

CITY OF DENTON CITY COUNCIL MINUTES

September 16, 2014

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, September 16, 2014 at 3:00 p.m. in the Council Work Session Room at City Hall.

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

ABSENT: Council Member Johnson

1. Citizen Comments on Consent Agenda Items

There were no citizen comments on the Consent Agenda Items.

2. Requests for clarification of agenda items listed on the agenda for September 16, 2014.

Council Member Gregory questioned Consent Agenda Item E stating that there was 100% reimbursement for water but only 85% for wastewater.

Frank Payne, City Engineer, stated that some of sanitary sewer lines were upsized for future growth. The State would not pay for the upsizing.

Council Member Gregory stated that Consent Agenda Item FF had been to the Public Utilities Board on September 8th but there was no recommendation from the Public Utilities Board.

Howard Martin, Assistant City Manager, stated that the vote was 5-0 in favor of recommending the item to the Council.

Mayor Watts questioned Consent Agenda Item Y assuming that the quantity of utility poles was for the expansion of the distribution system.

Phil Williams, General Manager-DME, stated that staff anticipated the number of poles required over the life of the contract. The poles were used to get from the substation or in an established neighborhood.

Council Member Gregory questioned if Consent Agenda Item Y had been cost out for concrete poles as opposed to a wood pole life span.

Williams stated that a factor for which pole to use depended on how much easement was available. Concrete poles were very heavy and required a crane to install.

Council Member Hawkins indicated that he would like to pull Consent Agenda Item BB as he had a conflict of interest with the item.

3. Work Session Reports

- A. DCA14-0005 Receive a report, hold a discussion and give staff direction regarding the history and current status of the Tree Code, Tree Fund, and Tree Trusts; and Urban Forestry Ecosystem Assessment and Canopy Analysis.

Bryan Lockley, Director of Planning and Development presented the details of the item. The discussion would consist of a brief history, an overview of Tree Code, discussion of various aspects of the Tree Code, citizens committee, urban forestry assessment and schedule for the rewrite of the Tree Code. Staff was requesting direction on Tree Trusts, the use of Tree Funds, the use of a citizen committee and the timing of a rewrite of the Tree Code.

History of Tree Code – the Tree Code was adopted in 2004 with a substantive review of the Code from 2007-2009. On November 4, 2013, staff presented the update to the Tree Code as a 2014 project.

Council Member Johnson arrived at the meeting.

Lockley continued that the Tree Code contained two parts - preservation and mitigation. Those were divided into tree planting, tree funds, tree trusts and alternative tree plan. He reviewed the purpose of the tree preservation and landscaping plan. In the Preservation area, preservation of trees on the property to be developed was preferred and when preservation goals were met, mitigation was not necessary.

Council Member Roden questioned if other aspects were considered during the preservation review that did not have anything to do with trees but had unintended consequences.

Lockley stated correct such as infrastructure improvements and how to meet the requirement of the improvements but still meet the tree code.

Council Member Roden asked if "floating site plans" could be used.

Lockley stated that the question was if there was enough flexibility in the Code to allow for a floating site plan. There were still other issues to address and tree issues was just one during development.

Mayor Watts questioned if the fire code was also a part of this global look as at times it was hard to meet the requirement of enough footage around a building if the area was heavily wooded.

Lockley stated that staff was considering several options for Council to consider in the future.

Mitigation had four options: (1) tree planting on-site in addition to landscaping plan, (2) payment into the tree fund, (3) the use of tree trusts, and (4) alternative tree preservation plan.

1. Tree planting on-site in common areas was always an option for developers, space permitting. When adequate space was not available to plant on site, payment into the Tree Fund was the other mitigation option.

2. Tree Fund – the City administered the Tree Fund with the applicant paying the fees established by the City. A voluntary contribution could also be placed in the Tree Fund. The fee had to be paid into the Fund prior to the issuance of a Clearing and Grading Permit. Permitted uses of tree fund included (1) the purchase, planting and maintaining of trees on public property, (2) preserving wooded property in a natural state, (3) performing and maintaining a city-wide tree inventory and (4) educating citizens and developers on the benefits and value of trees.

