

CITY OF DENTON CITY COUNCIL MINUTES

November 10, 2015

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, November 10, 2015 at 2:00 p.m. in the Council Work Session Room at City Hall.

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

ABSENT: Council Member Roden

1. Work Session Reports

- A. ID 15-1058 Receive a report, hold a discussion, and give staff direction regarding a proposed Economic Development Chapter 380 Grant Agreement with O'Reilly Hotel Partners Denton for a convention center and hotel development to be located in Rayzor Ranch Town Center and a proposed third amendment to the economic development program grant agreement between the City of Denton and Allegiance Hillview (RED Development).

Jon Fortune, Assistant City Manager, presented background information on the formation of the project. The project would be located on Rayzor Ranch North property. The project comparisons between the former project and this project were reviewed in terms of size of the facility, revenue streams, financing, and new revenue for the project. Management responsibilities and economic impact were discussed with Council questioning the revenue generated from the proposal. Proposed OHPD incentives were presented. Council discussed what risks the City would have with the proposed incentives.

Council Member Roden arrived at the meeting.

Council discussed differences between Version 1 and Version 2 in terms of potential Convention and Visitor Bureau obligations, usage of HOT funds, financial risk to the ratepayer, and language in the 380 agreement.

Aimee Bissett, Director of Development Services, presented information on the RED incentive, discussed the current RED incentive and proposed incentive. She discussed the Convention Center impact on RED. The RED agreement would have to be amended to carve out the O'Reilly project for a separate incentive agreement.

Council discussed the proposal in terms of the impact to RED Development, sales tax increases at Rayzor Ranch North, and purpose of the trigger threshold of square footage for performance measure.

Tim O'Reilly presented follow-up information on some of the Council's concerns. He represented a family of investors and not a single individual. They were at a point in the incentives that were as refined as much as possible. They already had financing, a design of the facility, and were working on the pricing for the facility. The proposal would be bringing a large financial incentive to the City. He presented reasons why the O'Reilly family picked Denton for this proposal.

Council discussed with O'Reilly the amount of interest rate percentage, amount of tax incentives which were required to satisfy investors, the fact that the incentives were based on performance measures, and continued support of the O'Reilly's in Denton.

Scott Wagner, RED Development, discussed project details with the Council, analysis of the cost of investment to RED, the Convention Center as an amenity to Denton, and the fact that they were ready to begin the project.

- B. ID 15-1104 Receive a report, hold a discussion, and give staff direction on the Denton Renewable plan and activities related to the future power supply plans to meet the City's growth and needs.

Council Member Briggs requested that Council grant permission for Tom Smith to speak before the start of this item. Consensus of the Council was to allow Mr. Smith to make his presentation.

Tom Smith spoke against the development of a natural gas facility. He felt solar and wind were better investments and advocated for a coalition on whether this was a good idea for Denton. Risks involved outdated technology, an environmental risk and a cost risk.

Council Member Roden questioned Smith if Austin was at 23% renewals.

Smith replied correct but the plan problem was how to balance renewals and he was not sure gas was a good answer any more.

Mayor Pro Tem Gregory stated that the DME next step was towards 100% renewals but knew that when the sun didn't shine and the wind didn't blow there was no energy production and the technology was not quite there to store energy at a utility scale to fill the gap. In the future there would be no more conventional facilities.

Smith replied that the industry was at the technological cusp with energy storage being deployed all over Texas. Between now and the time Denton would have to build a plant, the industry would be very close to having that storage technology available. He suggested larger storage facilities in order to have it available when needed instead of gas facilities.

Mayor Pro Tem Gregory stated that conventional generation would be the generation for the overall grid for the foreseeable future; perhaps 20 years out.

Smith stated that the correct question was if Denton was going to buy now, why take the risk knowing how the technology was developing.

Council Member Johnson stated that sun and wind power could not be counted on at 100% if eliminating COLA and not build a gas plant. An open market purchase was too risky for rate payers and the battery technology was not there yet.

Smith suggested the opportunity to use a new electronic control to shift peak usage or mitigate microspikes or drops to manage the peak for better use of resources.

