

CITY OF DENTON CITY COUNCIL MINUTES

August 14, 2012

After determining that a quorum was present, the City Council convened in 2nd Tuesday Session on Tuesday, August 14, 2012 at 2:30 p.m. in the City Council Work Session Room at City Hall.

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

ABSENT: Council Member Watts

1. Receive a report, hold a discussion and give staff direction regarding an ordinance to amend the currently adopted 2009 International Energy Conservation Code (IECC).

Kurt Hansen, Building Official, presented information for Items 1, 2, and 3. He reviewed the codes which were being discussed for revisions and the history of the adoption of those codes. Staff had made a presentation to the Chamber of Commerce which resulted in five questions.

#1 What other city had adopted the 2009 codes with amendments? Of the 23 local cities questioned, 15 had already adopted the 2009 codes and two others were in the process of adopting them.

#2. What other cities in North Texas were on a newer code? The survey showed that 9 cities would adopt the 2012 codes next year. The North Texas Council of Governments was currently going through those codes.

#3. What other cities adopted a 10% or more increase in the Energy Code? Of the 23 cities which responded to the survey, only 2 cities required more than the Energy Code. Plano required 15% above and Frisco required Energy Star as a minimum requirement.

#4 What was the increased effective cost to the homebuilder with adoption of these changes? Hansen presented the costs for a carbon monoxide detector with an extended cost of \$100, ArcFault circuit interrupters with an extended cost of \$315.00, tamper proof receptacles with an extended cost of \$12.50 for a total increase of \$427.50 for all of the proposed changes.

Council Member Gregory asked how many people attended the Chamber meeting and was it the same people who attended the developers meeting.

Hansen stated there were about 15-20 people at the meeting. They were not the same people who attended the other meeting.

#5 What was the effective cost of implementing the independent final Commercial Energy inspection over adding staff to complete these inspections? A survey of 3rd party Energy Inspectors showed an average cost of \$500 or \$.10 per square foot for a 5,000 square foot space. To recover the cost of hiring an inspector, \$.07 per square foot or \$350 would be required for a 5,000 square foot space. As the project got bigger, the cost could go down.

Council Member King stated that was a cost that currently was not required.

Hansen stated that right now an independent inspection was not required. He continued that new building codes were published every 3 years and were usually more restrictive with each new publication. The Energy Code was especially more restrictive and more complicated with each

publication. The cost of building a structure with each new code adoption usually increased. Building inspectors did and would require more time to perform thorough inspections, especially energy inspections; and inspectors would be in constant need of training.

Mayor Burroughs asked at what point did additional requirements trigger a remodel.

Hansen stated that anything new that was added to the home, the new portion would be held to the adopted code.

Mayor Burroughs asked if there was a best guess as to how much more time would be required with these new regulations. He questioned if there would be delays in trying to get inspections which could be hard on staff and the public in terms of wait time.

Hansen stated that scheduled inspections were done every day and usually done within 24 hours. If a project was not meeting code and if it failed the inspection, the inspector came back the next day. Education was necessary and staff provided check lists for the builders. Any builder could get a check list from them when requested.

Council Member Gregory questioned if a re-inspection might have a different inspector and if that inspector might find something different or an additional problem to fix.

Hansen stated that inspectors were sent to certain areas of the city for six months at a time and staff tried to get the same inspector for every same inspection. The inspectors were rotated every 6 months to a different part of the city. Staff had regular reviews of the check lists so everyone knew what was the same for each person.

Council Member King questioned if any of these new codes were triggered by a certificate of occupancy or a repurchase.

Hansen stated that if just the name were changed, there would be no problem.

Council Member Engelbrecht questioned the time line with home inspections for residential property. He did not see much additional time for the provisions of the carbon monoxide detectors, the new receptacles and the archfault interrupters.

Hansen stated that those were more for commercial buildings rather than residential.

Council Member Gregory asked about a house that was built in the 60's and over the years items were replaced. If the city came out to inspect that home, what would be the legal grounds that allowed the City to impose the current standards?

Hansen stated that the code addressed new repairs. The rest of house would not apply to the new codes.

City Attorney Burgess stated that the City could not change the rules during a current project but minor new projects could have the new codes applied to them.

Council Member Gregory asked if there was a substantial remodel or addition, would everything have to be brought up to the new code.

Hansen stated that for residential, some reactive codes that might apply. With a commercial building that had the same use, the codes would apply only for the new construction.

