

## CITY OF DENTON CITY COUNCIL MINUTES

April 28, 2015

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, April 28, 2015 at 2:30 p.m. in the Council Work Session Room at City Hall.

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

ABSENT: None.

### Work Session Reports

- A. ID 15-293 Receive a report, hold a discussion and give staff direction regarding a potential Economic Development Chapter 380 Grant Agreement and Lease Contract with Orison Holdings for a coworking space that may be administered by the Dallas Entrepreneur Center to support entrepreneurship and innovation in Tax Increment Reinvestment Zone (TIRZ) Number One.

Aimee Bissett, Director of Economic Development, stated that she would be updating the CoDenton initiative for Denton. Her presentation would be a refresher on where the project was heading and what components were on the various contracts and agreements. CoDenton was a community driven demand program that centered on recruiting high tech companies to Denton. It included coworking space with a business incubator, created high-wage knowledge based jobs and retained Denton's educated workforce. Entrepreneurship components included a coworking space hub, programs and events and a third party operator. Recruitment components included quality of life as a driver, utilized networks, had wage-based incentives, and a workforce.

Collaboration involved technology infrastructure and partners, education and workforce partnerships, nonprofit and investment partners and real estate/development partners. Factors in the coworking space included (1) co-working daily or monthly desk and office rental, (2) business incubator/accelerator program to launch or scale new startup businesses, (3) events, mentoring, guest lectures, hackathons, and (4) investment recruiting/matching venture capital angel funding. Operating models were investment vs. nonprofit/community based; the Dallas Entrepreneur Center operating model and local TechMill grassroots effort.

The coworking space opportunity points were reviewed (1) looking for a catalyst project "The Railyard", (2) a location that had the right ingredients, (3) collaboration with a local developer/partner, (4) joint recruitment of tenants, (5) revitalization of lower-income blighted areas and (6) had a \$15 million mixed use transit oriented development.

This project had the ability to become a catalyst project for an innovation district in the area and revitalize the entire section of the City. Staff was looking for a lease space in the building for the City. There were three components to the contract – the lease agreement with City and Railyard, a grant agreement (TIF fund) and a sublease agreement with the city of Dallas Entrepreneur Center.

Downtown TIF Project Plan – currently there was \$4.9 million for projects in the Downtown area that could include grants, loans and services for public and private development that involved historic preservation, demolition, environmental remediation and economic development grants. Chapter 380 of the Local Government Code granted municipalities in

Texas the authority to offer grants and loans of public funds to stimulate economic development. Terms of the Downtown TIF project plan stated that the City could acquire, lease, sell or otherwise transfer property to accomplish the public purpose of economic development that was consistent with the Project Plan. Such projects could include public-private partnerships, transit-oriented developments, or the recruitment of specific industries included but not limited to, hi-tech or emerging technology companies.

The background of the Dallas Entrepreneur Center was reviewed (DEC). The DEC had submitted a proposal to operate the CoDenton space. 10% of that revenue would go back into the program itself. The Center's proposal was to operate the CoDenton space, host events and build culture. The cost of marketing would be shared, a staff member (City/DEC) would be hired and the project would have an affiliate membership in the Dallas and Addison associations.

Mayor Watts questioned the budget of \$220,000 for one staff person.

Bissett stated that the budget included staff, programming, funding, etc.

Mayor Watts asked about hiring staff.

Bissett stated that a full-time employee would be hired by the City to get the project launched. After DEC generated income at a certain threshold, they would bring someone in to operate the space. The City employee would then move to another program in her department.

Mayor Watts stated that the City employee would not be available to do other things at the beginning as he/she would be working just on this project.

Bissett stated that the employee would work with other projects at the beginning not just this one project.

Mayor Watts asked about benchmarks.

Bissett stated that there would be a core steering committee to define metrics for success and was part of the action plan to finalize development of the project.

Mayor Watts stated he would like to see what those were before finalizing the contracts.

Council Member Roden questioned what types of companies might be interested in the space.

Bissett stated that since they had started talking about the project, the level of interest was very high. There were individuals who wanted to be part of the lease space or part of the program as soon as possible. There were well established companies already in Denton who wanted to negotiate lease space in Denton and a variety of companies that wanted a smaller space to operate.

Council Member Johnson asked about the TIF funding in terms of rent and marketing. He questioned if staff had what the City's total budget would be.

Bissett stated that the \$220,000 was in her budget and that the grant would be a small component above that.

Council Member Johnson asked if the total cost was 100% funded by City dollars or a cooperative investment.

Bissett stated that it was a cooperative investment from DEC. DEC would do fundraising and look for investment opportunities for the program. They were non-profit so income would be reinvested into the program.

