

CITY OF DENTON CITY COUNCIL MINUTES

April 15, 2014

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, April 15, 2014 at 3:00 p.m. in the Council Work Session Room at City Hall.

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

ABSENT: None.

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 April 15, 2014.

City Manager Campbell stated that Item 4E would be pulled from consideration as there were questions regarding the grant.

Mayor Burroughs noted that in Item 4C, the third bidder was local and the awarded bidder was not a local company. He asked about the local preference margin.

Elton Brock, Purchasing Manager, stated that the item was a request for proposal and did not allow for a local preference which was only for a bidding process.

3. Receive a report, hold a discussion, and give staff direction on the design process for the proposed convention center and hotel.

Jon Fortune, Assistant City Manager, introduced the item to report on the progress of the convention center project. The design had been refined since the last meeting. He indicated that David Hess and Steve Minton were present to provide an update on the design.

Steve Minton and David Hess presented an update on the design project. They reviewed the details of the site plan which showed that the convention center would be three stories, the hotel would be eleven stories with first floor having the entrance with a connection to the convention center. They also reviewed the details of the layout of the hotel rooms and meetings rooms. Hess presented the details on the elevations of the hotel and convention center.

Council discussed the landscape plan and tree canopy.

4. Receive a funding recommendation report from the Community Development Advisory Committee (CDAC) and the Human Services Advisory Committee (HSAC). Hold a discussion and give staff direction regarding the proposed 2014 Action Plan for Housing and Community Development.

Barbara Ross, Community Development Manager, presented the introduction for this item. She thanked both committees for their work with the community.

Mary Ann McDuff, Human Services Advisory Committee Chair, presented the funding recommendations for human services. She reviewed the number of applications received and the number funded. Two currently funded organizations were not recommended for funding for next year. The Committee reviewed the submitted applications, each member reviewed the applications, and a presentation was made by the applicant to the committee. After the review process, the Committee made recommendations for funding. They used the priority of needs from the United Way needs assessment.

Council Member Roden stated that the backup referenced the 2010-14 Consolidated Plan and asked if a new plan was being developed.

Ross stated that the City was required to complete a new plan in 2015 for the next five years.

Council Member Engelbrecht stated that he had reviewed the funding from the 1997-98 budget year through 2020. Funding did not appear to make it back to where was in 2003 until 2019 and at the same time CDBG funding was decreasing. Recognizing that, he asked staff and Council to look at increasing the budget by \$5000 for the next three years to get the funding to an acceptable level.

Larry Varnes, Chair-Community Development Advisory Committee, presented the funding recommendations for CDBG and Home funds. The Committee had received more requests than they had funding. There were seven applications received which was a reduced number of applicants for this year but they represented a true need in the community. Each of the seven would be receiving funding. Any additional funding received was recommended to be used in the Home Program.

Mayor Pro Tem Kamp asked if the Serve Denton facility was still owned by Denton Bible.

Varnes stated that they had a 40 year lease on the property with some 10 year extensions. There may be some legal issues regarding how the leases were written and how that affected the allocation. If Legal determined that the lease conditions were not appropriate, then the allocated funds would go back into the fund for next year.

Mayor Burroughs announced that Council would be going into the Closed Meeting to discuss Items A1 and D3 and would then return to consider the remaining Work Session items and Closed Meeting items.

Council convened in a Closed Meeting at 4:20 p.m. to consider the following:

1. Closed Meeting:

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

- 1. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the potential purchase of certain real property

interests located in the D. Culp Survey, Abstract No. 287, and the J. Coltart Survey, Abstract No. 288, City of Denton, Denton County, Texas, and generally located at the intersection of Loop 288 and Kings Row. 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. (69kV Transmission Line Project Parcel C1 & C2)

D. Consultation with Attorneys - Under Texas Government Code Section 551.071.

3. Consult with and provide direction to City's attorneys regarding legal issues and strategies associated with Gas Well Ordinance 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/or impacts of federal and state law and regulations as it concerns municipal regulatory authority and matters relating to enforcement of the ordinance.

Council convened in Open Session at 5:20 p.m. with the Mayor announcing the Council would be considering the remaining Closed Meeting items. Council returned to the Closed Meeting at 5:21 p.m.