2. Receive a report, hold a discussion and give staff direction regarding an ordinance to adopt the 2009 International Building Code (IBC), the 2009 International Residential Code (IRC), the 2009 International Plumbing Code (IPC), the 2009 International Mechanical Code (IMC), and the 2009 International Fuel Gas Code (IFGC) as amended by the City.

This item was considered with Item #1.

3. Receive a report, hold a discussion and give staff direction regarding an ordinance to adopt the 2011 National Electrical Code (NEC) as amended by the City.

This item was considered with Item #1.

4. Receive report, hold a discussion, and give staff direction regarding the proposed adoption of an ordinance amending Chapter 29 of the Code of the City of Denton, Texas, to provide for the adoption of the International Fire Code, 2009 Edition.

Rick Jones, Fire Marshal, stated that he also attended the Chamber meeting. The only question he received dealt with the 1.5 miles outside the city limits. That has been removed from the Code and everything else was the same as presented at an earlier meeting.

Council Member Gregory stated that Section 307 prohibited recreational fires within the city limits while Section 307.5 allowed outdoor fire places.

Jones stated that recreational fires were defined differently than outdoor fire places. Recreational fires were building a campfire in the backyard and not in an approved container.

Council Member King asked if the 10% energy of the Energy Code necessary.

Hansen stated that in his personal opinion, it was not necessary.

Mayor Burroughs asked how much more efficient was the 2012 Code.

Hansen stated that it was close to 50% with an increase in insulation and better windows and doors. It was becoming onerous to achieve.

Mayor Burroughs asked about the difference between the 2006 and 2009 Energy Code coverage.

Hansen stated that the 2009 was 12-15% better.

Mayor Pro Tem Kamp stated that Council had made the decision to move forward with that additional requirement.

Council Member Gregory stated that even if the additional 10% increased the cost of building a home which was passed on to the buyer, the buyer ended up using less energy. He felt it was a win-win for everyone.

Council Member Roden questioned if there was a way to find out the marketability to selling a product with a high energy rating and how much that would cost.

Hansen stated that he would provide that information.

Mayor Burroughs suggested putting that one issue out to stake holders and what the cost was to them.

Hansen stated that requirement was already under the 2009 Code and the builders were already paying that cost. A cost benefit analysis could be done when the city was preparing to adopt the 2012 Code.

Consensus of Council was to proceed with placing the codes on an agenda for consideration.

5. Receive a report, hold a discussion and give staff direction regarding the prioritization of the bicycle accommodation projects.

Jim Coulter, Director of Water Utilities, stated that after the adoption of the bike plan, staff was directed to develop a priority listing of projects. That listing included Pennsylvania Drive, UNT to DCTA Train Station (Sycamore Street) and TWU to DCTA Train Station (unspecified). The Pennsylvania area was not in favor of the proposed area for the bike path so the plan was changed. Commissioner Coleman agreed to move the funds that had been dedicated to Pennsylvania to be reallocated to a different bicycle accommodation project that was in his precinct. The reprioritization of projects would now include: Windsor (Old North to Bonnie Brae), Sycamore (DCTA Station to UNT), Oak and Hickory and a fourth project that as of yet was not identified. The purpose was to find projects that were easier to accomplish and that would not conflict with other projects. The TWU project was removed from the priority list at this time as TWU was going through a master plan project and until it was known what the campus would look like, Oak and Hickory would be considered. Another question asked of staff was if there was adequate staffing to implement the bike plan. Staff looked at what other cities did and currently it was felt that it would be difficult to find justification to fund such a position in Denton.

Council Member Gregory felt the recommendations for reorganizing were right on. He felt that there hadn't been many street miles done this first year.

Coulter stated that was correct.

Council Member Gregory questioned what would be a fair measure of the progress.

Coulter stated that a consideration would be the square miles based on the available funding. After working on the projects for several years, staff was ready to get the projects on the ground.

Council Member Gregory asked if there was a point in the projects where the Engineering would not keep charging the bike project if it went over a certain percentage of the total cost.

Coulter stated that the Engineering Department had to recoup its costs.

Council Member Gregory stated that there were nine objectives in the plan and questioned who was in charge of the other objectives.

Coulter stated that various staff members were responsible for various elements.

Mayor Pro Tem Kamp felt it was a good recommendation since the Pennsylvania project did not work. She supported the new priorities.

Council Member Roden asked if there was a time line when TWU was going to change.

Coulter stated that TWU had discussed significant changes which they were in the middle of right now. There was no time line at this time.

Council Member Roden asked if there might be flexibility to put a path through Quakertown Park for TWU. If the street bond program passed and there were certain streets designated for bike lanes or future bike lanes, would those streets be on the radar for the first year.