Council Member Johnson stated that the City would be providing space that would be in competition for those who had to rent their own space.

Bissett stated that the City would enter into contractual agreement for an entity to operate the space. The direction staff had received from Council was to move to a non-profit model to better benefit citizens.

Council Member Hawkins asked about a timeline for the apartments and incentives for the apartments.

Bissett stated she was not sure on the timeline. The TIF funds would capture revenue from the increase in property value but the incentive would be for the creation of the space and not for building the apartments.

Mayor Pro Tem Engelbrecht stated that since DEC had been doing these types of projects for some time, what would be the timeline for switching the personnel.

Bissett stated that it would depend on how successful the program was in terms of switching personnel. DEC provided mentorship, one-on-one meetings with a coach in a similar field, classes on business, and connecting to potential financial resources.

Mayor Pro Tem Engelbrecht stated that the goal was to get started and then move them along. He questioned what happened if at the end of a long term lease the tenant did not want to move out.

Bissett stated that the amount of time would depend on the company. Once successful, the company could be replanted into the community.

Mayor Watts stated that identification of a success matrix was critical as it placed what the TIF fund was used for. This would be taking General Fund money to subsidize increases in the TIF because all of the increase in value would be going back into the TIF. He wanted to be mindful of the financial aspect and that it would not be a problem if it was not a long term issue.

Bissett stated that it would be five year lease contingent on funding approved each year by Council.

Council considered Item E.

- E. ID 15-366 Receive a report from Leadership Denton representatives regarding options to improve parking in downtown Denton.

Mark Nelson, Director of Transportation, stated that the Leadership Denton class studied the Downtown parking assessment for their project. Trey Sargent would be presenting the results of that assessment.

Trey Sargent, Leadership Denton, reviewed past studies and solutions since 1991 for parking in the downtown area. Part of the study looked at Denton's growth in relation to Denton County and the State.

Public Perception – Sargent stated that two surveys were circulated with 900 results. Key results were (1) 82% felt there was insufficient parking available in downtown Denton, (2) over 50% supported more surface parking and 65% saw a parking garage as a potential solution to the parking problem, and (3) 84% would be willing to walk further if the streets around Denton were more pedestrian friendly. He noted that 30% of the parking in the downtown was public parking and 70% was private parking. Getting across McKinney to the public parking was very difficult.

Public/Private Partnerships - private businesses were concerned with liability, there was no existing framework for such a partnership but there was the potential for valet services. Some parking problems included striping, signage of where to park, and handicapped parking issues. Part of the solution was to not park downtown and get there by other means such as a possible trolley program, a bike share program, new surface parking or a mixed use parking structure.

Council Member Gregory stated that the perception of parking problems in Downtown was sort of a good problem as it indicated that people wanted to be there. He questioned if a count had been done on the number of parking spaces available as opposed to the perception of the number of spaces.

Sargent stated that they had considered inventorying what and when the spaces were being used by canvassing them on a Friday evening but it was difficult. They did not have actual data.

Council Member Gregory asked about a recommendation for enforcement of the 2 hour parking limit.

Sargent stated that they did not have a specific recommendation regarding that.

Council Member Hawkins requested an Informal Staff Report on restriping lots.

Council Member Roden stated that a portion of the group studied smart metering and asked why that was not included in their recommendation.

Sargent stated they were concerned about the upfront costs but it probably warranted a closer look.

Council Member Johnson stated that a potential solution was a public/private partnership and asked if the group had identified any cities in the area that had such a program.

Sargent stated that they could not find anyone in the area that did that.

Council Member Johnson felt that there were some cities that made that work. There were a lot of private businesses that did not mind people parking in their lots but were annoyed with people littering in the lots. He suggested looking at the big lots near the Square and talk to the property owners.

Sargent stated that maintenance and cleanup were big hurdles with that type of relationship.

Council Member Ryan asked if a trolley would help cut down time to ride the buses.

Sargent felt that it would help with high demand times with shorter wait times for parking lots and would be demand based.

Nelson reviewed the inventory of the current parking spaces, the city owned public parking, and provided a diagram of public parking in terms of 5 and 10 minute walking distances. He noted that the DTIP recommended increased capacity. Factors for parking demand included Hickory Street construction, weekends and evenings, and ADA parking. The Leadership Denton summary recommendations included (1) existing/new surface parking, (2) pedestrian access, (3) wayfinding signs, (4) handicapped parking access, (5) public transportation options and (6) mixed use parking structure. Enhancement options included signage, pedestrian enhancements/safety, shared parking agreements, surface parking and a parking structure.

