. 2015-062

U. A15-0002 Consider adoption of an ordinance of the City of Denton, Texas providing for acceptance of eligible non-annexation agreement for agricultural, wildlife management, or timberland use properties within an area of land adjacent to and abutting the existing city limits of the City of Denton, Texas generally identified as DH2 of approximately 258 acres located on the South Side of University Drive, West and East sides of Thomas J. Egan Road, North of Jim Christal Road, West of Masch Branch Road; providing for severability and an effective date.

Ordinance No. 2015-063

V. A15-0003 Consider adoption of an ordinance of the City of Denton, Texas providing for acceptance of eligible non-annexation agreement for agricultural, wildlife management, or timberland use properties within an area of land adjacent to and abutting the existing city limits of the City of Denton, Texas generally identified as DH3 of approximately 421 acres located on the South side of spring side road, North, South, and West of Corbin Road, West of I-35; providing for severability and providing an effective date.

Ordinance No. 2015-064

W. A15-0004 Consider adoption of an ordinance of the City of Denton, Texas providing for acceptance of eligible non-annexation agreement for agricultural, wildlife management, or timberland use properties within an area of land adjacent to and abutting the existing city limits of the City of Denton, Texas generally identified as DH-4 of approximately 347 Acres located on the East side of Bonnie Brae Street,

West of Fort Worth Drive, East and West of Vintage Boulevard; providing for severability and providing an effective date.

Ordinance No. 2015-065

X. A15-0005 Consider adoption of an ordinance of the City of Denton, Texas providing for acceptance of eligible non-annexation agreement for agricultural, wildlife management, or timberland use properties within an area of land adjacent to and abutting the existing city limits of the City of Denton, Texas generally identified in the 2010 annexation as DH-5, said modified agreement being for approximately 219.127 Acres of land located on the East side of Fort Worth Drive, West side of Country Club Drive, North of Brush Creek Road; providing for severability and an effective date.

This item was not considered.

Y. A15-0006 Consider adoption of an ordinance of the City of Denton, Texas providing for acceptance of eligible non-annexation agreement for agricultural, wildlife management, or timberland use properties within an area of land adjacent to and abutting the existing city limits of the City of Denton, Texas generally identified as DH-11 of approximately 388 Acres located Southeast of the intersection of Mayhill Road and McKinney Street; providing for severability and an effective date.

Ordinance No. 2015-066

Z. A15-0007 Consider adoption of an ordinance of the City of Denton, Texas providing for acceptance of eligible non-annexation agreement for agricultural, wildlife management, or timberland use properties within an area of land adjacent to and abutting the existing city limits of the City of Denton, Texas generally identified as DH-14 of approximately 30 Acres located on the South side of Robinson Road, East of Teasley Lane; providing for severability and providing an effective date.

Ordinance No. 2015-067

AA. A15-0008 Consider adoption of an ordinance of the City of Denton, Texas providing for acceptance of eligible non-annexation agreement for agricultural, wildlife management, or timberland use properties within an area of land adjacent to and abutting the existing city limits of the City of Denton, Texas generally identified as PAA1 of approximately 1.171 Acres located on the South side of Jim Christal Road, the North side of Tom Cole Road, West of Masch Branch Road; providing for severability and an effective date.

Ordinance No. 2015-068

BB. A15-0009 Consider adoption of an ordinance of the City of Denton, Texas providing for acceptance of eligible non-annexation agreement for agricultural, wildlife management, or timberland use properties within an area of land adjacent to and abutting the existing city limits of the City of Denton, Texas generally identified as PAA2 South of approximately 1,472 Acres located on the South Side of FM 1173, North W. University Drive, West of I-35; providing for severability and an effective date.

Ordinance No. 2015-069

CC.A15-0010 Consider adoption of an ordinance of the City of Denton, Texas providing for acceptance of eligible non-annexation agreement for agricultural, wildlife management, or timberland use properties within an area of land adjacent to and abutting the existing city limits of the City of Denton, Texas generally identified as PAA3 of approximately 1,075 Acres located on the South Side of Ganzer Road, North and South of Barthold Road, North of FM 1173, West of I-35; providing for severability and effective date.

Ordinance No. 2015-070

DD.A15-0011 Consider adoption of an ordinance of the City of Denton, Texas providing for acceptance of eligible non-annexation agreement for agricultural, wildlife management, or timberland use properties within an area of land adjacent to and abutting the existing city limits of the City of Denton, Texas generally identified as PAA4 of approximately 1,555 Acres located on the South side of Milan Road, North of Loop 288, East of I-35; providing for severability and an effective date.