The current balance in the Tree Fund was approximately \$2 million dollars. Possible expenditures of the fund included (1) planting trees in public parks maintained by Parks and Recreation or partner with Keep Denton Beautiful, Denton ISD, UNT and TWU to plant trees on their property; (2) purchase of property under specific circumstances to preserve and maintain trees; (3) perform an Urban Forest Ecosystem Assessment and Canopy Analysis to inform policy/regulations; and (4) fund education campaigns through the DISD about the value and importance of trees.

Council Member Johnson asked how much had been spent out of the fund since it was established.

Lockley stated that \$35,000 had been used for a canopy fly over.

Council Member Johnson stated that developers probably saw this as another fee as there was \$2 million in the fund with only \$35,000 spent in 8 years. When revising the ordinance, it would be important to show that planting trees to replace the canopy was important.

Council Member Gregory asked if there were procedures in place for the purchase of property.

Lockley stated that staff was in the process of establishing criteria and for the use of a committee for site selection.

3. Tree Trust – the intent was to preserve the Cross Timbers via a permanent easement that limited future land disturbing activity or construction that would impact or damage trees. To provide a method for developers to mitigate for trees removed by purchasing land that was not being developed and preserving trees via a permanent easement.

Davey Consultants - Council approved a contract with Davey Consultants to establish a process for Tree Trusts. They were currently in Phase 3 of a 5 phase process for analyzing the feasibility of Tree Trusts and developing a process for implementation. To date, Tree Trusts had not been used due to the implementation and interpretation challenges. Davey was developing an implementation strategy to address the challenges such as determining the value of tree credits, an accounting system to manage Tree Trusts and an overall concept feasibility/validity.

Next steps in the Tree Trust was to continue to work with Davey to complete the work they were under contract to perform, evaluate results from Davey and determine if Tree Trusts were an option to remain in the Tree Code; and report the results to Council for consideration.

Council Member Engelbrecht asked for a definition of “maintenance” and if that meant to clear cut the property and keep it lawn like.

Lockley stated that maintaining was removing the understory to prevent overgrowth but maintain the trees to keep them healthy.

Council Member Engelbrecht stated that in some cases, taking out the understory would stop the growth of new trees and continuing to cut the new trees would have the forest slowly die off. He felt if it was desired to maintain a forest, it should be bought and left alone.

Haywood Morgan, Urban Forester, stated that a natural wood area was thought of a preventative area in terms of liability with a trail etc. to make sure there were no hazardous in the area. It was not to make it a manicured area. Council discussed the theory of removing the understory of the forest areas.

4. Alternative Tree Preservation Plan – this plan was used when the requirements of the Tree Preservation and Landscaping Requirements could not be met without certain accommodations. It was an option to accomplish mitigation to meet the intent of overall tree preservation and development quality and feasibility.

Citizens Committee-Previous Council Direction - in 2012-2013 staff requested an ad hoc committee to provide advice on the Tree Fund use. Council directed staff to utilize a standing committee that would provide feedback on the Tree Code, manage education efforts and oversee purchases of tree preservation property. The current staff request was to utilize existing group representatives (Keep Denton Beautiful Board, Parks Board, Planning and Zoning Commission and Developer's Committee) to guide the update to the Tree Code but not future Tree Fund or tree-related property acquisitions. They would also be utilized to develop Tree Fund expenditure criteria.

Urban Forest Ecosystem Assessment and Canopy Analysis – Haywood Morgan, Urban Forester, stated that this analysis would be prepared in concert with the Davey Contract. It would provide baseline data in preparation for the Tree Code update and provide existing canopy percent with recommended canopy goals based on current land constraints. This would allow the establishment of context-specific requirements for tree canopy for new development and give species composition of Denton's Urban Forest. It would also quantify the value of the benefits trees provide. Other cities in the DFW area had already completed the analysis such as Arlington, Mesquite and Plano.

Tree Code Ordinance Updates - . Staff was proposing a phased approach to updating the Tree Code. Ordinance updates would be informed by the collaboration and partnership during stakeholder engagement. It would include context-specific tree canopy requirements, conformance to the Comprehensive Plan and industry standards. A Citizen Committee would be used at key points in the process to consider various tasks. Task 1 would include the purpose and intent (vision, include canopy goals), applicability, permits requirements, permit review and approval process, and definitions. Task 2 would include Tree Designations, preservation and mitigation. Task 3 included Alternative Tree Preservation Plan, preservation incentives, green infrastructure and the public realm, and landscape and tree canopy requirements (new development, new trees).