Council Member Gregory stated that because of more requirements for parking Downtown the perception was that the parking was bad. One less expensive method would be to promote parking off the Square. He suggested a study in terms parking of off the Square.

Council Member Johnson stated that there was a great opportunity with signage, striping and lighting. With not much money a big impact could be made with better signage and better lighting. He suggested doing something in the short term to help with the perception.

Council Member Roden felt that the Leadership Denton approach was good as it provided short term lower costs to help with the parking problems. He felt one problem was with the way some of the signs were angled. He suggested looking at engineering costs for a mid-block crossing on McKinney.

Nelson stated that staff was working on a study of the area in terms of available options.

Mayor Pro Tem Engelbrecht felt that there was too much parking on East Prairie between Locust and Bell which made it very hard to drive through there. Mulberry from Elm and Cedar also had parking on both sides which made it very hard to drive through there.

Council Member Ryan stated that there was more parking now at the old tax office which was fine if going down Oakland but the sidewalks were bad in that area if walking to the Square.

Council Member Johnson requested an Informal Staff Report on the cost to put up public parking signs, adequate lighting and striping at any three public lots.

- B. ID 15-333 Receive a report, hold a discussion and give staff direction regarding the City's Self-Funded health plan and Employee Health Center.

Scott Payne, Risk Manager, stated that his presentation objectives would include what had been the impact of moving to a self-funded health plan and an update on the Employee Health Center.

The self-funded health plan began January 2008 with a main distinction of who was ultimately responsible for the total health care expenses. It provided more control over the plan and had an opportunity to retain savings in years with good claims experience. The self-funding saved the city by risk transfer fees, insurance company profit margins, plan control and flexibility, and the retention of savings in good years. The estimated savings was \$11 million over seven years.

The Employee Health Center (Clinic) opened in December of 2011. The Clinic was administered by CareHere with the City paying them a fee to manage the Clinic for the City. The initial staffing model was one full-time physician, one part-time physician and two medical assistants. The Clinic provided all the services of a primary care physician including on-site blood draw and lab collection. From 2011-2014 there had been 22,000 patient appointments with the usage increasing each year. About 80% of employees were accessing the Clinic during the year.

Council discussed the costs of the clinic versus the costs at a doctor's office and the challenges of technological compatibility between the Clinic and a doctor's office

Healthy Incentives Program (HIP) – the Clinic was the access point to HIP which qualified employees to save \$40 per month on their health coverage. The main component of the HIP was the Health Risk Assessment blood draw and follow up appointment with the Clinic medical staff. In addition, employees had to earn activity points during the year to qualify for the discount.

Was the Clinic making a difference - 77% of the HRA participants in 2014 maintained or reduced their overall health risks, the number of patients with unhealthy A1C levels decreased by 4%, and the number of patients with total cholesterol levels above 200 decreased by 13%. The estimated return on investment to date was \$1: \$2.79.

Payne reviewed a clinic satisfaction survey and presented health facts dealing with an individual's life style, annual per capita health expenditures, hypertension and early childhood diabetes.

It appeared that self-funding provided substantial savings for the City and that the Clinic was a valuable benefit for City employees, retirees and dependents. The Clinic was beginning to impact some of the health conditions that drive health care costs. Future considerations were the evaluation of on-site x-ray and stress testing, securing a backup provider, providing Fire Department physicals and clinic staffing levels.

- C. ID 15-343 Receive a report, hold a discussion and give staff direction regarding the business mix in downtown Denton.

Aimee Bissett, Director of Economic Development, stated that her discussion would be on the current mix of businesses in the Downtown area. She reviewed the retail mix by percentage with and without large spaces with multi-tenants. In terms of retail trends, the Downtown retail in the 1950s to 1970s was mostly retail. In the 1980s strip malls became popular with the relocation of retail to those malls and the decline of the Downtown area. However, there had been a revitalization of the area for the past 25 years. With the changing of retail to online shopping, urbanism was the latest trend towards density and mixed use with online retail.

Council Member Johnson stated that some people thought there was an in-balance of mixed uses in the area.

Bissett stated that part of this discussion was based on an article in the paper regarding an antique store that was closing and whether the mix of businesses was driving out exiting retailers. She had not received any specific complaints.

Council Member Johnson stated that he had not heard anything like that and was curious if retailers were concerned about it. He suggested asking the Downtown Task Force for input. It did not seem like a big issue to him.

Bissett stated that the request for additional information was made at the end of a Council meeting.

Julie Glover, Economic Development Program Administrator, stated that the issue had been brought up by several retailers. They had a discussion on what was termed a bar and what was termed a restaurant.