Ordinance No. 2015-071

EE.ID 15-209 Consider adoption of an ordinance of the City of Denton, Texas authorizing the City Manager or his designee to execute a Contract of Sale by and between the Joseph and Soraya Fletcher Irrevocable Gift Trust ("Owner"), and the City of Denton, Texas, as buyer, to acquire a 2.353 acre permanent electric utility easement, a 0.008 acre temporary construction easement, and a 0.122 acre temporary construction easement, all located in the G. Walker Survey, Abstract No. 1330, City of Denton, Denton County, Texas, as more particularly described and depicted in the attachments to Exhibit "1" (the ordinance) and located generally east of I-35E and north of Shady Shores Rd. ("Property Interests"), for the public use of expansion, construction, maintenance, operation, and improvement of electric transmission and distribution lines, facilities, and structures, including substations and switch stations; for the purchase price of Two Hundred Seventy Five Thousand Dollars and 00/100 dollars (\$275,000.00), and other consideration, as set forth in the Contract of Sale, also attached to Exhibit "1" (the ordinance); authorizing the expenditure of funds; and providing an effective date.

Resolution R2015-009

FF.ID15-213 Consider approval of a resolution authorizing the submittal of a letter from the City of Denton Historic Landmark Commission to the National Parks Service endorsing Alternative "B" as described in the National Park Service feasibility study on the Chisholm Trail and declaring an effective date. The Historic Landmark Commission voted to authorize the letter with a vote of 7-0.

Ordinance No. 2015-072

HH.A14-0002a Consider adoption of an ordinance of the City of Denton, Texas providing for acceptance of eligible non-annexation agreement for agricultural, wildlife management, or timberland use properties within an area of land adjacent to and abutting the existing city limits of the City of Denton, Texas generally identified as Ryan Road of approximately 85 approximately 85.6 Acres of land generally

located on the north and south sides of Ryan Road. Tract 1 is approximately 175 ft east of Andrew Street and adjacent to Ryan Road on the south side and measures approximately 80.9 Acres. Tract 2 is approximately 1,093 ft east of Andrew Street and adjacent to Ryan Road on the north side and measures approximately 4.7 Acres; providing for severability and an effective date.

Council considered Consent Agenda Item I.

Ordinance No. 2015-052

ID 15-170 Consider adoption of an ordinance authorizing the City Manager to enter into an Interlocal Cooperative Purchasing Program Agreement with the University of North Texas Murphy Center for Entrepreneurship for classroom instruction and consulting services for the Leadership Excellence and Enhancement Program (LEEP) 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 5743-Interlocal Agreement with the University of North Texas Murphy Center for Entrepreneurship in an amount not-to-exceed \$130,147.80 for the three (3) program duration).

Bryan Langley, Assistant City Manager, reviewed the agreement with UNT for the LEEP program. This was a formal program for leadership training classroom instruction and consulting services. He reviewed the current projects in the program.

Council Member Johnson stated that he asked for this item to be pulled so citizens could hear what kind of professional development the city was involved with.

Mayor Pro Tem Engelbrecht motioned, Council Member Roden seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

Council considered Consent Agenda Item S.

Approved the noise exception listed below.

S. ID 15-205 Consider a request for an exception to the Noise Ordinance from Jagoe-Public to complete reconstruction of U.S. 380 (University Drive), generally between Bonnie Brae and Elm at various times between the hours of 12:00 a.m. and 8:00 a.m., March 2015 through January 2016. The Texas Department of Transportation regulations allow for work to be completed from Sunday through Friday. Staff recommends approval of the request.

Emerson Vorel, Director of Parks and Recreation, stated that this noise exception request was not asking for additional dB levels but to work between 12 p.m. and 8 a.m. in order to load and haul off old concrete. Allowing this work after hours would be best in the interest of public safety and reduce the project to 15 days. Any complaints received from citizens would go through the Police Department for remediation.

Council Member Johnson motioned, Mayor Pro Tem Engelbrecht seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

Council considered Consent Agenda Item GG.

Resolution R2015-010

GG.ID 15-217 Consider adoption of a resolution of the City of Denton, Texas, in opposition to a revenue cap and legislative interference with local services; and providing for an effective date.

Lindsey Baker, IGR/PIO, stated she was available for questions from Council.

Council Member Roden stated that revenue caps were another way to take away local control.