1. Closed Meeting:

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

2. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the acquisition of real property interests located in David Hough Survey, Abstract Number 646, located generally in the 1900 block of South Mayhill Road, in the City of Denton, Denton County, Texas. Consultation with the City's attorneys regarding legal issues associated with the acquisition or condemnation of the real property interests referenced 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. (Mayhill Road Widening and Improvements project - Parcel M136 Haggard)

- B. Certain Public Power Utilities: Competitive Matters - Under Texas Government Code Section 551.086; and Consultation with Attorneys - Under Texas Government Code Section 551.071.
 - 1. Receive a briefing and presentation from Denton Municipal Electric ("DME") staff regarding certain public power competitive, financial and commercial information relating to issues regarding the implementation of the "Denton Municipal Electric - Energy Risk Management Policy" that deals with bidding and pricing information as well as contracting information, for purchased power, generation and fuel; and Electric Reliability Council of Texas (ERCOT) bids, prices, offers and related services and strategies, and the terms and authorizations related thereto, as well as other and further public power information. Consultation with the City's attorneys regarding legal issues associated with the implementation of the "Denton Municipal Electric - Energy Risk Management Policy" 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. Discuss, deliberate and provide staff with direction.

- C. Deliberations regarding Personnel Matters - Under Texas Government Code Section 551.074.
 - 1. Deliberate and discuss the appointment and duties of public officers to boards or commissions exercising discretionary or rule making power as opposed to purely advisory powers for the Zoning Board of Adjustment.

- D. Consultation with Attorneys - Under Texas Government Code Section 551.071.
 - 1. Consult with the City's attorneys regarding the status and possible resolution of litigation styled In re: TransData, Inc. Smart Meters Patent Litigation, Cause No. 5:12-ml-02309-C, currently pending in the United States District Court for the Western District of Oklahoma, and provide informal direction as appropriate.
 - 2. Consult with City's attorneys regarding legal issues and legal challenges arising out of municipal ordinances regulating the operation and location of credit access businesses, including Denton Ordinance No. 2013-073 and possible amendments thereto, as well as the status and strategic considerations associated with litigation pending in the 16th District Court of Denton County, Texas styled ACE Cash Express v. City of Denton, Cause No. 2013-10564-16.

Council reconvened in Open Session at 6:10 p.m. and continued the Work Session.

6. Receive a report, hold a discussion and provide direction regarding a ban on wireless communication use while operating a motor vehicle in the City of Denton.

Mark Nelson, Transportation Director, reviewed the history of the ban on wireless communication use while operating a motor vehicle. The draft ordinance prohibited texting while driving and provided for the use of handheld devices. It excluded the Interstate from the regulations. A public information effort would be included to raise the level of consciousness that texting while driving was not only unsafe but also prohibited. He reviewed the steps in the education campaign and the bumper sticker that would be used. Consideration of the ordinance was scheduled for the May 6th agenda with the education campaign starting in July/August.

Mayor Burroughs suggested an alternate bumper sticker that said "I do not text and drive" which showed more of a commitment.

Council Member Hawkins stated that some local artists had already offered to design some sort of sticker or decal.

Council Member Gregory stated that he would like to have the Police Department collect data on this issue and look back in a year to see if the ordinance had created more problems, that it was working properly or that it would be better to move to a complete ban.

Consensus of the Council was to proceed with the ordinance.

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 at which the following items will be considered:

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

1. Mayor's Day of Concern for the Hungry

Mayor Burroughs presented the proclamation for the Mayor's Day of Concern for the Hungry.

2. National Day of Prayer

Mayor Burroughs presented the proclamation for the National Day of Prayer.

3. Olympian Jordan Malone Day in Denton

Mayor Burroughs presented the proclamation for Jordan Malone Day in Denton.

4. Jazz Appreciation Month

Mayor Burroughs presented the proclamation for Jazz Appreciation Month.

5. Meritorious Service Award to Parks Department from the Texas Council on Family Relations

Mayor Burroughs noted that the Parks Department had been recognized by the Texas Council on Family Relations for all of the services and programs provided to senior citizens.

3. **CITIZEN REPORTS**

A. Review of procedures for addressing the City Council.

B. Receive citizen reports from the following:

1. Russell Linton regarding Red Light Traffic Cameras.

Mr. Linton spoke regarding red light camera usage in the city of Denton. He felt the program violated citizen's rights in the name of profit for the city. Many other cities were no longer using the red light cameras and he asked Denton to do the same.