Council Member Hawkins asked about the purpose of giving a structural value to the trees.

Morgan stated that it established a formula for getting the value of the tree, gave knowledge of how much trees were worth and the value of what was being protected.

Council Member Johnson stated that he had seen a simple tree ordinance from another city and that not everything had to come from scratch. Knowledge from other cities could be borrowed for this process.

Morgan stated that protection provisions were not as extensive as there was a certain amount of green space to preserve but not as much detail. The assessment would help build where to put the information in the ordinance.

Council Member Roden stated that the study would give the data for purpose and intent and the committee would provide guidance to the Council on where to go with it.

Morgan stated that some of the data would help guide in the vision such as the recommended canopy percentages but when look at committee, he was envisioning a committee with a finite function. It would not be open to go in a direction not authorized.

Mayor Watts felt that there needed to be middle ground from clear cut to not cutting any trees. There had been a tree committee for a long time that did not provide guidance and he asked how this would be different from before. Denton was half prairie and half forest and also was in a drought. He hoped those would be considered and not try to turn forests in prairie land and turn prairie into forest. He questioned what was going to make this different than what already had been done.

Lockley stated that the first time there was no consensus due to the makeup of the committee and the extreme views of the members. The second part was trying to apply a rewrite with a broad brush. Different percentages needed to be applied to different areas of the City based on whether it was prairie or forest.

Council Member Gregory asked if the committee would be asked to decide purpose and intent or would that come from Council. The Council might have different goals from the committee.

Council Member Johnson stated that he agreed with common sense and flexibility to formulate the ordinance. He did not want to limit development due to regulations for trees and wanted to give staff the flexibility to work with a developer on a project to ensure the intent of the regulations.

Lockley continued that some of the funds in the tree trust could be used to complete the Davey assessment and the timing of the rewrite in 2015.

Council Member Roden questioned the cost of the assessment and the timing component. He questioned why the assessment would have to be done first before working on rewrite. He was concerned about the timing and concerned about using money out of the fund before there was concise direction on what to use those funds for. He needed more information on what would come out of tree assessment and suggesting starting using the funds now instead of waiting.

Council Member Hawkins stated that he would also like to plant some trees soon and questioned how much was the Davey contract.

Lockley stated that it was \$25,000.

Council Member Hawkins asked what the terms of the contract were.

Lockley stated to help develop tree trust options for the Code.

Council Member Gregory asked how much was agreed for tree plantings for this year.

Lockley stated \$15,000.

Council Member Gregory stated that he did not mind using a bit more money from the fund for more study but he was at the point that before any more money was spent, money needed to be spent on real trees. He suggested for every dollar spend on a study, \$3 dollars be spent on trees or even 4-1. He felt it was important to start using the fund for replacement of trees and current park locations were good locations for the trees. He stated that a canopy study was done in 2010 and questioned if the proposed study was another canopy study.

Lockley stated that part of the study would be a canopy study.

Council Member Johnson stated that the canopy probably had not changed much. He would recommend spending a half million on new trees on public land by July 2015. His second recommendation would be to find out what other cities of similar size of similar climate had done in terms of this issue. Council could give direction and another study was not needed that would take 12 months to start over. Pick an item in the ordinance that was a problems and have staff work on fixing it.

Council Member Ryan requested information from Parks on how much money would be necessary to bring the parks up to a good standard.

Mayor Watts was not in favor of doing the study. He felt there was a need to start doing something and suggested starting to work on ordinance updates immediately as this was just another verse of the same song. Procedures could be in place in the next several months. Work on a policy on where to plant trees whether public or private property and not spend money on a study that extended the process out even further.

Council Member Hawkins requested a five year forecast of what the tree fund might look like and how much to keep in reserve and/or spend.

Council Member Gregory stated that the Urban Forester could help with how to spend the funds. Denton was still in a drought and if there was another bad year, the trees planted this year might be lost.

Council Member Engelbrecht felt that part of the process was to look at positioning the treed areas with consideration of wildlife such as habitat corridors.