Phil Williams, General Manager-DME, presented information on the Renewable Denton Plan in response to Council direction on renewable, rates and reliability. He indicated that there had been numerous discussions/presentations since 2009 with Council and the Public Utilities Board regarding renewable and backup generation. Numerous options and possibilities had been explored and discussed.

Brian Daskam, DME, presented an update on public outreach, public comments and the results of the public survey.

Council Member Briggs felt that the questions on the survey were leading and not objective.

Williams continued with a review of the current energy portfolio mix, the projected energy mix with renewable Denton and expected emissions for the portfolio scenarios.

Council discussed the importance that the new gas plants would not putting out massive amounts of pollutants, differences in emissions relative to cost of new plants; buying off the open market that would have emissions; and the need to compare equivalents among various cities for renewables and emissions.

The rates with business as usual versus the Renewable Denton Plan were reviewed by Williams. The Renewable Plan would result in rate decreases beginning in 2020. He also presented figures for 83% and 70% without quick-start backup.

Council discussed policy direction on how to move forward, establish a policy plan to attach to the proposal that showed Council support, and what happened to new gas powered plants in the future when the battery technology was developed.

Council Member Wazny suggested slow things down, pull together citizen task force in the discussion, and consider a Request for Qualifications to start looking for a consultant specialist in energy issues and consulting other cities.

Council Member Roden suggested moving in the direction presented and to not spend additional money for a consultant or delay with citizen committee as the City had the expertise in-house. Continue the discussion and head towards a December completion date.

Council Member Hawkins agreed with the suggestion from Council Member Roden and to stay the course and proceed.

Mayor Pro Tem Gregory noted support for Council Members Roden and Hawkins. The goals set more renewables for reliability and affordable rates. This was a balanced plan and felt that the City did not need a consultant to come up with a plan when one was already done. This had been a 5-6 year process.

Council Member Briggs was in favor of slowing down and waiting as some people in this room would be dead in 20 years. No one she spoke with was in favor of a gas plant.

Council Member Johnson stated that he was not in favor of hiring a consultant as the City already had experts in-house who knew the issues. He felt the City was already headed in the right

direction. The question was to spend the money on this or take chances on the open market. It was not an environmental issue as gas was so much better than coal and if bought on the open market it might be making a worse investment on the emissions. He was in favor of continuing Council discussion over the next several meetings with the need to move on with a decision in order to have the plant ready when needed. He suggested having a public hearing for the next discussion.

Mayor Watts wanted to make sure he had the information he needed as well as further discussion with Council. Council would be basing a decision on projections and needed more information on how they were created. He agreed that a public hearing would be in order on the issue.

The Council did not consider the Closed Meeting items before the start of the regular meeting at 6:30 p.m. Those items were considered following the regular meeting.

Special Called Meeting of the City of Denton City Council at 6:30 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. ID 15-1181 Veteran's Day Proclamation

Mayor Watts presented the proclamation for Veteran's Day.

3. ITEMS FOR INDIVIDUAL CONSIDERATION

Ordinance No. 2015-330

- A. ID 15-1060 Consider adoption of an ordinance approving an Economic Development Agreement under Chapter 380 of the Local Government Code to promote economic development and to stimulate business activity in the city of Denton and under Chapter 351 to promote travel, tourism, meetings, conventions, and events for the economic growth of the city of Denton, between the City of Denton and O'Reilly Hotel Partners Denton (OHPD), regarding the development of an approximate 12-acre parcel of land generally located on the south side of U.S. Highway 380 (West University Drive) ending at Scripture Road, between I-35 and North Bonnie Brae Street in Denton, Texas; authorizing the expenditure of funds therefor; and providing an effective date.

Mayor Watts announced Items A, B, and C and noted that they would be discussed together but would be voted on individually.

The following individuals spoke on the issue:

Deborah Armintor, 2003 Mistywood Lane, Denton, 76209 - spoke in opposition

Lucas Hall, 815 Crest Oak Place, Denton, 76209 - spoke in opposition

Jodi Ismert, 819 Anna, Denton, 76201 - spoke in opposition

Jon Fortune, Assistant City Manager, presented information on Items A, B, and C and reviewed the details of the convention center development. This was an incentive agreement that would provide sales tax incentives to the developer. If the revenue was not generated, the incentive did not go back to the developer. There was also a limited management contract that provided the City a means to monitor and track the use of the HOT funds. The City would not be responsible for day-to-day management of the Center. One other element was the location of the convention center at Rayzor Ranch. Because the hotel would be in that development, there was a need to carve out 12 acres from the 380 agreement and recapture infrastructure costs from the area.