4. **CONSENT AGENDA**

Mayor Burroughs stated that Item E would not be considered and was pulled from consideration.

Mayor Pro Tem Kamp motioned, Council Member Hawkins seconded to approve the Consent Agenda and accompanying ordinances and resolutions with the exception of Item E. On roll call vote, Mayor Burroughs "aye", Mayor Pro Tem Kamp "aye", Council Member Engelbrecht "aye", Council Member Gregory "aye", Council Member King "aye", Council Member Roden "aye", and Council Member Hawkins "aye". Motion carried unanimously.

Ordinance No. 2014-096

A. Consider adoption of an ordinance accepting competitive bids and awarding a public works contract for the Wastewater Collection System Improvements around Eagle Drive and Congress Street Project for the City of Denton Engineering Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 5472-awarded to Dickerson Construction Company, Inc. in the not-to-exceed amount of \$2,070,842). The Public Utilities Board recommends approval (5-0).

Ordinance No. 2014-097

B. Consider adoption of an ordinance of the City of Denton, Texas providing for, authorizing, and approving the purchase of Temporary Mobile Compressed Natural Gas (CNG) Fueling Services for the Solid Waste and Recycling Departments, which are 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 5464-awarded to Ultimate CNG, LLC in the three (3) year not-to-exceed amount of \$120,000). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2014-098

- C. Consider adoption of an ordinance accepting competitive proposals and awarding a contract for the purchase of three (3) mid-mount mowers and two (2) wide area mowers for the City of Denton Parks Department ; providing for the expenditure of funds therefore; and providing an effective date (RFP 5483-awarded to Ag-Power Inc. in the amount of \$131,070.50).

Ordinance No. 2014-099

- D. Consider adoption of an ordinance of the City of Denton authorizing an agreement between the City of Denton, Texas and Denton Parks Foundation; authorizing the expenditure of funds; and providing for an effective date. (\$1,350) (Splash Park)

This item was not considered.

- E. Consider adoption of an ordinance of the City of Denton, Texas authorizing the City Manager to make an application with the Texas Auto Burglary and Theft Prevention Authority for a grant to form a task force to focus on auto theft and auto burglary and take all other actions necessary to obtain and implement the program; and providing for an effective date.

Ordinance No. 2014-100

- F. Consider adoption of an ordinance of the City of Denton, Texas authorizing the City Manager to make an application with the Texas Auto Burglary and Theft Prevention Authority for a grant to continue implementation of the Reduce Auto Theft Texas Program and take all other actions necessary to obtain and implement the program; and providing for an effective date.

Ordinance No. 2014-101

- G. Consider adoption of an ordinance approving a City sponsorship in an amount not to exceed \$9,500 of in-kind services and resources for the Cinco de Mayo Celebration to be held in Quakertown Park on May 3, 2014; and providing an effective date.

Ordinance No. 2014-102

- H. Consider adoption of an ordinance finding that a public use and necessity exists to acquire (I) fee simple title to a 10.45 acre tract; (II) an electric utility easement encumbering a 0.802 acre tract, and (III) a temporary construction easement encumbering a 0.521 acre tract; all said lands located in the D. Culp Survey, Abstract No. 287 and the J. Coltart Survey, Abstract No. 288, City of Denton, Denton County Texas, as more particularly described on Exhibits "A", "B", and "C", as attached to the Ordinance and made a part thereof, located generally at the intersection of Loop 288 and Kings Row (the "Property Interests"), for the public use of expansion, construction, maintenance, operation, and improvement of electric transmission and distribution lines, facilities, and structures, as well as sub-stations, (the

