

CITY OF DENTON CITY COUNCIL MINUTES

December 2, 2014

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, December 2, 2014 at 01:00 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.

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 December 2, 2014.

Council Member Gregory requested more information on consent agenda item G related to body cameras for the Police Department.

Police Chief Lee Howell stated that they had explored body cameras for the officers. He stated that they had looked at a number of different products and recommended the one that they felt best served their needs. This contract would provide 80 cameras and be primarily worn by patrol officers, but might also be available to other units in the department and possibly Animal Services or Community Improvement Services officers. A review of a number of agencies that had this program in place had shown some good positive aspects of the camera program. The body camera did not capture everything that happened at a scene but it was one perspective that they did not have right now. He stated they had audio capabilities in some cases. They had in-car dash cams in most traffic stop cases.

Gregory asked how they worked and how long the information was stored.

Howell stated that the proposal was for a cloud-based storage capability on Evidence.com. They could set the parameters for how long everything was stored.

Gregory asked what the reaction of the officers was.

Howell stated that it had been well received by officers.

Council Member Roden asked that Item N be pulled from the Consent Agenda and considered under Individual Items for Consideration.

Mayor Watts questioned on Item B if there was only one bid received and was there any negotiation on the price finally settled on.

Chuck Springer stated that they do negotiate a best and final offer.

3. Work Session Reports

- A. CA11-0004c Receive a report, hold a discussion, and give staff direction regarding the update to the City of Denton's Comprehensive Plan.

Ron Menguita, Development Review Committee Administrator, stated that this was the third work session regarding the Comprehensive Plan and he would present Elements 8, 9, and 10.

Element 8 in the Community Vision Statement was Community Health, Safety, and Services. The character of Denton was safe and livable, a hospitable community of friends and neighbors. Denton's people, institutions, and government were both natives and newcomers and were deeply rooted in the community and actively engaged in its betterment through volunteer participation with faith-based, civic, and/or neighborhood organizations and service on local government and boards and commissions. Throughout Denton were parks, greenways, stream corridors, tree canopy and other natural resources integrating into the fabric of the community and contributing to healthy lifestyles. In the rural fringe areas of the City and the ETJ there were potential safety and compatibility impacts presented by hazardous activities, such as gas well drilling and production, mitigated to protect neighboring persons and property.

Goal CHS-1 integrated planning for healthy communities and individuals into a comprehensive framework for Denton's future development which could be accomplished by establishing a comprehensive framework to promote healthy communities; enhancing public awareness for community health goals, and linking healthy community goals and policies throughout the Comprehensive Plan and to Denton's Sustainability Plan. Goal CHS-2 ensured that Denton's communities were protected from hazards and equipped for disaster preparedness which was achieved by ensuring effective disaster preparedness for natural and manmade disasters. Goal CHS-3 provided emergency services to keep the community safe and healthy and was achieved by ensuring adequate police services to protect the health and safety. Goal CHS-4 provided a variety of community programs that met the needs of key groups of need in Denton including youth, seniors, and the homeless which could be achieved by establishing a framework for the formation of programs to serve Denton's communities of need and proactively identifying and organizing volunteer opportunities within the city that would link Denton residents with opportunities to serve their fellow citizens.

This Element included goals and policies for maintaining a safe and secure environment for Denton residents as well as an overall healthy population. Goals and policies focused on environmental justice, social services programming, community health, resiliency, and hazard mitigation, as well as emergency services.

The Council discussed adding an action to assess services provided to community members most in need. The assessment would help determine a baseline account of what we had and what was needed.

Element 9 in the Community Vision Statement was Infrastructure and Utilities. Denton was consciously green. Denton was a leader in commitment to sustainability and we had a significant tree canopy, a network of parks and greenways, stream corridors, and urban forests. In rural fringe areas of the city and the ETJ there was contiguous, staged growth which was fiscally and

environmentally sound, reduced fragmentation and sprawl, discouraged premature development, and conserved the city's future growing room. Throughout Denton there were infrastructure systems which had undergone well-planned, staged expansion to serve and guide the city's growth and environmental stewardship through water conservation, positive contributions to regional air quality, sustainable development practices, green infrastructure and renewable energy.

Council discussed adding an action to aid in the development of green parking areas.

Goal IU-1 provided safe, reliable, and cost-effective electric and communications utilities that applied environmental stewardship to operations and met future demands. Goal IU-2 secured and conserved raw water supplies to meet future needs with sustainable potable water infrastructure. Goal IU-3 protected surface water and groundwater from contamination from inadequately treated wastewater and expand wastewater system resource recovery. Goal IU-4 protected water quality and maintained underground aquifers by managing stormwater at the watershed level. Goal IU-5 protected public and environmental health and conserved natural resources through waste minimization, materials reuse, and maximum material recovery; enhanced community appearance and control costs with efficient collection of solid waste and recycling.

Element 10 in the Community Vision Statement was Implementation and Monitoring. This element directed how staff would implement the actions which achieved the policies which supported the goals of the plan. Implementation of the policies and actions consisting of four key components included: Principles to guide future development and decision making; procedures for amending, monitoring and updating progress; guidelines for small area planning and mixed use development; and an action plan – short-term, mid-term, long-term and ongoing actions.