Mayor Watts reviewed the direction for staff. (1) continue with the Davey study for tree trusts - consensus was yes to continue; (2) complete the assessment – consensus was not at this time; (3) consensus for a citizen committee for tree fund expenditures.

Council debated the use of a committee and the purpose of such a committee. They questioned if it would be more prudent to have the Council work on the policy and procedures. Public vetting could be discussed when needed.

Consensus of the Council was to have Council together with staff establish criteria for the expenditure of funds.

Council Member Roden stated that there was a need to be careful when working on geographical conditions and not limit trees in an area just because was in a former prairie area.

Mayor Watts felt that the primary issue was not in a residential context but rather in commercial developments with a heavily trees areas. The question was not having to take away trees but what to do with the ones already there.

Council Member Engelbrecht stated that it was important in the committee makeup to have certain members with varied backgrounds and not just limit the makeup to the current committee members. Members with a real estate background and prior horticulture background would be beneficial.

Lockley stated that when staff got to that point in the process, they would return to Council for those types of recommendations.

Council Member Gregory suggested that when the committee developed the purpose, it should be sent to Council to approve before it went too far into the process.

Lockley stated that would be the direction they would follow.

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

1. Closed Meeting:

A. ID 14-0501 Deliberations regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071.

1. Receive information from staff, discuss, deliberate, and provide staff with direction pertaining to the acquisition of real property interests located in the O.S. Brewster Survey, Abstract No. 56, located generally in the 2200 block of South Bonnie Brae Street, City of Denton, Texas. Consultation with the City's attorneys regarding legal issues associated with the potential acquisition or condemnation of the real property interests 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. (Bonnie Brae Widening & Improvements Project)

Mayor Watts left the meeting during this item with a conflict of interest.

B. ID 14-0530 Deliberations regarding Real Property - Under Texas Government Code

Section 551.072; and Consultation with Attorneys - Under Texas Government Code Section 551.071.

1. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the acquisition of real property interests located in the W. Roark Survey, Abstract No. 1087, J. Severe Survey, Abstract 1164, B.B.B. & C.R.R. Co. Survey, Abstract No. 196 and the J. W. Withers Survey, Abstract No. 1343, all in Denton County, Texas, generally located along a line running west to east, commencing at U.S. Highway 377 adjacent to the Fort Worth Drive Substation and continuing to the west right of way line of F. M. 1830 City of Denton, Texas. Consultation with the City's attorneys regarding legal issues associated with the acquisition or condemnation of the real property described above where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation. (Denton Municipal Electric Fort Worth T1 Addition Expansion, Denton Municipal Electric Fort Worth Drive and FM 1830 Distribution, and Hickory Creek Detention Facility projects: Burch Family Farms Ltd.) [ID 14-0532]

C. ID 14-0558 Deliberations regarding Real Property - Under Texas Government Code, Section 551.072; and Consultation with Attorneys - Under Texas Government Code, Section 551.071.

1. Discuss, deliberate, receive information from staff and provide staff with direction pertaining to the acquisition of real property interests located in the in the M.E.P. & P.R.R. Co. Survey, Abstract Number 1469, Denton County, Texas, located generally in the 1500 block of North Mayhill Road, in the City of Denton, Denton County, Texas. Consultation with the City's attorneys regarding legal issues associated with the acquisition or condemnation of the real property interests referenced above where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and 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 proceedings or potential litigation. (Mayhill Road Widening and Improvements Project: Parcel M026 - Habib Pyarali Arab) [ID 14-0557]

D. ID 14-0531 Deliberations regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071.

1. Receive information from staff, discuss, deliberate, and provide staff with direction regarding the site selection process for the DME Hickory substation and the potential acquisition of real property interests generally located in Denton, Denton County, Texas, in the 100 block of Bonnie Brae, the 2500 block of W. Hickory St., and the 2300 block of W. Oak St. Consultation with the City's attorneys regarding legal issues associated with the condemnation or acquisition of

the real property interests 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. [ID 14-0533]

E. ID 14-0560 Deliberations regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071.

1. Receive information from staff, discuss, deliberate, and provide staff with direction regarding the leasing of real property interests generally located in Denton, Denton County, Texas, in the 2000 - 2200 blocks of Skylane St., Denton Enterprise Airport. Consultation with the City's attorneys regarding legal issues associated with the leasing of the real property interests 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. [ID 14-0529]

F. ID 14-0545 Deliberations regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071.

1. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the potential purchase of certain real property interests located in the T. Toby Survey, Abstract No. 1285, City of Denton, Denton County, Texas, and generally located north of Airport Road and east of Masch Branch Road. Consultation with the City's attorneys regarding legal issues associated with the potential acquisition and condemnation of the real property described above where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation.