"Project"); authorizing the City Manager or his designee to make an offer to (1) Brown Development I, Ltd., a Texas Limited Partnership; Julie Luelle Brown, Successor Independent Executor of the Estate of Gerald W. Brown, deceased; Julie Luelle Brown, Trustee of the Julie Luelle Brown Nonexempt Lifetime Trust under the Will of Gerald W. Brown; Julie Luelle Brown, Trustee of the Julie Luelle Brown Exempt Lifetime Trust under the Will of Gerald W. Brown; Gerald W. Brown, II, Trustee of the Gerald W. Brown, II Nonexempt Lifetime Trust under the Will of Gerald W. Brown; Gerald W. Brown, II, Trustee of the Gerald W. Brown, II, Exempt Lifetime Trust under the Will of Gerald W. Brown; Jason Edwin Brown, Trustee of the Jason Edwin Brown Nonexempt Lifetime Trust under the Will of Gerald W. Brown; Jason Edwin Brown, Trustee of the Jason Edwin Brown Exempt Lifetime Trust under the Will of Gerald W. Brown; Jinger Jeannine Brown, Trustee of the Jinger Jeannine Brown Nonexempt Lifetime Trust under the Will of Gerald W. Brown; Jinger Jeannine Brown, Trustee of the Jinger Jeannine Brown Exempt Lifetime Trust under the Will of Gerald W. Brown; Alicia Margaret Noel Brown, Trustee of the Alicia Margaret Noel Brown Nonexempt Lifetime Trust; Alicia Margaret Noel Brown, Trustee of the Alicia Margaret Noel Brown Exempt Lifetime Trust; Connie L. Brown, Independent Executor of the Estate of Robert M. Brown, deceased; Connie L. Brown, Trustee of the Robert M. Brown Exempt Family Trust; Connie L. Brown, Trustee of the Robert M. Brown Nonexempt Family Trust (collectively, the "Owner"); (2) successors in interest to the Owner of the Property Interests; or (3) any other owners of the Property Interests, as may be applicable, to purchase the Property Interests for the purchase price of Three Hundred Ninety Two Thousand, Nine Hundred Forty Five Dollars and 00/100 (\$392,945.00), and other consideration, as prescribed in the Contract of Sale (herein so called), as attached to the Ordinance and made a part thereof as Exhibit "D", authorizing the expenditure of funds therefore; and providing an effective date. (69kV Transmission Line Project Parcel C1 & C2)

Approved the minutes listed below.

- I. Consider approval of the minutes of: March 3, 2014 March 4, 2014 March 18, 2014

Ordinance No. 2014-103

- J. Consider adoption of an ordinance of the City of Denton, Texas, authorizing the City Manager to execute a contract with the Denton Independent School District for the 2014 Summer Food Service Program; authorizing the expenditure of funds to administer the program; and providing an effective date.

Resolution No. R2014-013

- K. Consider approval of a resolution approving the 2013 Tax Increment Reinvestment Zone Number Two (Westpark TIRZ) Annual Report; and declaring an effective date.

Ordinance No. 2014-104

- L. Consider adoption of an ordinance of the City of Denton, Texas, establishing a new Schedule of Permit Fees for permits issued by the Building Inspector, including, but not limited to, building permit fees, consumer health permit fees, fence and retaining wall permit fees, mobile home moving fees, temporary permit fees, and investigation and administrative fees, superseding prior fee schedules to the extent of conflict, and providing for an effective date.

5. ITEMS FOR INDIVIDUAL CONSIDERATION

Ordinance No. 2014-105

- A. Consider adoption of an ordinance considering all matters incident and related to the issuance, sale and delivery of up to \$94,500,000 in principal amount of "City of Denton Certificates of Obligation, Series 2014" (including up to \$9,276,000 for General Government activities, up to \$8,440,000 for Solid Waste Fund activities, up to \$1,784,000 for Airport Fund activities, and up to \$75,000,000 for Electric, Water and Wastewater Fund activities); authorizing the issuance of the Certificates; delegating the authority to certain City officials to execute certain documents relating to the sale of the Certificates; approving and authorizing instruments and procedures relating to said Certificates; and enacting other provisions relating to the subject.

Chuck Springer, Director of Finance, stated that the ordinance would issue Certificates of Obligation in the amount of \$94.5 million. The bonds were for long term capital projects such as vehicles. This was a parameters ordinance which gave staff the authority to complete the transaction within the next six months. The City had received bond ratings of AA+ and AA with stable ratings.

Council Member Gregory stated that some information had been given out at a candidate forum that Certificates of Obligation were a form of debt for governing bodies to use in case of an emergency and asked if that was correct.

Springer stated no that they were used for public works or public improvements such as utility improvements, airports or solid waste.

Council Member Roden asked for an explanation of the ratings.

Springer stated that ratings were used for the marketing of the bonds. AA+ was one notch below the highest of AAA. This was a very strong rating for the city of Denton. The rating agencies looked at the financial ability of the City to repay the debt.

Council Member Hawkins stated that some items were very large with intergenerational equity.

Springer stated that these were often long term assets such as electric infrastructure. Intergenerational equity was a term used for paying for the bonds over the life of the asset instead of paying for all of it up front.

