

CITY OF DENTON CITY COUNCIL MINUTES

August 2, 2011

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, August 2, 2011 at 4:30 p.m. in the Council Work Session Room at City Hall.

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

ABSENT: None.

Mayor Burroughs stated that Council would be going into Closed Session.

1. Closed Meeting:

A. Consultation with Attorneys – Under Texas Government Code Section 551.071.

1. Consult with City's attorneys regarding the status and potential settlement of pending litigation styled Love's Travel Stops & Country Stores v. City of Denton, Cause No. 2010-50304-367, currently pending in the 367th District Court, Denton County.

The Council returned to Open Session at 4:53 p.m.

1. Citizen Comments on Consent Agenda Items

There were no citizen comments on Consent Agenda items.

2. Requests for clarification of agenda items listed on the agenda for August 2, 2011.

Council Member Gregory asked about Consent Agenda Items F and G and why there was no Parks Board recommendation.

Emerson Vorel, Director of Parks and Recreation, stated that typically staff did not take donations of parkland property before the Parks Board, only the purchase of parkland property.

Mayor Burroughs asked about Consent Item D and if this bid was separated into two bids, was it anticipated that the two lower bidders would qualify for the smaller excavation of pipe.

Frank Payne, City Engineer, stated yes.

Council Member Roden asked about Consent Agenda Item A and asked whether the City was incurring a cost for the event.

Emerson Vorel, Director of Parks and Recreation, stated that the City was not incurring a cost for this event.

3. Receive a report, hold a discussion, and give staff direction regarding a proposed parking ordinance for portions of the Denia Neighborhood related to activities at the UNT football stadium.

Fred Greene, Assistant City Manager, stated that this was the result of many meetings between Denia residents, UNT staff, City staff, City management, and City Council members. He stated that this was one of two parts to the solution of the Denia area residents concerns that had been voiced about the utilization of the stadium. The first portion of it had been solved and that was the traffic issues. An Informal Staff Report was sent to the Council in February that outlined what staff's plan was for the traffic solutions. Staff planned on implementing that on opening day, September 10. He stated that staff intended to evaluate the parking plan after the first four UNT home football games of the 2011 season. Any necessary changes would be brought back to the City Council for consideration.

Greene stated that Paul Abbott, Interim Chief of Police, would present the enforcement portion of the ordinance. This ordinance was the second part to the solution related to the parking issue that Denia area residents had voiced concerns about. Abbott stated that staff had proposed an ordinance establishing a "resident only" parking program for on-street parking for a portion of the Denia area neighborhood. The area affected would be bounded by I-35E service road to the north, Willowood Street to the south, McCormick Street to the east and Bonnie Brae to the west. Residents that resided in the affected area would have the option to purchase resident parking permits issued by the City of Denton. The permit would be in the form of a placard to be hung on the inside rear view mirror facing the vehicle window. Guest and temporary permits would also be available for purchase. The permit was valid beginning September 1 and ending on August 31 of the following year. All permits would be available at the Denia Recreation Center.

Abbott stated that prior to the start of stadium events, the City would conspicuously post signs indicating the locations and times for which parking was by permit only and indicating that unauthorized vehicles might be towed at the expense of the owner or operator. The resident parking only zones would become effective upon the posting of signs in the zone. The Police Department would provide personnel to patrol the affected neighborhood before, during and after the event.

The cost of the annual permit was \$5.00 per vehicle. One permanent guest pass would be issued for each vehicle permit purchased, up to a limit of three (3) guest passes per residence. Temporary passes to accommodate large gatherings would also be available for purchase at a cost of \$2.00. Temporary passes would be valid for a single day only and would be provided on an individual basis.

Abbott stated that there would be some costs which included the purchase of twenty-one signs and stands at a total cost of \$3,112.56, an estimated cost of \$900.00 to design and purchase the parking permits, and an estimated cost of \$1,536.00 per event for four police officers and one supervisor to monitor and patrol the neighborhood as well as manage the signs and barricades for each event.

Council Member Roden asked how a resident would know when there was going to be an event at the stadium.

Greene stated that there was a Denia Neighborhood Meeting scheduled for August 16 or August 18 and that issue would be addressed at that meeting.

Roden asked about the cost of signage. He asked if anyone had asked UNT to assist the City with the costs of any of this.

Abbott stated that UNT had not offered any assistance.

Roden asked what was the justification for asking the residents to pay the fee to get a permit for their own house.