Following were the principles: Principle 1 – Plan Hierarchy – Consistency of all city plans with Denton Plan 2030. Policy reference for all subsequent plans – Mobility Plan, Capital Improvement Plan and Small Area Plans. Principle 2 – consistency of zoning and related development regulations and ordinances with Denton Plan 2030. Principle 3 – consistency of rezonings and development approvals with Denton Plan 2030. The goals and policies in the Denton Plan 2030 should be used to evaluate all requests for rezoning and development proposals. Principle 4 – the City Council shall consider consistency with the Denton Plan 2030 as a factor in making decisions on proposed programs, projects and initiatives.

Council Member Gregory asked about including metrics to measure the progress of implementing the goals of the Plan. Metrics should be reviewed by the department to make sure the goals of the Plan were being met.

Menguita stated that the recommended actions to implement the Plan included the following. Planning – actions that involved additional planning or study to address specific issues. Regulation – actions that involved development of new regulations and revisions to the Development Code to include tools such as overlay districts, new zoning districts, etc. Program – actions that involved a series of steps to be carried out to accomplish an objective. Capital – actions that involved investments through the city's Capital Improvement Program, as well as potential funding mechanisms. Outreach – actions that involved outreach to the public and residents. Partnerships – actions that involved coordination or collaboration with one or more

entities to implement the action. The actions were assigned to one of four timeframes. The timeframes were: Short-term – these actions should be addressed within three years of Plan adoption. Mid-term – these actions should be addressed within a range of 3-5 years from Plan adoption. Long-term – this included actions designated to be carried out beyond five or more years from adoption. Ongoing – these actions were currently being addressed or should be addressed on a continuing basis.

Council Member Roden asked if something could be added to the Plan to explain and illustrate how the Strategic Plan would relate to the Denton Plan.

Menguita stated that the Strategic Plan was developed in accordance with the City's vision, mission, and values statements and was consistent with the Denton Plan. The goals and objectives outlined in the Strategic Plan were intended to help achieve the community vision that was in the Community Vision Statement.

Council Member Roden asked if it was possible for the action plan to have the Council Committees and Boards and Commissions listed as partners in coordinating or collaborating to implement actions that they have direct involvement with. The action plan would be used when making decisions so that everyone was aligned with the same goals.

Menguita stated that the next steps would be for Council to hold a public hearing and an action item for approval of the Plan.

Menguita stated that once the update of the Plan was approved, the final document would be prepared incorporating all the changes listed in the conditions.

General consensus of the Council was to move forward with the plan.

- B. 14-0770 Receive a report, hold a discussion, and give staff direction regarding the status of the 'Kings Row' electric substation expansion being part of the City of Denton's Capital Improvement Plan for its electric infrastructure. [ID S14-0007]

Brian Daskam, DME Manager of External Affairs, updated the Council on the Kings Row substation project. He stated that this was a project to reconstruct the Kings Row Substation and was part of DME's capital improvement plan. The substation was being upgraded from 69kV to 138 kV. The size of the existing Kings Row substation property was too small for the equipment needed for the upgrade and expansion of the substation would result in an unacceptable disruption to service. Multiple homes had also been built around the existing site.

Daskam stated that the applicant was proposing to construct a 10-foot decorative precast concrete security wall around the entire site as a mitigation measure to screen the proposed substation. Staff sent notices to property owners within 200 feet and 500 feet. He reviewed the public involvement process that began in 2011.

Mayor Pro Tem Engelbrecht asked about the Planning and Zoning Commission recommendation.

Daskam stated that the Planning and Zoning Commission recommended approval subject to the following condition: a perimeter masonry screening wall should be constructed with a minimum

height of ten feet. The Development Review Committee also recommended approval of the request subject to the condition recommended by P&Z. He stated that it was the intent to decommission the existing equipment after completing construction of the proposed new substation.

- C. ID 14-0813 Receive a report, hold a discussion, and give staff direction concerning proposed amendments to Ordinance 2014-240 regarding a Specific Use Permit (SUP) granting a Wrecker Services and Impound Lots use on approximately 1.3 acres property zoned Employment Center Industrial (EC-I) to consider Akers Towing's request to modify the SUP conditions pertaining to fencing and the landscape buffer requirements. The discussion will include a report on the results of soil testing conducted by staff, to determine if contaminants are leaving the subject site. The subject property is generally located south of Smith Street, east of Dallas Drive, and north of Teasley Lane.

Brian Lockley, Director of Planning and Development, stated that this request was to reconsider some conditions of approval granted for Akers Towing and their Specific Use Permit granting a Wrecker Services and Impound Lots use on approximately 1.3 acres. Lockley reviewed some of the background of the SUP. Back in August, the Council approved a Specific Use Permit to authorize operation of a wrecker services and impounds lots on the property with conditions. In September, the Council was contacted by the property owner to re-consider review of the SUP conditions specifically to amend condition #3 of the SUP pertaining to fence height and perimeter buffer. In September, staff met with the property owners on-site to discuss their concerns regarding construction of the fence. In October, the Council received an Informal Staff Report regarding an update of the status of the SUP. On October 31, the property owner officially emailed Planning staff to request a Council re-consideration of the SUP and associated conditions. On November 14, the Council received an Informal Staff Report on results of the testing conducted by staff.