Council Member Gregory stated that another mention at a forum was the amount of the City's debt at this time. When looking at all of the debt for bonds, the City was at the higher end and he questioned why the City was at a higher per capita than other cities.

Springer stated that the rating agencies looked at overlapping debt for the tax payer in terms of debt for the city, the county and the school district. A significant portion of the overlapping debt was related to the school debt and not as much for the city debt.

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

Ordinance No. 2014-106

- B. Consider adoption of an ordinance considering all matters incident and related to the issuance, sale and delivery of up to \$7,600,000 in principal amount of "City of Denton General Obligation Refunding and Improvement Bonds, Series 2014"; authorizing the issuance of the Bonds; delegating the authority to certain city officials to execute certain documents relating to the sale of the Bonds; approving and authorizing instruments and procedures relating to said Bonds; and enacting other provisions relating to the subject.

Chuck Springer, Director of Finance, stated that these were refunding bonds in the amount of \$7.65 million with \$3.35 million of outstanding debt for savings as a portion of this ordinance. This ordinance was also a parameters ordinance similar to the first ordinance.

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

- C. Consider nominations/appointments to the City's Boards and Commissions:

1. Public Art Committee
2. Zoning Board of Adjustment

Council Member Gregory nominated Krissi Oden to the Public Art Committee.

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

Ordinance No. 2014-107

- D. Consider adoption of an ordinance of the City of Denton, Texas to implement and enforce the Texas State Rule on locally enforced motor vehicle idling limitations and to approve entering into a memorandum of agreement with the Texas Commission on Environmental Quality to enforce this rule locally; providing an effective date.

Katherine Barnett-White, Sustainability and Special Projects Administrator, presented the details regarding the proposed ordinance. This anti-idling ordinance would apply to trucks with some exemptions such as sleeper berth, buses, armored vehicles, and certified clean idle engines. Staff

recommended looking at existing conditions, beginning an education and outreach program and revisiting the ordinance after a year to see how it was doing.

Mayor Burroughs asked if grants were still given for sleeper locations and outreach to potential sites to apply for those grants.

Barnett-White stated that grants were still available and an outreach would be beneficial.

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

6. PUBLIC HEARINGS

Ordinance No. 2014-108

- A. Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, adopting Standards of Care for Youth/Teen Programs administered by Denton's Parks and Recreation Department pursuant to Texas Human Resources Code Section 42.041 (b)(14); and providing an effective date. The Parks, Recreation and Beautification Board recommends approval (6-0).

Kathy Schaeffer, Athletics/YTS Program Area Manager, stated that each year the standards of care had to be approved after a public hearing. There were no changes from last year.

The Mayor opened the public hearing

No one spoke during the public hearing.

The Mayor closed public hearing

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

- B. Hold a public hearing inviting citizens to comment on the City of Denton's 2014 Action Plan for Housing and Community Development.

Barbara Ross, Community Development Manager, stated that this was an opportunity for individuals or organizations to comment on the draft action plan with the recommendations presented by the Human Services Advisory Committee and the Community Development Advisory Committee.

The Mayor opened the public hearing.

No one spoke during the public hearing.

The Mayor closed the public hearing.

No action was needed on this item

Ordinance No. 2014-109

- C. Hold a public hearing and consider adoption of an ordinance amending the Water Conservation Plan and the Drought Contingency Plan of the City of Denton, Texas previously adopted by the City Council in ordinance No. 2009-134 enacted on the 2nd day of June, 2009 regarding only Sections 6.6 and 6.7 thereof; and as previously adopted by the Council in ordinance No. 2012-064 enacted on the 6th day of March, 2012; amending the drought and emergency response stages of the Water Conservation Plan and the Drought Contingency Plan; amending the enforcement provisions of mandatory restrictions of the Water Conservation Plan and the Drought Contingency Plan; providing for the stages of enforcement for violators of the Water Conservation Plan and the Drought Contingency Plan; providing for rates to be charged for water usage in the water conservation plan and the drought contingency plan in the event of high usage; providing for administrative fees to be charged to violators for certain violations of the drought contingency plan; providing a criminal penalty not to exceed \$2,000 per violation of the drought contingency plan; providing a civil penalty not to exceed \$1,000 per day per violation of the drought contingency plan; providing civil legal remedies for the City of Denton, Texas; providing a savings clause; providing a severability clause; and providing an effective date.