Abbott stated the justification was cost recovery on the permits themselves.

4. Receive a report, hold a discussion and give staff direction regarding revisions to the Denton Property Maintenance Code.

John Cabrales, Public Information/Intergovernmental Relations, presented the proposed property maintenance code revisions. He stated that the Council Committee had helped staff with the changes. He reviewed the proposed revisions. The definition of accessory structures was changed. They wanted to make sure it matched the description in the Denton Development Code. The definition of outside storage was changed to make it more clearly indicate that it applied to commercial and residential property. They changed the definition of structure to match the definition in the Denton Development Code.

Cabrales stated that in the section for Procedures for Abating Nuisance, they eliminated the language requiring citizens to request a hearing for junk vehicles. In the Grass and Weeds section, they eliminated the right of way language. Some rights of way in the city were actually dedicated to the City and it was the City's responsibility to mow those dedicated rights of way. They removed section (k) because it was duplicate language.

Cabrales stated that in the section for Outside Storage, they attempted to simplify this section by including the language from the Development Code. They moved the tarp or screening to another section and added play structure wording to clarify what was included in children's play structures.

Cabrales stated that they added wording to clarify the protection of certain items that were stored outside in public view and also included what was stored under carports. He stated that the section pertaining to washers and dryers had been included, sections (c) and (e) had been included, and also section (d) pertaining to firewood had been included. He stated that wording was added to clarify that churches, schools, or state-regulated daycares were allowed to place play structures in the front yard.

Council Member Gregory asked if this was for residential only or for commercial also.

Cabrales stated that it was for both.

Gregory stated that there were some stores that had seasonal items not in use, on display.

Cabrales stated that there was a section that addressed outside display.

Cabrales stated that in the section for Exterior Structures specifically protective treatment of those structures, wording was added to clarify that this regulation applied to residential and commercial structures. This was also done in the section for Interior Structures.

Cabrales stated that these were the five revisions that staff had. Staff recommended approval of these revisions.

General consensus of Council was to bring the revised ordinance back for approval.

The Council returned to the Closed Meeting at 5:44 p.m.

1. Closed Meeting

B. Consultation with Attorneys – Under Texas Government Code Section 551.071; Deliberations regarding Real Property – Under Texas Government Code Section 551.072.

1. Discuss, deliberate and receive information from staff and provide staff with direction pertaining to the potential purchase of a 2.0 acre tract, more or less, located in the Hiram Sisco Survey, Abstract No. 1184, Denton, County, Texas, and located generally at the corner of McKinney Street and Oakland Street, City of Denton, Texas. Consultation with the City's attorneys regarding legal issues associated with the potential acquisition 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.

C. 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.

1. Receive a report and hold a discussion regarding legal issues on matters in which 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. Also hold a discussion regarding granting economic development incentives to a property owner

for the purpose of redeveloping a major retail facility in the City of Denton, located at Loop 288 and I-35E. This discussion shall include commercial and financial information the City Council has received from the property owner which the City Council seeks to have the property redeveloped 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 incentives.

The Closed Meeting adjourned at 7:03 p.m.

The Council convened in Regular Session at 7:10 p.m.

1. PLEDGE OF ALLEGIANCE

The Council and members of the audience recited the Pledge of Allegiance to the U.S. and Texas flags.

2. PROCLAMATIONS/PRESENTATIONS

A. Proclamations/Awards

There were no proclamations/presentations for this meeting.

3. CITIZEN REPORTS

A. Review of procedures for addressing the City Council.

The procedures for addressing the Council were reviewed.

B. Receive citizen reports from the following:

1. Rebekah Hinojosa regarding Denton Beyond Coal Campaign.

Rebekah Hinojosa, Sycamore Street, stated that she was part of the Denton Beyond Coal Campaign. She stated that Denton still got nearly half its power from dirty coal and burning coal caused and aggravated asthma attacks, led to toxic mercury and heavy metals contaminating the water, and produced 1/3 of all global warming pollution. She presented letters in support of the campaign.

4. CONSENT AGENDA

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

Approved the request below.

- A. Consider a request for an exception to the Noise Ordinance for amplified sound on a Sunday and an increase in decibels from 70 to 75 for an outdoor concert sponsored by Red Bull North America, Inc. Live music would be performed on Sunday, August 28, 2011, in Lucky Lou's parking lot located at 1207 W. Hickory Street. The exception is requested for an increase in amplified sound to 75 decibels on Sunday from noon to 2:00 p.m. for a sound check and from 5:30 p.m. until approximately 10:00 p.m. Staff recommends approval of the applicant's request.