In approving the SUP, the Council imposed five conditions to guide operations of the SUP. 1. The site plan as submitted should guide the operation of the use of the property for wrecker services and impound lots. 2. Best management practices addressing storm water quality should not be required unless there was documented contamination. City Staff was directed to implement a monitoring program to determine whether any contamination was exiting the property and into the watershed. If City Staff documented such contamination, the Applicant should either: (1) install BMPs designed to treat hydrocarbons and attain the pollutant removal capabilities recommended for parking areas in the Integrated Storm Water Management Manual, as published by the North Central Texas Council of Governments, or similar practices consistent with low impact development approaches, so that the Applicant could be in compliance with the Denton Development Code's L(29) requirement; (2) or lose the SUP and cease doing business at the property. 3. The applicant should install an eight-foot high screening fence and a type B buffer along the perimeter of the site. The landscaping should be planted along the outside of the fence and should be irrigated and kept alive at all times. Material for the construction of the screening fence should be made of wood or other opaque materials. The applicant should construct the screening fence and type B buffer within 60 days after approval of the SUP. The screening and type B buffer should be maintained at all times for continual use of the property for wrecker services and impound lots. 5. The SUP should expire when the Applicant, Akers Towing Company, under ownership of the Akers family, ceases its business covered by this SUP.

Lockley showed Council photos of neighboring properties and some site photos. Lockley stated that what the applicant was requesting was re-consideration of condition #3 of the SUP - the perimeter fence. The height of the fence that was required was 8' tall. They were requesting that be reduced to six foot. A Type "B" buffer along the perimeter of the site was required. The applicant believed that the existing vegetation was adequate and sufficient to address the screening requirements that the Council wanted in the initial approval.

Council Member Roden asked what the process was for Council to reconsider a decision it had made. Was there certain criteria that we had to have to justify that or could it be for any reason?

Lockley stated that condition #2 of the SUP required city staff to implement a monitoring program to determine whether any contamination was exiting the site to nearby watershed. The results of the soil testing indicated contaminants were exiting the site. Staff was recommending that option #1 of the condition be exercised as adopted.

General consensus of Council was that for staff to move forward as the ordinance was written and all the enforcement parameters that were in the ordinance.

Lockley stated that staff would work with the applicant and give them a timeframe to install the BMPs.

Burgess stated that the SUP could be revoked or modified after notice to the property owner and a hearing before the City Council for a reason that one or more of the conditions imposed by the permit had not been met or had been violated.

D. ID 14-0802 Receive a report, hold a discussion and give staff direction regarding the 2015 State Legislative Program of the City of Denton for the 84th Texas Legislature.

Lindsey Baker, Intergovernmental Relations and Public Information Officer, stated that Council had asked for additional data regarding revenue sales tax issues at the November 18 Council meeting. The sales tax holiday represented three days in August. The State loses approximately \$58 million during that 3-day period every year. Cities across the board lose approximately \$10-11 million during that time every year. However, Denton loses about \$58,000 each year during that 3-day period. She stated that the other item related to a textbook sales tax holiday that the City would traditionally oppose. This would significantly impact the City's revenue stream based on the analysis that we used. The State would be looking at a loss of about \$5 million. Denton would lose approximately \$1.2 million in annual sales tax revenue. DCTA would lose approximately \$400,000 in annual sales tax revenue.

Council Member Roden stated that he had reservations about saying to his constituents that as a Council Member he was against tax relief for them - referring to the sales tax exemption on textbooks.

Mayor Pro Tem Engelbrecht commented that basically the state was trying to do something for the students to the detriment of the community, which ultimately could affect the services that we as a city provided the students.

Assistant City Manager John Cabrales stated that historically the bills that had been filed in the past addressed both state and local sales taxes.

Baker asked if Council wanted to keep the language in the program related to the sales tax items or remove them or amend them.

Some council members felt that the local economy benefitted from the sales tax holiday.

General consensus of Council was to remove the sales tax items out of the program.

Council Member Gregory asked that legislation be drafted for vested rights as it related to the oil and gas industry to be included in the program.

Council Member Roden asked if there was a way to put some space on the website relevant to gas well topics to put updates as legislation was proposed.

Following the completion of the Work Session, the City Council convened in a Closed Meeting at 4:30 p.m.

1. Closed Meeting:

A. ID 14-0774 Deliberations regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071. Receive information from staff, discuss, deliberate, and provide staff with direction regarding real estate matters related to the site selection for the DME Hickory substation, presently located at the intersection of West Hickory and South Bonnie Brae in the City of Denton, Texas, and concerning certain real property within the immediate vicinity, and the potential acquisition of real property interests. Consultation with the City's attorneys regarding legal issues associated with the condemnation or acquisition of the real property interests 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. [ID 14-0764]

B. ID 14-0569 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 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 vested rights; impacts of federal and state law and regulations; impacts of gas well drilling upon protected uses and vice-versa; moratorium on drilling and production; other concerns about municipal regulatory authority or matters relating to enforcement of the Gas Well Ordinance; 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 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 14-0799 Deliberations regarding Real Property - Under Texas Government Code, Section 551.072; 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. Receive a report and hold a discussion regarding legal and economic development issues regarding economic development incentives for a business prospective in the Cole Ranch Development. This discussion shall include commercial and financial information the City Council may receive from the business owners which the City 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 incentives. Also hold a discussion with the City's attorneys on the referenced topic 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.