G. ID 14-0452 Certain Public Power Utilities: Competitive Matters --- Under Texas Government Code, Section 551.086.

1. Receive competitive public power information and competitive financial information from staff in the form of the final draft operating budget for Denton Municipal Electric ("DME") for FY 2014-2015, including without limitation, revenues, expenses, commodity volumes, and commitments; and discuss and deliberate the DME budget.

H. ID 14-0561 Consultation with Attorneys - Under Texas Government Code, Section 551.071.

1. 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 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.

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 14-0556 Scenic City Certification

Mayor Watts presented the proclamation for Scenic City Certification.

3. BUDGET ITEMS FOR INDIVIDUAL CONSIDERATION

Ordinance No. 2014-277

- A. ID 14-0476 Consider adoption of an ordinance of the City of Denton, Texas, levying the ad valorem property tax of the City of Denton, Texas, for the year 2014, on all taxable property within the corporate limits of the city on January 1, 2014, and adopting a tax rate of \$0.689750 per \$100 of valuation for 2014; providing revenues for payment of current municipal maintenance and operation expenses and for payment of interest and principal on outstanding City of Denton debt; providing for limited exemptions of certain homesteads; providing for enforcement of collections; providing for a severability clause; and providing an effective date.

Chuck Springer, Director of Finance, presented the details of the item. He noted that this item would levy the tax rate for the fiscal year beginning October 1, 2014. He noted that State law required specific language for the motion on the adoption of the tax rate which would exceed the effective tax rate. The motion would need to be made "I move the property tax rate be increased

by the adoption of a tax rate of \$0.689750, which is effectively a 7.77 percent increase in the tax rate.” The 7.77 percent was calculated by dividing the proposed tax rate by the effective tax rate of \$0.639997.

Council Member Gregory motioned to approve that the property tax rate be increased by the adoption of a tax rate of \$0.689750, which is effectively a 7.77 percent increase in the tax rate, Council Member Hawkins seconded. 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. 2014-278

B. ID 14-0477 Consider adoption of an ordinance of the City of Denton, Texas, approving the 2014 tax rolls; and providing an effective date.

Chuck Springer, Director of Finance, stated that this item was required by Texas state law. This would approve the tax roll on an annual basis which allowed the County to mail tax bills.

Council Member Roden motioned, Council Member Hawkins 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.

Ordinance No. 2014-279

C. ID 14-0507 Consider adoption of an ordinance of the City of Denton, Texas, adopting the Fiscal Year 2014-2015 Annual Program of Services (Budget) and the Capital Improvement Program of the City of Denton, Texas, for the fiscal year beginning on October 1, 2014, and ending on September 30, 2015; and declaring an effective date.

Chuck Springer, stated that this ordinance would adopt the operating budget as summarized in the ordinance along with the capital improvements program.

Council Member Johnson motioned, Council Member Gregory 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.

Ordinance No. 2014-280

D. ID 14-0508 Consider adoption of an ordinance of the City of Denton, Texas, ratifying the adoption of the Fiscal Year 2014-15 Annual Program of Services (Budget) and the Capital Improvement Program of the City of Denton, Texas, for the fiscal year beginning October 1, 2014, and ending on September 30, 2015 when the Budget will raise more revenue from property taxes than last year's budget; and providing an effective date.

Chuck Springer, Director of Finance, stated that this was a state requirement to ratify the approved budget adoption as it raised more property tax revenue.

Mayor Pro Tem Engelbrecht motioned, Council Member Ryan 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.

4. CONSENT AGENDA

Mayor Watts noted that Item BB would be pulled for separate consideration.