Approved the re-appointment below.

- B. Consider and confirm the re-appointment by the City Manager of Abraham Benavides to the Civil Service Commission.

Ordinance No. 2011-118

- C. Consider adoption of an ordinance of the City of Denton authorizing the City Manager or his designee to execute a purchase order through the Buy Board Cooperative Purchasing Network for the acquisition of a Hybrid Bucket Truck for the City of Denton Electric Department; providing for the expenditure of funds from the American Recovery and Reinvestment Act Grant in the amount of \$48,041 therefor; and providing an effective date (File 4763-Purchase of Hybrid Bucket Truck for the City of Denton Electric Department awarded to Rush Truck Center, Crane in the amount of \$132,751 and Altec, Inc. in the amount of \$140,713 for a total award amount of \$273,464). The Public Utilities Board recommends approval (5-0).

Ordinance No. 2011-119

- D. Consider adoption of an ordinance rejecting any and all competitive bids for a public works contract for the construction of the Preston and Brown Street 8" Sanitary Sewer Replacement/FM 2499 Utility Relocation Hickory Creek Outfall for the City of Denton (Bid Number 4721); and providing an effective date. The Public Utilities Board recommends approval (4-0).

Ordinance No. 2011-120

- E. Consider adoption of an ordinance of the City of Denton, Texas, authorizing the City Manager to execute on behalf of the City of Denton an Airport Project Participation Agreement with the Texas Department of Transportation relating to certain improvements at the Denton Municipal Airport; authorizing and directing the City Manager or his designee to expend funds as provided for in said Agreement and to execute documents on behalf of the City of Denton in order to implement the project; and providing an effective date. The Council Airport Committee recommends approval (3-0).

Ordinance No. 2011-121

- F. Consider adoption of an ordinance accepting a deed from Forestar (USA) Real Estate Group, Inc., a Delaware Corporation, conveying to the City of Denton an approximate 15.378 acre tract situated in the Gideon Walker Survey, Abstract Number 1330, Denton County, Texas for Park and Recreation purposes; and providing an effective date.

Ordinance No. 2011-122

- G. Consider adoption of an ordinance authorizing the City Manager or his designee to execute a Landscape and Maintenance Agreement between the City of Denton and the Preserve at Pecan Creek Homeowners Association Inc., a Texas Non-Profit Corporation regarding a 15.378 acre tract of land located in the Gideon Walker Survey, Abstract Number 1330, City and County of Denton, Texas; and providing an effective date.

Ordinance No. 2011-123

- H. Consider adoption of an ordinance authorizing the City Manager or his designee to execute a Contract of Sale, by and between the City of Denton Texas, as Buyer and Krista M. Black and Joel N. Fountain, as Seller, contemplating the sale to and purchase by the City of Denton of an approximate 0.94 acre tract of real property in the M. Yoachum Survey, Abstract Number 1442, Denton County, Texas, being the tract conveyed from Geneva Potts Trust to David Lee Dosier, et ux, recorded in Volume 4130, Page 453, Real Property Records, Denton County, Texas, also known as 228 Mockingbird Lane, Denton, Texas, for the purchase price of one hundred eighteen thousand five hundred and no/100 dollars (\$118,500.00); authorizing the City Manager to execute and deliver any and all other documents necessary to accomplish the closing of the transaction contemplated by the Contract of Sale; authorizing the expenditure of funds therefor; and providing an effective date. This property will be used to enlarge E. J. Milam Park.

5. ITEMS FOR INDIVIDUAL CONSIDERATION

Ordinance No. 2011-124

- A. CONTINUED – Consider adoption of an ordinance of the City of Denton, Texas, approving a 1,805.78 acre detailed plan to amend two (2) previously approved detail plans. The subject detail plan will allow (1) the creation and subsequent development of 4,288 single-family residential lots; (2) a golf course; (3) a baseball field; (4) the relocation of a previous gas park (Gas Park 13) approximately 307 feet north from previously approved location; and (5) the elimination of a previously approved gas park (Gas Park 9). The subject site is located north of Crawford Road, south of H. Lively Road, east of Florence Road, and west of Hunter Ranch Master Planned Community (AMPC10-0001); providing for a penalty in the maximum amount of \$2,000.00 for violations thereof, severability and an effective date. (Z08-0021, Robson Ranch Planned Development, PD-173) The Planning and Zoning Commission recommends approval subject to conditions (4-1).