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.

1. PLEDGE OF ALLEGIANCE

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

2. PROCLAMATIONS/PRESENTATIONS

A.ID 14-0700 Police Appreciation Day

Mayor Watts presented the proclamation for Police Appreciation Day.

B.ID 14-0800 Family & Consumer Sciences Day Proclamation

Mayor Watts presented the proclamation for Family & Consumer Sciences Day.

3. CITIZEN REPORTS

A.ID 14-0780 Brooke Moore regarding Denton humanity restored and the Actively Caring for People movement.

Ms. Moore stated that she was a representative of Denton Humanity Restored, a community group of UNT, TWU, NCTC, and DISD students as well as community members. The Actively Caring for People Movement was committed to promoting small acts of kindness that led to large scale impacts in the city of Denton. This was being done by distributing green actively-caring wristbands to individuals performing acts of kindness with the instructions to pay it forward, by passing on the wristband, when (s)he observed someone else performing an act of kindness, cultivating a community of caring.

4. CONSENT AGENDA

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

Ordinance No. 2014-407

A.ID 14-0665 Consider adoption of an ordinance recommending approval of an interdepartmental transfer and conveyance wherein the City of Denton Solid Waste Department is purchasing and acquiring approximately 91.4 acres of land from the City of Denton Wastewater Department, the present record owner thereof, situated in the G. Walker survey, abstract No. 1330, being a part of such survey, and being described in three tracts, being a 37.196 acre tract; a 22.399 acre tract; and a 30.886 acre tract of land, situated in the City of Denton, Denton County, Texas; to be utilized for a public purpose, the expansion of the Municipal Solid Waste (MSW) Landfill Facility, Texas Commission on Environmental Quality (TCEQ) MSW facility permit No. 1590A; finding that the expansion of the City's landfill facility is a public use; said purchase price being in the amount of \$2,350,000, to be paid to the City of Denton Wastewater Department in annual cash payments, for a period of time not-to-exceed ten years; providing for the expenditure of funds therefor; providing an effective date.

Ordinance No. 2014-408

B.ID 14-0727 Consider adoption of an ordinance accepting competitive bids and awarding a contract for the annual supply of light duty vehicles for various City of Denton departments; providing for the expenditure of funds therefore; and providing an effective date (Bid 5647-awarded to the lowest responsible bidder meeting specifications, James Wood Autopark in the three (3) year not-to-exceed amount of \$3,079,769).

Ordinance No. 2014-409

C.ID 14-0762 Consider adoption of an ordinance of the City of Denton authorizing an agreement between the City of Denton, Texas and the Children's Advocacy Center for Denton County, Incorporated in the amount of \$94,365; providing aid to the City of Denton Police Department in the investigation of child abuse cases; providing client and clinical services to victims of child abuse and non-offending family members; providing for the expenditure of funds therefor; and providing for an effective date.

Ordinance No. 2014-410

D.ID 14-0765 Consider adoption of an ordinance approving a City sponsorship in an amount not to exceed \$4,700 of in-kind services and supplies for the 25th Annual Denton Holiday Lighting Festival to be held on the Downtown Square on December 5, 2014; and providing an effective date.

Ordinance No. 2014-411

E.ID 14-0767 Consider adoption of an ordinance approving a City sponsorship in an amount not to exceed \$3,700 of in-kind services and resources for the 30th Annual Texas

Storytelling Festival to be held in the Civic Center located at 321 E. McKinney Street March 12 -15, 2015; and providing an effective date.

Ordinance No. 2014-412

F.ID 14-0769 Consider adoption of an ordinance of the City of Denton, Texas authorizing the City Manager to execute a Professional Services Agreement for engineering services for the City of Denton Enterprise Airport with KSA Engineers.; providing for the expenditure of funds therefor; and providing an effective date (File 5688-awarded to KSA Engineers in the not-to-exceed amount of \$150,000).

Ordinance No. 2014-413

G.ID 14-0771 Consider adoption of an ordinance of the City of Denton, Texas providing for, authorizing, and approving the purchase of a TASER body-worn camera system and associated modules for the City of Denton Police Department which is available from only one source and in accordance with Chapter 252.022 of the Texas Local Government Code such purchases are exempt from the requirements of competitive bidding; and providing an effective date (File 5696- awarded to TASER International, Inc. in the five (5) year not-to-exceed amount of \$448,873).

Ordinance No. 2014-414

H.ID 14-0772 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for tire repair services for the City of Denton Fleet Services department and other City departments as needed; and providing an effective date (RFP 5612-awarded to Briscoe Alignment and Tire, in the three (3) year not-to-exceed amount of \$180,000).

Approved the minutes listed below.

I.ID 14-0775 Consider approval of the minutes of October 6, October 7, and October 14, 2014.