Tim Fisher, Water Division Manager, presented the details on the proposal. The City was required by state law to update the plan every five years. Staff took the updated plan to the Public Utilities Board and presented it to Council at a Work Session. The proposed ordinance and plan were consistent with what was presented before.

The Mayor opened the public hearing.

No one spoke during the public hearing.

The Mayor closed the public hearing.

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

- D. Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, regarding a Specific Use Permit to allow a multifamily housing development on approximately 4.13 acres of land, generally located on the west side of East Sherman Drive, west of the intersection of East Sherman Drive and Linwood Drive. The subject property is located within a Neighborhood Residential Mixed Use

(NRMU) zoning district and land use designation. The Planning and Zoning Commission recommends denial (6-0). (S13-0011, University North) A supermajority vote by Council is required for approval.

Brian Lockley, Director of Planning and Development, presented the details on the item. This was a request for a specific use permit for the development of University North Apartments. A supermajority vote of Council was required as the Planning and Zoning Commission had recommended denial of the proposal. The location of the property, zoning map, project specifics, and results of the neighborhood meetings were reviewed. The Denton Development Code zoning information was also presented along with the future land use for the area, the approval criteria, site plan, site photos, and public notifications. The Planning and Zoning Commission had recommended denial as did the Development Review Committee. During the Planning and Zoning Commission meeting, it was indicated that the purpose for the multi-family development was for TWU student housing. However, the Director of Housing indicated that there was adequate housing for TWU at this time.

Mayor Pro Tem Kamp asked about neighborhood meetings.

Lockley stated that there were about 25 people in attendance who were opposed to the development in terms of traffic, the scope and scale of the proposal and the number of units.

Council Member Roden stated that TWU was putting students in hotels and felt that there was a housing shortage.

Council Member Roden asked what the hope of the neighborhood was for development in the area.

Lockley stated that ideally they would like some type of mixed use or light retail office use to serve the immediate neighborhood.

Council Member Roden asked if apartments could be part of that mixed use.

Lockley stated yes but there were many issues associated with multi-family but that it could be integrated into a neighborhood.

Council Member Roden stated that there was a gas station north of the property and asked if that was an allowed use.

Lockley replied correct.

Council Member Hawkins stated that he had also talked with the Director of Housing who indicated that currently the housing was adequate but in the future there might not be.

Council Member King stated that there had only been a convenience and grocery store in the area but they were now closed. The economy did not mean that commercial would be supported in the area.

Lockley stated that was correct and that there were a number of factors that went into that zoning.

The Mayor opened the public hearing.

The following individuals spoke during the public hearing:

Jan Hughes, 1600 Panther Lane, College Station, - favor
Deb Conte, 2106 N. Bell, Denton, 76209 – opposed
Don Hammons, 6005 Terravista Drive, Austin, 78735 – in favor
Mac Jones, 5946 Cape Coral, Austin, 78746 – favor

Council Member Gregory stated that one of the neighborhood concerns was the scope and scale of the project and asked why there were so many units proposed.

Jones stated that 250 bedrooms was not a large project. The original scope of the project had to be scaled back because of the setbacks in front and back of the property. That reduced the number of units that could be done and in order to get the density and make the project feasible, the project had to go up in height. Jones stated that they had done business in Denton before and wanted to build here again. They had spent time and money to get to this point.

Robert Langford, 516 Sunrise Cove, Denton, 76209 – opposed

Mayor Burroughs asked Mr. Langford what would be reasonable uses for the property.

Langford stated that much of his opposition was about the height of the proposal.

Judi Norman, 512 Sunrise Cove, Denton, 767209 – opposed
Angela Stripling, 1815 N. Bell, Denton, 76209 – opposed
Pat Reed, 2414 Northwood, Denton, 76209 – opposed
Patty Belcher, 815 Linwood, Denton, 76209 – opposed
J Aaron Cundall, 423 E. Sherman, Denton 76209 – opposed
Julie Buchanan, 700 Linwood, Denton, 76209 – opposed
Robert Killam, 910 Edgewood, Denton, 76209 – opposed
Robert Schloss, 616 Linwood, Denton, 76209 – opposed
Glenn Hass, 2218 Fowler, Denton - opposed

Council Member Roden stated that the petition Mr. Hass presented to Council asked for green space in the area. He questioned if the ultimate goal was green space or something else.