Baker stated that this resolution expressed opposition to revenue caps and was narrowed to oppose SB 182. SB 182 claimed to put money back into taxpayer's pockets but in reality would only save taxpayers \$24 per year. One of the city's top priorities which would be affected was Denton's ability to provide core services such as police, fire, etc.

Mayor Pro Tem Engelbrecht asked if other cities were also opposing this bill.

Baker replied cities and counties throughout the state were opposed to this bill.

Council Member Roden motioned, Council Member Gregory seconded to approve the resolution. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

5. PUBLIC HEARINGS

Ordinance No. 2015-073

A. ID 15-148 Hold a public hearing and consider adoption of an ordinance of the City Council of the City of Denton prohibiting the use of designated groundwater from beneath the approximately 890 acre area described in Exhibit "A" of said ordinance, City of Denton, Texas, to facilitate certification of a Municipal Setting designation ("MSD") of said area by the Texas Commission on Environmental Quality ("TCEQ"), pursuant to the Texas Solid Waste Disposal Act; and providing for an effective date.

Ken Banks, Director of Environmental Services, provided the general description of a municipal setting designation. It was an alternative for addressing shallow groundwater contamination. The MSD set conditions that limited the requirement to remediate the groundwater contamination to drinking water standards. It was applicable where designated groundwater was not currently used for potable water, and would not likely be used in the future.

The area of the MSD was 890 acres and how that area was determined was reviewed. The provisions of how a MSD worked were presented as well as what a MSD did. It designated that the specified groundwater was non-potable and removed the requirement to upgrade it to drinking water standards. A MSD did not affect zoning and had no influence on what type of development could occur on the property. It simply stated that the designated water under the property could not be used for drinking water. Without the MSD, contaminated properties could remain undeveloped with no restrictions on potable water use, no restrictions for exposure to potentially contaminated soils or other environmental sources and no plans for cleanup. The MSD could help facilitate development and associated cleanup by remediating properties to standards that make sense for the site.

The notification process to both the property owners and to citizens, the public meetings that were held and the outcome of those public meetings were reviewed. The ordinance was a requirement for the application to the TCEQ.

Council Member Roden asked about the boundaries of the MSD and why Bolivar, Stroud and Anna streets were included.

Banks stated that one reason was based on historic land uses. The MSD had to be contiguous by the TCEQ standards and could not leave some areas out of the configuration. Staff had tried to avoid residential areas but some had to be included.

Council Member Hawkins questioned why the entire city was not included.

Banks stated that would be a much longer process and the City could always go back and make new areas. There were some areas that did not need this designation such as residential neighborhoods.

The Mayor opened the public hearing.

Virgil Strange, 531 N. Locust, Denton, 76201 spoke in favor of the proposal.

The Mayor closed the public hearing.

Council Member Johnson motioned, Council Member Hawkins seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

- B. DCA14-0009d Continue a public hearing and consider adoption of an ordinance amending Subchapters 5, 7, 16 and 22 of the Denton Development Code, relating to Gas Well Drilling and Production, Definitions and Procedures; amending Ordinance No. 2013-248, relating to planning and development fees and road damage remediation fees relating to gas well drilling and production activities; adding new Subchapter 22A to the Denton Development Code, relating to Oil and Gas Pipelines, Definitions, Procedures; providing a cumulative clause; providing a severability clause; providing for a penalty; and providing for an effective date (DCA14-0009d).

The Planning and Zoning Commission recommends denial (4-3). A supermajority vote by City Council is required to adopt a motion to approve this ordinance.

Mayor Watts stated that the public hearing was open and citizen comments would be taken following Council discussion.

Mayor Watts stated that one issue for discussion was where to measure the setback distance from.

Council discussed the setbacks in terms of (1) single well sites with no defined recorded site - measure from the well head 250-300 feet with no future development taking place on that site; (2) co-located sites - recorded site with definite boundaries - measure from the pad site boundary (reverse setback site); (3) new site that currently did not exist (combining district) measure from pad site boundary; (4) if measure from well head, greater distance would be needed for separation; (5) consider a second set of setbacks - one from well head and one from pad site - Legal to review possibilities; (6) don't take away private property owners rights to build home within distance of well site but make sure new property owners recognized the ramifications of living near the site; (7) a recommendation that for a regular site, measure from the well head to the building line 350 feet or from the equipment to the building line 300 feet whichever one was greater, (8) a recommendation for a regular site measured 350 feet from the well head in a circle rather than a square and not include measuring from the equipment; (9) determine the setbacks based on specifics such as health and safety, and (10) set the distances with just cause such as nuisance or health reasons.