Ordinance No. 2014-415

J.ID 14-0776 Consider adoption of an ordinance of the City of Denton, Texas providing for, authorizing and approving the purchase of a VCE Vblock System 340 and VCE maintenance for the City of Denton to replace datacenter equipment that has reached full capacity, as approved by the State of Texas Department of Information Resources (Contract#s DIR-TSO-2634/DIR-TSO-2544/DIR-SDD-1915); providing for the expenditure of funds therefor; and providing an effective date (File 5697- awarded to Presidio Networked Solutions Group, LLC in the four (4) year, 0% effective rate, lease agreement amount not-to-exceed \$1,073,598).

Ordinance No. 2014-416

K.ID 14-0777 Consider adoption of an ordinance of the City of Denton, Texas providing for, authorizing and approving the purchase of a VCE Vblock System 340 and VCE maintenance for a new datacenter for Denton Municipal Electric as approved by the State of Texas Department of Information Resources (Contract#s DIR-TSO-2634/DIR-TSO-2544/DIR-SDD-1915); providing for the expenditure of funds therefor; and providing an effective date (File 5698- awarded to Presidio Networked Solutions Group, LLC in the

four (4) year, 0% effective rate, lease agreement amount not-to-exceed \$573,505.95).

Ordinance No. 2014-417

L.ID 14-0781 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for workers' compensation claims third party administration for the City of Denton; providing for the expenditure of funds therefore; and providing an effective date (RFP 5642-awarded to Texas Political Subdivisions Joint Self-Insurance Fund in the three (3) year amount not-to-exceed \$150,000).

Ordinance No. 2014-418

M.ID 14-0782 Consider adoption of an ordinance of the City Council of the City of Denton, Texas, approving a grant application from Matthew Fisher, representing West Oak Coffee Bar GP, LLC, from the Downtown Reinvestment Grant Program not to exceed \$25,000; and providing for an effective date. The Economic Development Partnership Board recommends approval 8-0.

Ordinance No. 2014-419

O.ID 14-0797 Consider adoption of an ordinance of the City of Denton, Texas consenting to the inclusion of 2.927 acres of land located within the City's extraterritorial jurisdiction into Denton County Fresh Water Supply District No. 7; containing a savings clause; repealing all ordinances in conflict therewith; providing an effective date.

Ordinance No. 2014-420

P.ID 14-0798 Consider adoption of an ordinance authorizing the City Manager to execute an Interlocal Cooperative Purchasing Program Agreement with the Texas Political Subdivisions Joint Self-Insurance Fund under Section 271.102 of the Local Government Code, to authorize mutual participation in various Texas Political Subdivisions Joint Self-Insurance Fund and City of Denton contracts for the purchase of various goods and services; authorizing the expenditure of funds therefor; and declaring an effective date (File 5703-Cooperative Purchasing Agreement with Texas Political Subdivisions Joint Self-Insurance Fund).

Item N was considered.

N.ID 14-0793 Consider approval of a resolution of the City of Denton, Texas, adopting the City of Denton's 2015 State Legislative Program for the 84th Texas legislature; and providing an effective date.

The Mayor stated that if anyone in the audience wished to speak on the item, they needed to complete a blue card.

The following individuals spoke regarding this item.

Tara Linn Hunter, 118 Bernard, asked that the City lobby to maintain the City's rights to regulate oil and gas well production.

Jorge Landivar, 165 N. Old Orchard Lane, Lewisville, stated that there was a mistake in the municipal code and that the City had banned something that the State prohibits the City from banning. He stated that the City could ban people from carrying certain weapons but that the City could not ban someone with a concealed handgun license.

Michael Briggs, 2311 Houston Place, spoke in support of lobbying to increase home rule authority and to expand it to all cities and towns in Texas.

Jeff McClung, 2018 Longmeadow Court, spoke in support of vested interests being added to the legislative agenda.

Read King, 8901 Harvest Moon Trail, spoke regarding the section addressing legislation that restricted a City's ability to implement a photographic red light enforcement system. He stated that to make a safer community increase duration of yellow light interval. He requested that this item be removed from the legislative agenda.

Todd Ellis, 3437 Crisoforo Drive, spoke in support of a municipality's rights to regulate oil and gas well production.

Cindy Spoon, 2210 Westwood, asked that citizen input be part of the process for developing the legislative program in the future. She stated that she would like to see Denton lobby to decrease state subsidies for oil and gas and also for marijuana decriminalization. She stated that she would like to see lobbying to abolish the railroad commission and advocate for local control.

Candice Bernd, 1018 Denton Street, spoke in support of renewable energy and clean energy jobs, felt attacks on collective bargaining seemed unnecessary, and lobby for a municipality's rights to regulate oil and gas well production.

Cathy McMullen, 805 Ector, did not speak but wanted her comments read – Denton needed to lobby to maintain home rule municipality's rights to regulate oil and gas well production.

Lindsey Baker, Intergovernmental Relations & Public Information Officer, stated that some changes had been made based on direction from Council during the Work Session. The Council had directed staff to remove two statements on page 15 that fell under Revenue and Taxation. Those were related to the sales tax holiday and also the potential for a textbook sales tax holiday.

She also stated that Council Member Roden had asked about the success of previous bills that had been filed that were related to the textbook bills. Over the last three sessions, one bill was filed in each session and none of those times did the bill actually get out of committee. Baker stated that direction from Council related to drafting and introducing legislation related to vested rights and including it in the program.