Council Member Briggs asked if incentives such as this had ever been done before.

Fortune stated that it had been done for 100% for a smaller number of years.

Council Member Briggs expressed concern that this would be setting a bench mark for other developers who would want the same thing.

Fortune stated that with a typical project staff would not be recommending this type of incentive but because of the history of the project, felt it was appropriate. The proposal shifted the risk from the City to the developer and did not feel that it would set a bench mark.

Council Member Johnson stated that Council had conversations about the math around the project but never had hard numbers relating to the economic impact to the rest of the City. If there were 46,500 unique visitors per year who spent \$60 per year out of the hotel room with an average of 3 nights \$8.3 million would be realized outside the convention center. It was important to highlight that. The city would be getting more from the incentive due to the development.

Fortune stated that staff had looked at the industry metrics on how much a convention attendee would spend per day outside of the hotel in the community in conjunction with the CVB.

Council Member Roden stated that just looking at available meeting space, large scale events were not able to be held in Denton due to the lack of space. There also was no significant location for music venues. He felt there was still some confusion with the previous plan and the current proposal and questioned if taxpayers were paying for this.

Fortune stated that there would be no diversion of existing revenue to the project; only taxes generated by the project itself.

Council Member Roden questioned if the City would be liable if the convention center failed.

Fortune stated that this with project, the developer financed the project. If it failed, the City would have no financial obligation to the project.

Council Member Wazny felt that there were still concerns regarding the failure of the convention center. She was concerned that it was not good for Denton as it was an asset that could be sold.

The Council was premature in making a decision as they had not studied coast to coast the number of cities the same size as Denton with failed convention centers.

Mayor Pro Tem Gregory stated that this was not a project pushed by staff. It was a project promoted by Council over a number of years and was a goal of Council and the Chamber. He felt the current proposal addressed almost every concern people had. It incentivized items that brought value to the City. He knew that there were agencies and volunteer groups that could not hold events in Denton due to the lack of space.

Council Member Briggs stated that she was not opposed to incentives when done well and was not opposed to the convention center but was opposed to 100% 25 year incentive. She could not vote for the project.

Mayor Watts stated that he was against the first version of the convention center. With this proposal O'Reilly was spending their own family money for the project. The developer had been around for 20-30 years with quality projects all around the county and if they felt it would be a risk to their development they would not allow it.

Council Member Roden motioned, Council Member Hawkins seconded to adopt the ordinance. On roll call vote, Council Member Roden "aye", Council Member Johnson "aye", Council Member Hawkins "aye", Mayor Pro Tem Gregory "aye", Council Member Briggs "nay", Council Member Wazny "nay" and Mayor Watts "aye". Motion carried with a 5-2 vote.

Ordinance No. 2015-331

- B. ID 15-1061 Consider adoption of an ordinance of the City of Denton, Texas approving a third amendment to an Economic Development Program Grant Agreement dated June 15, 2010 between the City of Denton and Allegiance Hillview; and providing an effective date.

This item was discussed with Item A.

Council Member Hawkins motioned, Council Member Roden seconded to adopt the ordinance. On roll call vote, Council Member Roden "aye", Council Member Johnson "aye", Council Member Hawkins "aye", Mayor Pro Tem Gregory "aye", Council Member Briggs "nay", Council Member Wazny "nay" and Mayor Watts "aye". Motion carried with a 5-2 vote.

Ordinance No. 2015-332

- C. ID 15-1062 Consider adoption of an ordinance of the City Council of the City of Denton, Texas, authorizing the City Manager to execute a Management Agreement between the City of Denton and O'Reilly Hotel Partners Denton for the management of the Denton Convention Center; and providing an effective date.

This item was discussed with Item A.

Council Member Johnson motioned, Mayor Pro Tem Gregory seconded to adopt the ordinance. On roll call vote, Council Member Roden "aye", Council Member Johnson "aye", Council Member

Hawkins "aye", Council Member Briggs "nay", Mayor Pro Tem Gregory "aye", Council Member Wazny "nay", and Mayor Watts "aye". Motion carried with a 5-2 vote.