Preliminary consensus and items for continued discussion included (1) measure 350 feet from the well head for regular sites, (2) measure from the pad site boundary for consolidated, co-location sites or combining districts, (3) mandatory vapor recovery units - TCEQ sets the standard for those, (4) continue discussions on mandatory 24/7 monitoring/daily monitoring, (5) continue discussions on what the City could require for air and water monitoring, (6) discussed procedures and associated fees for production monitoring, (7) water monitoring already had an extensive monitoring system in place (8) reviewed the process involved with hydrator equipment, (9) discussed sound walls and noise level, (9) discussed insurance provisions and (10) discussed compressor stations and whether to prohibit/rezone them.

Citizen Speakers on the proposed ordinance:

Sharon Spiess, 7501 Stallion, Denton, 76208 - enhance the oil and gas well ordinance in the event of loss of local control, 1500 foot setback for all wells, limitation on hours of operation, ZBA not grant variances, compensation to the City for damage to roads

Michael Hennen, 724 Thomas, Denton, 76201 - provisions for gas wells should the State take away provisions of fracking ban, in favor of ongoing remote monitoring of well sites even after initial production; all electric compressors and equipment was possible; Council and not a non-elected board should deal with variances; signage needed to be improved; limiting of hours of operations

Tara Linn Hunter, 118 Bernard, Denton, 76201 - mandatory vapor recovery units; 1500 foot setbacks with no exceptions; more disclosure, better definitions.

Jeff McClung, 2018 Longmeadow, Denton, 76209 - 1500 feet from co-located sites as well as current sites; rezone setback area for industrial uses; parking lots for setback areas

Carol Soph, 1620 Victoria, Denton, 76209 - need strong gas well ordinance due to proposed legislation in Austin; vapor recovery units, electric equipment; better signage and notification including renters notification and schools telling parents about wells near the schools

Keely Briggs, 3108 Broken Bow, Denton, 76209 – a stronger enforceable ordinance was needed

Gillian Murphy, 1905 Whitefish, Denton, 76210 - need to defend local control to protect rights of citizens; support the fracking ban and the revised ordinance

Comment cards were submitted by:

Ken Gold, 2512 Natchez Trace, Denton, 76210 – support

Adam Briggles, 1315 Dartmouth, Denton, 76201 – support

Linda Cole, 6376 Jim Christal, Denton, 76207 – support with revisions

Additional speakers included:

Elma Walker, 9805 Grandview, Denton, - urged Council to vote for the ordinance; insurance was ok; liked pipeline ordinance; co-locations and combining districts should be more feet;

Ed Ireland - spoke on the co-location concept and associated problems/reasons it would not work

Angie Holiday 419 Fulton, Denton - approve the ordinance even with the flaws

Tyler Breckenridge - support of the proposed ordinance but should be more comprehensive

Council Member Gregory suggested more research on vapor recovery units such as COMM as noted by a citizen.

Council Member Ryan questioned if it was a State requirement that the Zoning Board of Adjustment review variance requests.

City Attorney Burgess noted that the proposed ordinance was crafted as a zoning ordinance and State law indicated that any variance went to ZBA and not to Council.

Council Member Gregory motioned, Council Member Roden seconded to continue the public hearing to March 24, 2015. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council

Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

6. 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 Hawkins requested that staff work towards a quick fix to the towing problem and requested an Informal Staff Report or Work Session on the issue.

Council Member Roden requested looking into what options were available regarding the HLC decision on hardie board.

Council Member Ryan requested information regarding a meeting in the Preserves involving a DME easement and homeowner replacement of fences.

Council Member Johnson suggested looking into a mechanism whereby the Council could assist in situations such as the hardie board issue with the HLC.

Mayor Watts requested staff look into implementing a summer youth program in conjunction with the DISD and other businesses.

Mayor Watts requested a work session regarding the sign issue with the street construction and temporary signs.

Mayor Watts requested a review of the ordinance involving HLC's authority to review properties for the national registry issues.

Mayor Watts suggested some kind of procedure be developed to help Council prioritize agenda item issues.

B. Possible Continuation of Closed Meeting of Closed Meeting topics, above posted.

Council returned to the Closed Meeting at 10:50 to discuss Closed Meeting Item F.

Council convened back into Open Session at 11:20 p.m. and with no further business, the meeting was adjourned.

CHRIS WATTS
MAYOR
CITY OF DENTON, TEXAS

JENNIFER WALTERS
CITY SECRETARY
CITY OF DENTON, TEXAS