Baker stated that this program was developed by working in conjunction with the Council, other cities, Texas Municipal League, Denton Chamber of Commerce, UNT, TWU, DISD, United Way and other non-profits in the community to develop statements that were consistent with what our policies had been in the past and what we perceived might be taking place in the next legislative session that could negatively impact us.

Council Member Roden stated that this was discussed in work session but because of the comments tonight that revolved around the oil and gas provisions of this document and how we would lobby the legislature for certain home rule authority and the ability to regulate the oil and gas industry in our city, he wanted to clarify. We had mentioned it because some citizens had asked if it was possible to create a website where we could track specific types of legislation that had been introduced during the process and staff had indicated that they could do that.

Baker confirmed that she would work with staff to make sure that information was available on the website.

Roden asked for clarification regarding the statement about supporting legislation that protected the ability of governmental entities to maintain confidentiality of certain critical documents and activities and noted that was under the utilities section. He asked if that was because of competitive matters that dealt with business practices because we owned our own electric utility, that we have an interest in maintaining confidentiality on certain things.

Baker confirmed that it was.

Council Member Gregory asked if there was time sensitivity to this being approved today, would it interfere with our efforts in Austin if it was delayed a week or two.

Baker stated the sooner it was approved, the better. Bills were being pre-filed right now; that started in November. She stated that we were already in a situation where they were seeing bills being filed that could be detrimental to the City. Although, we could make our position known based on what it had been in the past, we wouldn't have this policy document in place and approved.

Gregory stated that we had more citizen concerns than we had seen before and he was looking at postponing approval until December 16.

Council Member Johnson asked if delaying it two weeks would set us back in our work in Austin.

Baker stated that it would not. The legislative session would begin January 13 and this document should be ready before then. Staff would also need to have adequate time to meet with the City's local delegation to discuss the agenda before the session began.

Mayor Pro Tem Engelbrecht asked that this process be started sooner next time so there was additional time for public comment.

Council Member Roden motioned, Council Member Hawkins seconded to postpone approval of this item until December 16, 2014. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

5. ITEMS FOR INDIVIDUAL CONSIDERATION

- A. ID 14-0801 Consider nominations/appointments to the City's Boards and Commissions: Health & Building Standards Commission; Human Services Advisory Committee; Library Board; and Traffic Safety Commission.

Council Member Roden nominated Yessinia Santillan to the Human Services Advisory Committee. Mayor Pro Tem Engelbrecht nominated Barbara Halbert to the Library Board.

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

6. PUBLIC HEARINGS

Ordinance No. 2014-421

- A. S14-0007 Hold a public hearing and consider adoption of an ordinance providing a Specific Use Permit (SUP) to allow a "Basic Utility;" a Denton Municipal Electric (DME) electrical substation, on approximately 10.45 acres of land within a Neighborhood Residential 3 (NR-3) and a Neighborhood Residential 4 (NR-4) zoning district. The subject property is generally located at the northwest corner of Kings Row Drive and N. Loop 288, in the City of Denton, Denton County, Texas; and providing for a penalty in the maximum of \$2,000.00 for violations thereof, severability, and an effective date (S14-0007). The Planning and Zoning Commission recommends approval of this request with conditions (6-1).

Brian Lockley, Director of Planning and Development, stated that this was a request for a Specific Use Permit to allow for a DME substation on approximately 10.45 acres. The property was located on the northwest corner of Kings Row and N. Loop 288. The existing substation was approximately 1600 feet to the west of the proposed substation. Some of the surrounding uses were: to the north - Farm and Ranch Improvements, to the west - undeveloped, Single Family; to the south - Single Family, and to the east - Loop 288 / Farm and Ranch Improvements.

The zoning map for this property was a combination of Neighborhood Residential (NR-3) and Neighborhood Residential (NR-4). The site plan that was being proposed showed the layout and some landscaping buffering. The substation site would be centrally located along the frontage of Loop 288. Access to the site was shown along Kings Row and 2 other locations. The following conditions were recommended. A perimeter masonry screening wall should be constructed with a minimum height of ten feet. The substation should be subject to the attached site plan and landscape plan. Upon construction of the N. Loop 288 "backage" road, the eastern driveway should be closed and moved to the location shown in the future site plan. Upon construction of the new driveway along N. Loop 288, a minimum ten feet high masonry wall should replace the existing gate opening and new tree and landscape plantings should be used to screen the wall.

Notification was sent to property owners within 200 feet of the property and to property owners within 500 feet of the property. Staff received five notices in opposition and one neutral. The Planning and Zoning Commission recommended approval (6-1) with the condition that a perimeter masonry screening wall should be constructed with a minimum height of ten feet. The Development Review Committee recommended approval with the four conditions mentioned earlier.

Council Member Gregory asked about the landscape plan and what type of buffer this was.

Lockley stated that in anticipation of the property to the west being developed, an ESA buffer was proposed which was more of a buffer than was typically required.

Council Member Ryan asked if the landscape plan included any road dedication for the future widening of Kings Row.

Lockley stated that the buffer accounted for the road dedication. The distance between the fence and Kings Row was approximately 40 feet.

Council Member Hawkins asked which access point would go away.

Lockley stated that the one to the west would go away.

Hawkins asked how long construction would take.