Council Member Gregory stated that he had asked for the discussion as he had heard from several merchants about the problem. He felt the information provided helped with the perception of what was reality. Part of the concern was some of the nightlife not following best practices. There were family people who were not sure they wanted to keep going Downtown as it appeared that the bars were taking over. He felt that 8% of the retail mix being bars was not out of balance of 5% with the entire mixture. However, at some point if the trend continued to move that way, it might be a problem.

Council Member Hawkins questioned the role of Council in this issue and whether Council could set a policy of x number of restaurants on the Square.

Bissett stated that some communities set limits on certain types of uses for the Downtown which set the market.

Mayor Pro Tem Engelbrecht stated that there had been a number of people in the community saying the Downtown was turning into Fry Street. Council now had a list to show how the mix was made which could be used in the future for reference to new businesses.

Council Member Roden talked about the generational component on the discussion and the expectation of what people went to the Downtown for. Everyone had his own vision of what he wanted in the Downtown. In terms of office space it was his sense that more white collar offices

wanted to gravitate towards Downtown and that should be taken advantage of that. He wondered if the city should think ahead on what type of business to attract to the area.

Council discussed the natural changing of businesses in the area, whether to allow the market to determine what businesses were in the area, the amount of investment by the City in the Downtown area, how to be forward thinking and proactive on the businesses that were coming or staying in the downtown.

- D. ID 15-345 Receive a report, hold a discussion, and give staff direction on the impact to the Downtown Square and Entertainment Area from outdoor music venues, special events, and related street closures.

Lt. David Hildebrand, Denton PD, facilitated the discussion on the issue. He stated that the DTIP plan indentified Downtown Denton as the cultural, social and historic center of Denton and that the area was ideal for music festivals and creative arts events. He noted that there had been dramatic residential growth in the area and that since 2011 there was 172.2% growth in residential units and 193.4% growth in residents. A two year projected potential future growth showed a growth of 50% in residents and residential units. In the commercial growth area, there was focused redevelopment of restaurant and music entertainment venues.

Potential challenges were identified in the areas of noise, parking and traffic flow. There was also competing concerns of residents and commercial ventures in terms of acceptable noise levels and times, traffic, parking and road closures.

In terms of permanent venues, the current noise ordinance set a maximum limit for amplified sound at 65 dB measured 50 feet from the source. It intended to address intrusion into residential settings and not commercial areas and included ambient noise levels. The noise had to be clearly audible inside the complainant's residence and had time of day distinctions. Some of the noise concerns could be the causation of vibration and reverb. Issues for the current ordinance for permanent venues was the inability to distinguish between competing noise source, was originally designed for the Fry Street area with fewer homes or businesses affected, and as written, difficult for businesses to self-monitor and proactively manage noise levels.

Outdoor Music Festivals – these were an integral part of Denton and were normally larger than what a single venue could support. These provided for all of the issues noted earlier such as noise, increased traffic and parking. Festival sound issues were covered under the current ordinance at 70 dB at the perimeter of event. Council could approve variances which were usually 75 dB and could extend the time frame, often to midnight and on Sundays.

Festival parking/traffic issues included (1) a large number of attendees, (2) limited parking for attendees and residents living in the area, (3) problems were exacerbated with multiple events in the area which resulted in difficulty of coordinating traffic plans and (4) often one large source of parking became the event site such as the Williams Trade Square.

The current event approval process was adequate to gain key basic information and relied heavily on speculative information from the event organizer. However, it lacked significant



accountability for providing accurate information and lacked specificity in terms of planning timelines.

Street closure process – these were initiated by the Event Planner through the Community Events Coordinator. The request had to be submitted a minimum of 14 days prior to the event, had to be developed by a professional traffic engineer with the plan submitted to Police, Fire, Streets and City Engineering. Issues with the current process were that the plans were often developed with dated satellite imagery with no consideration of current conditions, if submitted at the 14-day time line there was little time for review and revision, no coordination with competing event traffic plans, and no guidelines for neighborhood signature sheets.

Venue Recommendations - conduct community meetings to allow discussion between competing groups, determine acceptable noise levels, time of day/day of week restrictions, and establish a process for addressing violations. City involvement might include a possible permitting process which would be a free permit, establish responsibility, and provide multiple approaches for compliance. A revision of the City ordinance to address recommendations and the original ordinance intent was suggested along with continued collaboration with stakeholders.

Council Member Roden suggested that stakeholders include those single family residences who would be affected by the noise and those who go the Square who cannot converse because the noise was too loud. He wanted to be sure to include the average citizen.