Council Member Gregory motioned, Council Member Hawkins seconded to approve the Consent Agenda and accompanying ordinances and resolutions with the exception of Item BB. 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. 2014-281

- A. ID 14-0417 Consider adoption of an ordinance adopting a Schedule of Fees for use of certain park facilities; superseding all prior fees in conflict with such schedule; and providing for severability and an effective date. The Parks, Recreation and Beautification Board recommends approval (5-0).

Approved the recommendation below.

- B. ID 14-0461 Consider approval of the Public Art Committee's recommendation to purchase three color lithographs by artist Billy Hassell as public art for the City of Denton. The lithographs, which will a total of \$5,700, is pursuant to the City of Denton Public Art policy approved by Ordinance 2006-105, and funded with Hotel/Motel Occupancy Tax (HOT) revenues previously authorized and encumbered for expenditure of such purposes; and declaring an effective date. The Public Art Committee recommends approval (5-0).

Resolution No. R2014-035

- C. ID 14-0463 Consider approval of a resolution by the City of Denton, Texas, authorizing the City Manager to submit an application and all other necessary documents to obtain a grant under the Texas Department of Housing and Community Affairs, Amy Young Barrier Removal Program and take all other actions necessary to implement the program; and providing for an effective date.

Ordinance No. 2014-282

- D. ID 14-0469 Consider adoption of an ordinance of the City Council of the City of Denton, Texas, approving guidelines for operation of the City of Denton Home Improvement Program and eligibility criteria; authorizing expenditures in excess of \$50,000 for projects meeting program guidelines and criteria; and providing for an effective date.

Ordinance No. 2014-283

- E. ID 14-0478 Consider adoption of an ordinance of the City of Denton, Texas authorizing the City Manager to execute an agreement between the City and Denton City County Day School to provide Community Development Block Grant funds for

improvements to the facility at 1603 Paisley Street, Denton, Texas, 76209; authorizing the expenditure of funds therefore, not to exceed \$102,767; and providing for an effective date.

Resolution No. R2014-036

F. ID 14-0483 Consider approval of a resolution allowing DI2-Denton I, LLC, to be the sole participant allowed to sell alcoholic beverages at Oaktopia, September 20, 2014, from 2 pm until 11 pm, upon certain conditions, authorizing the City Manager or his designee to execute an agreement in conformity with this resolution; and providing for an effective date. Staff recommends approval.

Approved the exception listed below.

G. ID 14-0502 Consider a request for an exception to the Noise Ordinance for the purpose of the Oaktopia Festival sponsored by Monocle LLC. The event will be held on City property, Williams Trade Square, and on the Denton County Courthouse lawn on Saturday, September 20, 2014, from 2 p.m. to 11 p.m. The exception is specifically requested to increase sound levels from 70 to 75 decibels and an extension of hours for amplified sound from 10 p.m. to 11 p.m. Staff recommends approval.

Ordinance No. 2014-284

H. ID 14-0489 Consider adoption of an ordinance of the City of Denton, Texas prohibiting parking on the east side of Highland Park Road from its intersection with North Texas Boulevard to its intersection with Westridge Street; prohibiting parking on the west side of Highland Park Road beginning 670 feet from its intersection with North Texas Boulevard to its intersection with Tremont Circle; prohibiting parking for certain time periods and only when signs are in place on both sides of Underwood Street from Avenue C (Interstate Highway 35 East access road) to its intersection with Highland Park Road; prohibiting parking for certain time periods and only when signs are in place on the west and north side of Highland Park Road from its intersection with North Texas Boulevard to the point on Highland Park Road 670 feet from its intersection with North Texas Boulevard; prohibiting parking for certain time periods and only when signs are in place on both sides of Kendolph Street from its intersection with Underwood Street to its intersection with Interstate 35 East; providing a repealer clause; providing a savings clause; providing for a penalty not to exceed \$500 for violations of this ordinance; providing that violations of this ordinance shall be governed by Chapter 18 of the Code of Ordinances of the City of Denton; and providing for an effective date. The Traffic Safety Commission recommends approval (5-0).