Lockley stated that construction should be completed within eight months.

The Mayor opened the public hearing.

The following individuals spoke during the public hearing.

Christiana Harris, 3500 Cooper Branch West, spoke in opposition

Russ Campbell, 2509 Quail Ridge Drive, spoke in opposition

Linda Carrasco, 3705 Cooper Branch East, spoke in opposition

Elicia Hilborn, 3513 Cooper Branch East, spoke in opposition

Shelley Totter, 3701 Cooper Branch East, spoke in opposition

Jeffery Totter, 3701 Cooper Branch East, spoke in opposition

Council Member Gregory asked Mr. Todder if he or any of his neighbors attended any of the public meetings in 2011. Mr. Todder stated the letter they received in 2011 was related to the proposed routes for the transmission line.

Peter Hilborn, 3513 Cooper Branch East, spoke in opposition

Comment cards were received from the following individuals:

Allison Leath, 2301 High Meadow, opposition

Greg Hudy, 2205 High Meadow, opposition

Jordon Cecil, 2512 Chaparral Court, opposition

Feliciana Martinez, 2521 Quail Ridge Drive, opposition

Amber Hathcock, 2501 Chaparral Court, opposition
Kristy Hathcock, 2501 Chaparral Court, opposition
Susan Leath, 2301 High Meadow, opposition
Joe Carrasco, 3705 Cooper Branch East, opposition
Keely Briggs, 3108 Broken Bow, opposition
Camille Hilborn, 3513 Cooper Branch East, opposition
Caroline Hilborn, 3513 Cooper Branch East, opposition
Riley Briggs, 3108 Broken Bow, opposition

The Mayor closed the public hearing.

Council Member Roden asked the applicant how planning substations with transmission lines worked.

Phil Williams, General Manager of DME, stated that the Kings Row substation needed to be upgraded along with the transmission line that attached to it. This required a wider easement for routing the transmission line from Southeast Denton to Northeast Denton.

Council Member Gregory confirmed that the City had purchase 10 acres. He stated that there was a perception that we were going to allow tree clearing.

Phil Williams stated that the actual site was 3.8 acres. The ESA area was what was left.

Council Member Gregory asked about notification and the methods used for notification for meetings on July 2011, August 2011 and October 2011.

Brian Daskam, DME Manager of External Affairs, stated that they had sent out courtesy notices to everyone within 500 feet of any of the proposed routes and sites. Daskam stated that the methods used for notification included the U.S. mail, the City website, phones, social media, press releases, advertisements in the newspaper, and signs on the sites.

Council Member Hawkins asked Daskam to review the gap in time from 2011 to 2014.

Daskam stated that the main reason for the gap was that staff came before Council for site selection and then for site acquisition. A large amount of time was spent on property acquisitions.

Council Member Johnson asked about the size of the proposed site and the existing Kings Row substation site.

Williams stated that the existing Kings Row substation was 1.4 acres.

Williams stated that the proposed location was as close to the existing substation as possible. It could not be moved further away because of eight distribution feeders and two transmission lines would have to be moved.

Johnson asked if there were examples of other substations that were in close proximity of neighborhoods.

Williams stated that there was an existing substation on Teasley Lane. The Cooper Creek substation was built behind a neighborhood.

Johnson asked if there was any data that would suggest negative property values or health issues.

Williams stated that they had never received complaints related to substations. They had reviewed several studies and they could not find a correlation between this and negative health issues.

Council Member Gregory motioned, Council Member Roden seconded to adopt the ordinance with all the conditions recommended by the Planning and Zoning Commission. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

Ordinance No. 2014-422

B.S14-0006 Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas providing a Specific Use Permit (SUP) to allow a "Basic Utility;" a Denton Municipal Electric (DME) electrical substation, on approximately 10.372 acres of land within a Neighborhood Residential 6 (NR-6) zoning district. The subject property is generally located on the east side of Geesling Road, approximately 600 feet north of Blagg Road and 1,800 feet south of University Drive (US 380), in the City of Denton, Denton County, Texas; and providing for a penalty in the maximum amount of \$2,000.00 for violations thereof, severability, and an effective date (S14-0006). The Planning and Zoning Commission recommends approval of this request with conditions (7-0).

Brian Lockley, Director of Planning and Development, stated that this was a request for a Specific Use Permit to allow for a DME substation on approximately 10 acres. The property was located east of Geesling Road, north of Blagg Road, and south of University Drive. Directly adjacent to the south of the proposed substation was an existing DME and TMPA substation. The surrounding uses included: to the north and east – undeveloped, to the west – industrial, and to the south – Farm/Ranch Improvements. The zoning for this property was Neighborhood Residential 6 (NR-6). The criteria for the SUP were: the proposed SUP met the criteria set forth in Subchapter 6 and conformed to the purpose and intent of the Denton Plan. The proposed SUP facilitated the adequate provision of transportation, water, schools, parks, and other public requirements and public convenience. Notification was sent to property owners within 200 feet and 500 feet of the property. Staff received one response neutral to the request.

The Development Review Committee and the Planning and Zoning Commission recommended approval with the following condition. Perimeter masonry screening wall should be constructed with a minimum height of ten feet.

The Mayor opened the public hearing.

No one spoke during the public hearing.