Coulter stated that if there was a list of streets with the bike plans and if work were on those streets, the plans would be there.

Council Member Engelbrecht questioned if Council would see other projects that could be implemented quickly.

Coulter stated that once they were identified, they would go to the Traffic Safety Commission for review.

6. Receive a report, hold a discussion and give staff direction on the consultant proposal for the design of the Hickory Street Grand Street project that meets the pavement, sidewalks, streetscape and landscape criteria as envisioned in the Downtown Implementation Plan adopted by the City Council.

PS Arora, DRC Engineering Administrator, presented background information on the proposal. The Downtown Implementation Plan study conducted by the consultant identified Hickory Street as the focal point of the DTIP area. As such, Hickory Street was programmed to become the Grand Street for the downtown. The Grand Street project included Hickory Street from the Downtown A-Train Station to Locust Street. It would include new pavement construction, widened sidewalks, improved walkability, and sidewalks up to ADA standards. Ornate streetscape and landscape would include street trees, landscaped corner beds and flower pots at various intersections, benches, trash cans, pedestrian lighting and power supply accommodations for future growth and downtown festivals. Water, wastewater and DME improvements would be completed before pavement construction began for the Grand Street. Staff had engaged Michael Baker to design the Grand street project.

Nancy White, CCA, showed different projects of before and after projects they did with transit projects and how the Grand Street was proposed to be designed.

Mayor Pro Tem Kamp asked if native natural plants would be used for the projects.

White stated that they use all native plants for these types of projects. Some might have to be irrigated for a year or so to get them established.

Mayor Burroughs stated that Council had made a significant commitment to public art. He questioned at what point did the public art groups provide suggestions into the view of what the corridor would look like.

White stated that input needed to be up front when planning for the project. Placeholders might be installed initially until the art was ready to be placed on the streetscape. It was necessary to know ahead of time in order to plan for it appropriately.

Mayor Burroughs asked if there would be an opportunity here to recognize some of Denton's more prominent groups or people.

Arora stated that staff was working with Julie Glover on this plus a Walk of Fame design which might come into play later on in the project. The consultant would work with staff and the Art Committee to work for placeholders for future features.

Mayor Burroughs asked if some type of water feature had been considered to help with cooling.

White stated that they work with different colored pavement which helps cool the streetscape.

Mayor Pro Tem Kamp asked about some type of water feature to help with cooling. She also suggested LED lighting to add to the presentation of the street.

Council Member Engelbrecht stated that he did not find a mention of bike parking and was that included in the redesign of the parking lot.

PS stated it was incorporated into the redesign.

Council Member Gregory stated that some cities incorporated bike racks and benches with public art and that might be considered.

Arora stated that the pre-design cost estimate was \$2.8 million. The consultant fees included design, streetscape/landscape, railroad design and permit, survey and SUE, geotech, parking lot and meetings with area property owners for a total of \$335,771. The total cost estimate for design and construction was \$3.1 million. Staff was seeking a recommendation from Council to continue with the project as presented and to bring the Michael Baker engineering services design contract back for Council consideration.

Council Member Roden asked if the complications of DME add to the cost of the project.

Arora stated that they were looking at the design at this time for the improvements and would put those in the CIP for next year.

Council Member Roden asked about drainage problems.

Arora stated that drainage would be funded as part of this project.

Council Member Roden suggested considering thinking ahead on businesses coming into the area and the possibility of infrastructure that would allow high speed internet.

Arora stated that they would send the plans out to all franchise utilities to consider what might have to be done before completion of project.

Council Member Roden asked about adjusting the infrastructure for potential quiet zones in the downtown.

Arora stated that the permitting and design costs included that option.

Council Member Gregory questioned how the power outlets for festivals would work.

Julie Glover, Economic Development Program Administrator, stated that the user would purchase power for a short period of time. Currently there were some outlets near the planters on the Square which were used for festivals. Additional outlets could be either above ground or below ground and sealed for festival use.

Council Member Gregory questioned the redesign of the parking area.

Arora stated that the proposal was to have multiple driveways into the parking lot and to determine what could be closed to limit access on Hickory. The interior of the lot would be restriped.

Consensus of Council was to move forward with the contract and the concepts.

7. Receive a report, hold a discussion, and give direction regarding the FY 2012-2013 Proposed Budget, Capital Improvement Program, and Five-Year Financial Forecast.

City Manager Campbell asked if there were any questions concerning the budget. Staff did not have a presentation prepared but was available answer any questions.

Mayor Pro Tem Kamp asked about Council contingency funds.