Ordinance No. 2014-285

I. ID 14-0506 Consider adoption of an ordinance amending the schedule of electric rates contained in Ordinance No. 2013-231 for electric service; amending the provisions of the Residential Service Rate Schedule (Schedule RES); amending the provisions of the Residential Renewable Energy Service Rider (Schedule RG); amending the provisions of the Residential Prepaid Service Schedule (Schedule RPP); amending the provisions of the General Service Small Schedule (Schedule GSS); amending the provisions of the General Service Medium Schedule (Schedule GSM); amending the

provisions of the General Service Large Schedule (Schedule GSL); amending the provisions of the General Time of Use Schedule (Schedule TGS); amending the provisions of the Local Government Small Schedule (Schedule G2); amending the provisions of the Local Government Schedule (Schedule G1); amending the provisions of the Weekend Service Schedule (Schedule WK); amending the provisions of the Athletic Field Schedule (Schedule AF); amending the provisions of the Street Lighting Schedule (Schedule LS); amending the provisions of the Traffic Lighting Schedule (Schedule LT); amending the provisions of the Unmetered School Zone/Crossing Flashers Schedule (Schedule UFL); amending the provisions of the Unmetered Traffic Lights Schedule (Schedule ULT); amending the provisions of the Unmetered Security Camera Schedule (Schedule USC); amending the provisions of the Other Lighting Schedule (Schedule LO); amending the provisions of the Security Lighting Schedule (Schedule DD); amending the provisions of the Decorative Downtown Lighting Schedule (Schedule DDL); amending the provisions of the Non Standard Street Lighting Schedule (Schedule DSL); amending the provisions of the Temporary Service Schedule (Schedule T1); adding the provisions of the Transmission Cost Recovery Factor Schedule (Schedule TCRF); providing for a repealer; providing for a severability clause; and providing for an effective date. The Public Utilities Board recommends approval (6-0).

Ordinance No. 2014-286

J. ID 14-0509 Consider adoption of an ordinance of the City of Denton, Texas providing for the schedule of miscellaneous fees, deposits, billings and procedures for administrative services to city utilities customers contained in Ordinance No. 2013-233; adding the credit card processing service fee; providing for a repealer; providing for a severability clause; and providing for an effective date. The Public Utilities Board recommends approval (6-0).

Ordinance No. 2014-287

K. ID 14-0510 Consider adoption of an ordinance amending the schedule of water rates contained in Ordinance No. 2013-235 for water service rates and water rates; amending the residential water service rate (Schedule WR); amending the commercial/industrial water service rate (Schedule WC); amending the metered water from fire hydrant rate (Schedule WFH); amending the wholesale treated water service rate to the Upper Trinity Regional Water District (Schedule WW); amending the wholesale raw water service rate to Upper Trinity Regional Water District (Schedule WRW); amending the wholesale raw water pass-through rate to Upper Trinity Regional Water District from Lake Chapman into Lake Lewisville (Schedule WCL); amending the water tap and meter fees; providing for a repealer; providing for a severability clause; and providing for an effective date. The Public Utilities Board recommends approval (6-0).

Ordinance No. 2014-288

L. ID 14-0511 Consider adoption of an ordinance amending the schedule of wastewater rates contained in Ordinance No. 2013-234; providing for an amendment in the rates for residential wastewater service (Schedule SR); amending the mobile home park wastewater service (Schedule SMH); amending the commercial and industrial

wastewater service (Schedule SC); amending the commercial/industrial wastewater service which measures with dedicated water meters (sub- meters) (Schedule SCD); amending the commercial /industrial wastewater service which measures with dedicated water meters (sub-meters) (Schedule SCS); amending the septage & chemical toilet disposal at the pecan creek water reclamation plant septage transfer station (Schedule SCH); amending the equipment services facilities and restaurant & food service establishments wastewater service (Schedule SEE); amending the metered wastewater inside and outside corporate limits (Schedule SM); amending the sale of treated wastewater effluent (Schedule SGE); amending the wholesale wastewater treatment service (Schedule SSC); amending the storm drainage fees schedule (Schedule SD); adding the stormwater reinspection fee- non-residential (schedule SDI): providing for a repealer; providing for a severability clause; and providing for an effective date. The Public Utilities Board recommends approval (6-0).