The Mayor closed the public hearing.

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

Resolution No. R2014-043

C.ID 14-0764 Hold a public hearing and consider approval of a resolution approving a site for the reconstruction, expansion, and replacement of the Hickory Substation in the general area south of Scripture St., east of Bonnie Brae St., north of West Prairie St., and west of North Texas Blvd., in the City of Denton, Denton County, Texas.

Brent Heath, Executive Manager for Electric Delivery, stated that the DME Capital Improvement Plan included a project to reconstruct the Hickory substation. The project included reconstruction of the existing Hickory substation to accommodate upgrades from a 69kV to 138kV substation, rerouting of transmission and distribution lines into the new substation, and retiring and removal of the equipment in the existing substation. Staff worked with engineering consultants and considered numerous substation sites with a goal to minimize the impact to citizens by keeping the new substation site as close to the existing site as possible to keep from having to impact more people with transmission line and distribution line relocations and not to displace residents from their homes if at all possible.

Heath reviewed the options under consideration. The purple site was directly east of the existing substation and the only property that was vacant. It was east of Bonnie Brae and south of W. Oak Street. The orange option was east of Bonnie Brae and north of W. Oak Street and included several single-family residences and a commercial business. The green option was east of Bonnie Brae and south of W. Oak Street and included several existing multi-family complexes and an open site. The blue option was east of Bonnie Brae and south of W. Hickory Street and included existing multi-family complexes and an open site under construction. The yellow option was east of Bonnie Brae and south of Stella Street.

Public involvement included an open house on September 30. The Public Utilities Board held a public hearing on November 10. DME used an online survey to receive input from citizens. They received 43 comment forms back with the survey results. The majority of the people preferred the yellow option. The least preferred option was the green option. They ranked the sites based on the number of people that would be displaced – from the purple option with 5 people to the green option with 88 people. They ranked the sites based on estimated acquisition costs – from the purple option being the least expensive to the green option being the most expensive. The Public Utilities Board recommended the purple site. The Public Utilities Board recommended a committee to advise on aesthetic treatment of the substation exterior. DME concurred with the PUB recommendations.

The Mayor opened the public hearing.

Lori Lott, stated she was the sister of John Lott, who was the owner of the property designated as the purple option.

Mike Sherwood, 116 Bonnie Brae, does not oppose and not sure he supports – has rental property and wants to make sure he is kept in the loop.

Michael Briggs, 2311 Houston Place, spoke in support

Paul Metzler, 1914 W. Oak Street, spoke in support

Ann Jordan, 2224 Alamo Place, spoke in opposition

A comment card was received from the following individual:

Jo Ann Nunley, 2215 Houston Place, opposition

The Mayor closed the public hearing.

Dalton Gregory asked how long that site would be sufficient.

Heath stated that this site should be sufficient for probably 100 years.

The Council discussed the aspects of the committee that PUB recommended.

Mayor Pro Tem Engelbrecht stated that he would like to see a staff report on how the process would work with the committee.

Council Member Hawkins asked about the plans for the old substation after the new substation was operational.

Heath stated that everything above ground would be removed except for the transmission line.

Council Member Johnson motioned, Council Member Gregory seconded to approve the resolution. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

7. CONCLUDING ITEMS

- A. Under Section 551.042 of the Texas Open Meetings Act, respond to inquiries from the City Council or the public with specific factual information or recitation of policy, or accept a proposal to place the matter on the agenda for an upcoming meeting AND Under Section 551.0415 of the Texas Open Meetings Act, provide reports about items of community interest regarding which no action will be taken, to include: expressions of thanks, congratulations, or condolence; information regarding holiday schedules; an honorary or salutary recognition of a public official, public employee, or other citizen; a reminder about an upcoming event organized or sponsored by the governing body; information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the municipality; or an announcement involving an imminent threat to the public health and safety of people in the municipality that has arisen after the posting of the agenda. B. Possible Continuation of Closed Meeting under Sections 551.071-551.086 of the Texas Open Meetings Act.

Mayor Pro Tem Engelbrecht recognized the passing of Charldean Newell.

Council Member Roden asked that staff keep Council informed on the timeline for items related to the fracking ban - a website to track any legislation, a website to track the status of the litigation and a website to track any proposed legislation.

Council Member Hawkins commended DME for the notification process that they had used in letting the public know about the substation projects. He also reminded everyone of the Holiday Lighting Festival on Friday.

Mayor Watts requested a report or agenda item on the different options for developing an economic development fund.

The Regular Meeting was adjourned at 10:10 p.m. The Council reconvened in Closed Session at 10:15 p.m. to consider the following:

C.ID 14-0799 Deliberations regarding Real Property - Under Texas Government Code, Section 551.072; 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. Receive a report and hold a discussion regarding legal and economic development issues regarding economic development incentives for a business prospective in the Cole Ranch Development. This discussion shall include commercial and financial information the City Council may receive from the business owners which the City 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 incentives. Also hold a discussion with the City's attorneys on the referenced topic 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.

With no further business, the meeting was adjourned at 11:06 p.m.

CHRIS WATTS
MAYOR
CITY OF DENTON, TEXAS

JANE RICHARDSON
ASSISTANT CITY SECRETARY
CITY OF DENTON, TEXAS