Festival recommendations – conduct a substantive review of the event application process to establish clear guidelines for submittal with the ability to deny an application for failure to meet requirements or timelines. Develop a process that assisted in establishing the legitimacy of the event and review of the street closure process for clear guidelines of what was acceptable. Other recommendations included (1) establishing set decibel levels, times, and days to do away with the variance process, (2) review the fee schedule to provide for substantive investment for the event organizer, and (3) research a permitting process that possibly included a pre-event deposit which would be returned after acceptable compliance.

The conclusion was that music and festivals were a part of Denton. Research that included stakeholders gave legitimacy to the process and the outcome and establishing a fair and equitable process for hosting fun and safe events helped to promote both the event and the City of Denton.

Council Member Gregory stated that he liked the idea of a deposit that could be returned at the end of the event. He suggested making sure there was adequate communication in the different areas. In the Williams Trade Square area the nearby church needed to be considered.

Council Member Roden stated that with festivals of a certain size consider part of the plan to develop an alternative parking plan such as with private parking lots. The venue would work out that parking issue. In terms of deposits, consider a scale for large to small festivals.

Mayor Pro Tem Engelbrecht stated that part of the problem had been with the new festivals. In terms of the noise issue, he cautioned to not only consider the dB level but also the reverberations. There were now more residences in the area closer to the venues.

Council Member Ryan suggested considering moving some of the venues to private lots and keeping the public lots for parking. Larger festivals should be required to get in touch with DCTA to coordinate expansion of the train schedule. He questioned the definition of festival and event.

Council Member Hawkins felt that a festival with a good track record should not have to put down a deposit.

Council Member Johnson felt that with the amount of residential growth in the last 5 years and since there was more live music in the area, it would be a good idea to get stake holders involved such as residents, apartment owners, etc.

Council Member Gregory felt that there needed to be a balance of competing interests in the area.

Council Member Johnson felt that an agreement was needed on a definition of "Downtown".

- F. ID 15-344 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.

Mayor Watts asked for a report on the financial perspective of the repair of the park, where the funds would come from and a policy if something happened what would be the most responsible financial way to get it fixed.

Following the completion of the Special Called Work Session, the City Council convened in a Closed Meeting at 7:05 p.m. to consider the specific items listed below.

#### Closed Meeting

- A. ID 15-362 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. Deliberations regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071.

Discuss, deliberate, receive information from staff and provide staff with direction

pertaining to legal and economic development issues related to Orison Holdings and economic development incentives and the acquisition of real property interests in the H. Sisco Survey, Abstract No. 1184, Denton, Denton County, Texas, generally located in the 600 block of E. Hickory. This discussion shall include commercial and financial information the City Council has received from Orison Holdings which the City Council seeks to have locate, stay, or expand in or near the territory of the city, and with which the City Council is conducting economic development negotiations; including the offer of financial or other incentive where the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the provisions of the Texas Open Meetings Act, Chapter 551 of the Texas Government Code.

B. ID 15-374 Consultation with Attorneys - Under Texas Government Code, Section 551.071.

Consult with and provide direction to City's attorneys regarding legal issues and strategies associated with the current Gas Well Ordinance, and proposed Gas Well Ordinance amendment, regulation of gas well drilling and production within the City Limits and the extraterritorial jurisdiction, including: Constitutional limitations, statutory limitations upon municipal regulatory authority; statutory preemption and vested rights; impacts of federal and state law and regulations; impacts of gas well drilling upon protected uses and vice-versa; current and proposed extension to moratorium on drilling and production; other concerns about municipal regulatory authority or matters relating to enforcement of the Gas Well Ordinance, both current and proposed; settlement matters concerning gas well drilling in the City; surface development issues involving surface and mineral estates; and legal matters associated with a citizen's initiative ordinance and pending litigation styled Jerry Patterson, Commissioner, Texas General Land Office v. City of Denton Texas, Cause No. D-1-GN-14-004628 currently pending in the 53rd District Court of Travis County and Texas Oil and Gas Association v. City of Denton, Cause No. 14-09833-431 currently pending in the 431st District Court of Denton County regarding hydraulic fracturing where a public discussion of these legal matters would conflict with the duty of the City's attorneys under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.

C. ID 15-349 Deliberation regarding Personnel Matters - Under Texas Government Code Section 551.074.

Deliberate and discuss the evaluation, duties, discipline, procedures, and contracts of the City Attorney, Municipal Court Judge, and City Manager.

The Council returned to Open Session and with no further business, the meeting was adjourned.

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CHRIS WATTS  
MAYOR  
CITY OF DENTON, TEXAS

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JENNIFER WALTERS  
CITY SECRETARY  
CITY OF DENTON, TEXAS