City Manager Campbell stated that staff was in the process of drafting criteria have the funds remain in the City Manager contingency account and bring the suggested funding entities to Council as was done in the past. No specific amounts were allocated to each Council member; however, the funding was in the budget.

Council Member King asked about the tax rate and the effective tax rate.

Bryan Langley, Chief Financial Officer, stated that the proposed tax rate was above the effective tax rate which would trigger two public hearings on the tax rate.

Council Member Roden questioned how the locations were determined for the no parking signs.

Langley stated that the locations were determined by where most of the issues were.

Council Member Roden asked how other areas could get involved with that.

Coulter stated that the locations were based on complaints received during neighborhood plans and that this was a pilot program to see if the problem could be addressed in a particular area.

Following the completion of the 2nd Tuesday Session, the City Council convened in a Special Called Session to consider the following:

Ordinance No. 2012-173

1. Consider adoption of an ordinance of the City Council of the City of Denton, Texas, calling an election to be held on November 6, 2012, within said city on the question of the issuance of \$20,400,000 in ad valorem tax supported public securities for street and public art improvements; making provision for the conduct of the election; and containing other provisions incidental thereto; and declaring an effective date.

Bryan Langley, Chief Financial Officer, reviewed the process involved in recommending the bond election. It was suggested that the bond election be for a \$20.4 million project with up to \$400,000 for related public art. Approval of the ordinance would formally call the bond election and set the date of the election for November 6, 2012.

There were no citizen speakers present.

Mayor Burroughs noted that Council was voting to call the election and voting on the wording for the proposition.

Council Member Gregory motioned, Council Member King seconded to adopt the ordinance.

Mayor Burroughs stated that it was a close question on the way to present this item for a vote and that several options were considered. One option was to separate the street related art out as a separate ballot item. The purpose of the bond committee was to focus on a very specific issue and their direction was influential. He preferred the language as presented in the agenda.

Council Member Gregory supported the wording because it was a recommendation from the bond committee and had public input from the public to do it as presented. However, others also expressed a desire to have the two items separated. He felt it would be important for the bond committee to work hard to communicate why they recommended what they did and important for Council to communicate as they were allowed under the legal regulations.

Mayor Pro Tem Kamp stated that there was a need for all citizens in art community and the members of the bond committee to help educate the public on the art portion of the project which was the I35 enhancement project.

Council Member Engelbrecht stated that he would be supporting the motion and the language as recommended by the bond committee. Policy was set by earlier Councils and he followed that policy. He was in support for art in the community and this would help enhance entranceways into the city.

Council Member Roden stated that nothing of the street projects would suffer from the addition of the art portion as all of the original funding would be included in the bond proposal.

On roll call vote: Council Member King, Council Member Engelbrecht, Council Member Gregory, Council Member Roden, Mayor Pro Tem Kamp, and Mayor Burroughs – “aye”. Motion carried unanimously.

Following the completion of the Special Called Session, the City Council convened in a Closed Meeting to consider the specific items listed below under the Closed Meeting section of this agenda.

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

1. Consult with and provide direction to the City’s attorneys associated with proposed enforcement related to sanitary sewer overflows and where a public discussion of such legal matters would conflict with the duty of the City’s attorneys to the City of Denton, Texas and the City Council of the City of Denton, Texas under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.
2. Consultation with the City’s attorneys regarding the advisability of revising the existing Denton Code of Ordinances provisions dealing with the proper disposal and control of fats, oils and grease into the wastewater stream; and discuss, deliberate and provide the City’s attorneys with direction and any recommendations regarding such legal matter. A public discussion of this legal matter would conflict with the duty of the City’s Attorneys to the City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.
3. Consult with and provide direction to City’s attorneys regarding legal issues and strategies associated with Phase I and proposed Phase II 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, moratorium on drilling and production and claims associated therewith, including variance requests for relief from the moratorium, 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.

B. Deliberations Regarding Certain Public Power Utilities: Competitive Matters – Under Texas Government Code Section 551.086.

1. Receive competitive public power information from staff in the form of a proposed operating budget for Denton Municipal Electric (DME) for the upcoming fiscal year, including without limitation, revenues, expenses, commodity volumes, and commitments, and the direction of DME; and discuss, deliberate, consider adoption of the budget and other matters, and provide staff with direction regarding such matters.

C. 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.

The Council returned to Open Session and with no further business, the meeting was adjourned at 7:30 p.m.

MARK A. BURROUGHS
MAYOR
CITY OF DENTON, TEXAS

JENNIFER WALTERS
CITY SECRETARY
CITY OF DENTON, TEXAS