Ordinance No. 2015-333

- D. ID 15-1189 Consider adoption of an ordinance of the City of Denton, Texas providing for, authorizing, and approving the purchase of playground equipment for the Eureka 2 Playground Project, 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 5990-awarded to Play By Design in the amount of \$95,811).

Emerson Vorel, Director of Parks and Recreation, stated that this request was for a sole source for playground equipment for half of the equipment needed for the Eureka 2 Playground Project. The Parks Foundation had already paid for half of the equipment and this request would use city funds to pay for the other half. The Foundation would reimburse the City as additional funding was raised. If the Foundation did not raise the needed funds, the City would have had to purchase the equipment anyway.

Pete Kamp, 110 Friar Tuck Circle, Denton, 76209 - spoke in favor.

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

4. CONCLUDING ITEMS

- A. Under Section 551.042 of the Texas Open Meetings Act, respond to inquiries from the City Council or the public with specific factual information or recitation of policy, or accept a proposal to place the matter on the agenda for an upcoming meeting AND Under Section 551.0415 of the Texas Open Meetings Act, provide reports about items of community interest regarding which no action will be taken, to include: expressions of thanks, congratulations, or condolence; information regarding holiday schedules; an honorary or salutary recognition of a public official, public employee, or other citizen; a reminder about an upcoming event organized or sponsored by the governing body; information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the municipality; or an announcement involving an imminent threat to the public health and safety of people in the municipality that has arisen after the posting of the agenda

Council Member Briggs requested a report on the city of Allen adjournment time.

Council Member Briggs requested a report on the Denton Record-Chronicle article about the City's dangerous intersections.

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

Mayor Watts announced that Council would be going back into Closed Session.

1. Closed Meeting:

- A. ID 15-1113 Deliberations Regarding Certain Public Power Utilities: Competitive Matters - Under Texas Government Code Section 551.086. Receive a presentation from Denton Municipal Electric staff ("DME") regarding public power competitive and financial matters pertaining to plans, strategies, opportunities, and developments for generation improvements to the DME system; discuss and deliberate strategies regarding same; discuss, deliberate, and provide Staff direction regarding opportunities and strategies for the City to acquire purchased power and enter into agreements regarding the same, in order to meet its future energy needs.

This item was not considered.

- B. ID 15-1059 Deliberations regarding Economic Development Negotiations - Under Texas Government Code Section 551.087. Receive a report and hold a discussion regarding economic development issues regarding a proposed economic development incentive agreement for O'Reilly Hotel Partners Denton and a proposed third amendment to the economic development program grant agreement between the City of Denton and Allegiance Hillview (RED Development). This discussion shall include commercial and financial information the City Council has received from O'Reilly Hotel Partners Denton and Allegiance Hillview (RED Development), business prospects 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; deliberate the offer of a financial or other incentive to O'Reilly Hotel Partners Denton and the amendment of the economic development program grant agreement between the City of Denton and Allegiance Hillview (RED Development).

This item was not considered.

- C. ID 15-1191 Deliberations regarding Economic Development Negotiations - Under Texas Government Code Section 551.087. Receive a report and hold a discussion regarding economic development issues regarding a proposed economic development incentive agreement for Project Cartoon. This discussion shall include commercial and financial information the City Council has received from Project Cartoon, a business prospect, 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; deliberate the offer of a financial or other incentive to Project Cartoon.
- D. ID 15-1192 Deliberations Regarding Real Property - Under Texas Government Code Section 551.072; Deliberations Regarding Economic Development Negotiations - Under Texas Code Section 551.087; 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, exchange, lease or value of real property located generally in the 200 block of W. Mulberry, the 200 block of N. Elm, the 200 block of W. McKinney, the 200 block of N. Cedar, and the 200 block of E. McKinney in the City of Denton, Denton County, Texas. Consultation with the City's attorneys regarding legal issues associated with the potential real property matter 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.

CHRIS WATTS
MAYOR
CITY OF DENTON, TEXAS

JENNIFER WALTERS
CITY SECRETARY
CITY OF DENTON, TEXAS