Council Member Gregory motioned, Council Member Engelbrecht seconded to remove the item from the table. On roll call vote, Council Member King “aye”, Council Member Watts “aye”, Council Member Roden “aye”, Council Member Gregory “aye”, Council Member Engelbrecht “aye”, Mayor Pro Tem Kamp “aye”, and Mayor Burroughs “aye”. Motion carried unanimously.

Mark Cunningham, Director of Planning and Development, stated that the Council considered this item during the July 19, 2011 Council meeting at which time the public hearing was closed and staff was given direction to work with the applicants to develop some conditions of approval.

This request would amend two Detailed Plans that were previously approved and it would allow the creation and subsequent development of 4,288 single-family residential lots; a golf course; a baseball field; the relocation of a previous gas park (Gas Park 13); and the elimination of a previously approved gas park (Gas Park 9).

He stated that at the public hearing he had stated that the plats for both Gas Well Parks D and E were expired and that no wells were present at either Gas Park. He stated that the two Gas Parks within the Robson PD that had expired plats were Gas Parks D and F, not Gas Park E. There were currently five gas wells on Gas Park E.

Cunningham stated that the conditions for approval were included in the ordinance presented in the agenda backup materials.

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

B. Consider nominations/appointments to the City's boards and commissions.

1. Community Development Advisory Committee
2. Health & Building Standards Commission
3. Historic Landmark Commission
4. Library Board

Mayor Pro Tem Kamp nominated Jean Greenlaw to the Library Board. Mayor Burroughs nominated Janay Tieken to move from an alternate position to a regular position on the Health & Building Standards Commission.

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

6. PUBLIC HEARINGS

Ordinance No. 2011-125

A. Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, amending Subchapters 14 and 23 of the Denton Development Code (DDC) regarding parking requirements for studio/efficiency and one-bedroom multifamily dwelling units and to provide a definition for Dwelling Units, Efficiency and Studio Apartment; providing for a penalty in the maximum amount of \$2,000.00 for violations thereof, severability and an effective date. (DCA11-0002) The Planning and Zoning Commission recommends approval (6-0).

Mark Cunningham, Director of Planning and Development, stated that this was a staff initiated amendment to Subchapters 14 and 23 of the Denton Development Code related to off-street parking. Section 35.14.4.A.2.a of the Development Code stated that studio apartments and one-bedroom multi-family dwellings that were less than 500 square feet were required to provide one off-street parking space per unit. However Section 35.12.5 of the Denton Development Code, established a *Minimum Floor Area Requirement* for these uses and accessory dwellings at 500 square feet. It was not permissible to build these units with less than 500 square feet. Section 35.14 of the DDC required one-bedroom dwellings that were 500 square feet or larger to provide 1.5 off-street spaces per unit. All one-bedroom units (including studio apartments) must be a minimum size of 500 square feet and must provide 1.5 parking spaces per unit.

Cunningham stated that in order to eliminate this conflict, staff proposed that all studio/efficiency and one-bedroom multi-family units (regardless of square footage) provide 1.5 parking spaces per unit. Two definitions were also proposed to be added to Subchapter 23 of the DDC for *Efficiency Dwelling Unit* and *Studio Apartment*.

The Mayor opened the public hearing.

No one spoke during the public hearing.

The public hearing was closed.

Council Member King stated that he understood the need to clarify definitions. He stated that the reason people built efficiencies was to have inexpensive housing for people to rent. Increasing the parking requirement to 1.5 increased the cost of those units. He felt that it would hurt the infill and that there were areas by the universities that needed efficiencies. He stated that he would like to leave the parking requirement at 1 instead of raising it to 1.5.

Council Member Gregory suggested 1.25 spaces per dwelling unit.

Council Member Engelbrecht asked how other cities were handling this issue.

Cunningham reviewed what other cities required for parking at studio/efficiency and one-bedroom multi-family units. Lewisville required two spaces per dwelling unit. Plano required two spaces per dwelling unit, 1.5 per efficiency unit. Grapevine required 2.5 per dwelling unit. Frisco required two for each 1 or 2-bedroom unit, plus one for each additional bedroom. McKinney required one covered space per unit plus .5 spaces per bedroom. Flower Mound required two per dwelling unit. Southlake required one space per 500 sq. ft. of dwelling unit floor area within the building site. The 1.5 that staff was recommending was in line with and lower than a lot of the cities reviewed.