Hass stated that in his opinion, it could be combined green space such as a park or a splash park or a medical park for the surrounding neighborhood.

Bilal Almadhoun, 514 Sunrise Cove, Denton, 76209 – opposed
David Woodling, 629 Linwood, Denton, 76209- opposed
Martha Gracey, 629 Linwood, Denton, 76209- opposed
Ryan Davenport, 1920 North Lake Trail, Denton, 762021- favor
Lori Adams, 800 Sherman, Denton, 76209 – opposed

The applicant was allowed a five minute rebuttal. Ms. Hughes stated that she and her siblings had pursued the kinds of small shops the residents wanted but they could not get anyone to purchase the property.

Comment cards were submitted by:

Kim Hoggard, 703 Linwood, Denton, 76209 – opposed
Doug Hoggard, 703 Linwood, Denton, 76209 – opposed
Larry Beck, 915 Sherman, Denton, 76209 – opposed
Chuck Buchanan, 700 Linwood, Denton, 76209 – opposed
Ernie Stripling, 1815 N. Bell, Denton, 76209 – opposed

The Mayor closed the public hearing.

Council commented on how difficult the decision was for them to make due to the amount of vacant buildings in the area, understood the desire to keep it green and the property owner trying to sell the property for years.

Council Member Gregory motioned, Mayor Pro Tem Kamp seconded to deny the proposal. On roll call vote, Mayor Burroughs "aye", Mayor Pro Tem Kamp "aye", Council Member Engelbrecht "aye", Council Member Gregory "aye", Council Member Roden "aye", and Council Member Hawkins "aye". Council Member King "nay". Motion carried with a 6-1 vote.

7. CITIZEN REPORTS

There were no citizen reports for this section of the agenda.

8. CONCLUDING ITEMS

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

Council Member Engelbrecht asked for a report on the citizen report by Mr. Linton.

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

There was no continuation of the Closed Meeting.

Mayor Burroughs announced that the Council would be returning to the Work Session Room to consider the item not completed before the start of the regular meeting.

5. Receive a report, hold a discussion and give staff direction on the creation of a City Council Committee to explore policies and vision for historic preservation, and possible revisions to the Denton Development Code and the Denton Code of Ordinances.

Brian Lockley, Director of Planning and Development, reviewed the development of the Historic Landmark Commission, the composition of the Commission and the enabling language for the Commission. The Commission would like to expand their role to review of properties on the Downtown Square. This area was a national registry of historic places and not a local designation. The Commission was working on a proposal for a downtown historic overlay district and alternative energy sources in the historic district. Currently there were inadequate design guidelines for solar panels in historically designated areas and on historic structures. Staff was requesting direction from Council.

Council Member Roden stated that he had talked with the Commission and a goal was to take the current guidelines and bring them up to date. They would also like to raise issues directly to Council. There was a concern that the right tools were in place which resulted in some frustrations on some of the issues. The Commission's initial concern was how it would be approached or if the Council would take over their duties. He felt the goal was to work with the ultimate policy makers if making changes in the future. Volunteers and/or stakeholders should be included.

Mayor Burroughs suggested getting a wide range of stakeholders involved. A historic nature of a building did not always trump the circumstances. Not every building that was old was historic and not every historic building was valuable. There needed to be sensitivity in this area with other points of view considered as well.

Mayor Pro Tem Kamp stated that she wanted to emphasize what was going on in the historical district and deal with various issues that have come up. She agreed that more stakeholders needed to be involved and Council also needed to be more involved. She also agreed with the Mayor that there was a need for more opinions rather than less and to be proactive in terms of what might need to be saved.

Mayor Burroughs stated that by having the Council committee look at areas to help the Commission, areas could be identified with distinctions unique to each area.

Council Member Engelbrecht suggested forming the committee after the election.

Council Member Hawkins asked if the committee would be helping the Commission with permitting issues.

Council Member Roden suggested looking to the Commission for agenda topics and identifying higher level policies and issues. The committee would be structured as an ad hoc committee and not a standing committee. The committee could be created in June when Council looked at the other Council committees.

With no further business, the meeting was adjourned at 9:55 p.m.

MARK A. BURROUGHS
MAYOR
CITY OF DENTON, TEXAS

JENNIFER WALTERS
CITY SECRETARY
CITY OF DENTON, TEXAS