Cunningham stated that the Development Code had provisions that allowed up to a 25% reduction in the number of required off-street parking. In cases where there was a mixed use development, where there was residential, office and commercial, the DDC did not specify that you had any required ratio of what those three uses were just that you needed those three types of uses.

Council Member Roden asked if there were any cities that did not have a set minimum or maximum but they determined on the basis of the geography, the mixed use, and the type of development, that it would be a City Council or Planning and Zoning decision where they would look at what sort of off street parking or on-street parking was available. He asked whether this was something that was happening in other towns.

Cunningham stated that staff was in the process of looking at the parking requirement in general. This agenda item was intended to be a quick fix to address the conflict in the Development Code. He stated that there were provisions where a development could have reduced parking spaces based on the mass transit availability or based on how close the development was to a mass transit stop.

Council Member King stated that he agreed with everything that staff had proposed except he felt that the parking for studio/efficiency units should remain at 1 parking space.

Council Member Engelbrecht expressed concern about leaving the parking for studio/efficiency units at 1 space.

Council Member Watts stated that the real issue was not a parking issue it was the definition of a one-bedroom apartment. A one bedroom could be 500 square feet or larger and excluding the one-bedroom from the definition of a studio/efficiency.

Mayor Burroughs requested clarification of Council Member King's statement.

King stated that the Code should read that a studio/efficiency unit could have 500 square feet or more and could be allowed one parking space/unit.

Mayor Pro Tem Kamp asked if the Planning and Zoning Commission had discussed any of this and if so, what was the result of their discussion.

Cunningham stated that the Planning and Zoning Commission wanted a little higher parking requirement in order to keep the vehicles off the street.

Council Member Gregory proposed 1.25 parking spaces per studio/efficiency unit.

Council Member King motioned, Council Member Gregory seconded to accept the recommendation of staff and the Planning and Zoning Commission with the exception that the parking requirement for studios/efficiencies would be 1.25 parking spaces per bedroom.

Council Member Engelbrecht expressed concern about the parking requirement.

Discussion followed and the motion was amended to include studios/efficiencies of 600 square feet or less.

The Mayor restated the motion. The motion was to accept the recommendation of staff and the Planning and Zoning Commission with the exception that the parking requirement for studios/efficiencies of 600 square feet or less would be 1.25 parking spaces per bedroom.

On roll call vote, Council Member King "aye", Council Member Roden "aye", Council Member Gregory "aye", Council Member Engelbrecht "aye", Council Member Watts "aye", Mayor Pro Tem Kamp "aye", and Mayor Burroughs "aye". Motion carried unanimously.

7. 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 Gregory stated that in regards to the citizen report, he wanted the other Council Members to know that the Committee on the Environment had asked staff to develop new goals for use of renewable energy. He also stated that they had received Informal Staff Report No. 11-053 with an update on apartment recycling. He stated that he would like to see staff prepare a draft ordinance that would require apartments to provide space to accommodate recycling bins but only for new apartment construction with more than six units.

Council Member Roden thanked Rebekah Hinojosa for keeping them updated on renewable energy. He also announced that the Southeast Denton Back to School Event would be on Saturday, August 13 at the MLK Recreation Center. The major donor could not donate backpacks this year and they were about 1,000 backpacks short. Also, he stated that an emergency shelter had opened and thanked staff from other entities that had set up this shelter for people to use as long as the temperature was 105⁰ or more.

Council Member Watts stated that he had received e-mails from some citizens about the traffic across Nowlin Road and would like an update on where the City was with that issue. He stated that he would like a work session item on apartment recycling.

Mayor Burroughs stated that he would like commercial recycling added to the work session item on apartment recycling.

Council Member Engelbrecht stated that he would not be at the budget workshop on Thursday.

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

Mayor Burroughs indicated that the Council would not be going back into Closed Session.

C. Official Action on Closed Meeting Item(s) under Sections 551.071-551.086 of the Texas Open Meetings Act.

Mayor Burroughs indicated that there would be no official action on Closed Meeting items.

With no further business, the meeting was adjourned at 8:13 p.m.

MARK A. BURROUGHS
MAYOR
CITY OF DENTON, TEXAS

JANE RICHARDSON
ASST. CITY SECRETARY
CITY OF DENTON, TEXAS