Ordinance No. 2014-289

M. ID 14-0537 Consider adoption of an ordinance of the City of Denton, Texas amending the schedule of rates for solid waste service contained in Ordinance No. 2013-230 as authorized by Chapter 24 of the Code of Ordinances of the City of Denton, Texas; providing that the provisions of Sections 26-3, 26-4, 26-5, 26-7, 26-8(a), and 26-9 of the Code of Ordinances of the City of Denton, Texas shall expressly apply to City of Denton Solid Waste and Recycling Services; providing for amendments to the residential refuse & recycling collection services rates; providing commercial refuse and recycling collection services rates; providing processing and disposal services rates; providing solid waste & recycling services definitions; providing for a repealer; providing for a severability clause; providing an effective date. The Public Utilities Board recommends approval (6-0).

Ordinance No. 2014-290

N. ID 14-0513 Consider adoption of an ordinance of the City Council of the City of Denton, Texas, approving a funding agreement between the City of Denton and the Denton Affordable Housing Corporation; providing for the terms of said contract; authorizing the City Manager to execute the agreement and to expend Home Investment Partnership Program funds with respect to the agreement; and providing for an effective date.

Ordinance No. 2014-291

O. ID 14-0514 Consider adoption of an ordinance of the City of Denton, Texas providing for, authorizing and approving communication services for wireless devices as approved by the State of Texas Department of Information Resources (DIR) Contract Number DIR-SDD-1780; providing for the expenditure of funds therefor; and providing an effective date (File 5352-Purchase of Wireless Communication Services for Sprint air cards and cell phones awarded to Sprint Solutions, Inc. in the three (3) year not-to-exceed amount of \$300,000).

Ordinance No.2014-292

P. ID 14-0515 Consider adoption of an ordinance accepting competitive bids and

awarding a public works contract for the Construction of FM 2499 Utility Relocation-Phase II project; providing for the expenditure of funds therefor; and providing an effective date (Bid 5476-awarded to the lowest responsible bidder meeting specification, Speiss Construction Company, Inc. in the amount of \$1,604,356). The Public Utilities Board recommends approval (5-0).

Ordinance No. 2014-293

Q. ID 14-0516 Consider adoption of an ordinance of the City of Denton, Texas authorizing the City Manager to execute a Professional Services Agreement for engineering and consulting services for the City of Denton Landfill including the Texas Commission on Environmental Quality permitting process and other design and construction projects, with CP&Y, Inc.; providing for the expenditure of funds therefor; and providing an effective date (File 5625-awarded to CP&Y, Inc. in the three (3) year amount not-to-exceed \$450,000). The Public Utilities Board recommends approval (5-0).

Ordinance No. 2014-294

R. ID 14-0517 Consider adoption of an ordinance of the City of Denton, Texas providing for, authorizing, and approving metering software and handheld hardware maintenance for continued vendor support and upgrade to software version 8.1 for the Meter Data Management System (MDMS) for Denton Municipal Electric Metering 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 4448 awarded to Itron, Inc. in the three (3) year not-to-exceed amount of \$350,000).

Ordinance No. 2014-295

S. ID 14-0518 Consider adoption of an ordinance of the City of Denton, Texas providing for, authorizing, and approving software maintenance for continued vendor support for Cityworks software for the City of Denton water and wastewater asset and work order software system, 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 5194 awarded to Azteca Systems, Inc. in the three (3) year not-to-exceed amount of \$60,000).

Ordinance No. 2014-296

T. ID 14-0519 Consider adoption of an ordinance of the City of Denton, Texas providing for, authorizing, and approving a hosted website service for employee payroll direct deposit and W2 image service, 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 5304 awarded to Ceridian HCM, Inc. in the three (3) year not-to-exceed amount of \$65,000).

Ordinance No. 2014-297

U. ID 14-0520 Consider adoption of an ordinance of the City of Denton, Texas providing

for, authorizing, and approving software maintenance for continued vendor support for the financial analysis and reporting software application tool and purchase of Query Designer software to enhance the tool, 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 5402 awarded to Global Software, Inc. in the three (3) year not-to-exceed amount of \$105,000).

Ordinance No. 2014-298

V. ID 14-0521 Consider adoption of an ordinance of the City of Denton, Texas providing for, authorizing, and approving software maintenance for continued vendor support and upgrade to Cartegraph Operations Management System for Public Works asset and work order software system, 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 5635 awarded to Cartegraph Systems, Inc. in the three (3) year not-to-exceed amount of \$220,000).

Ordinance No. 2014-299

W. ID 14-0522 Consider adoption of an ordinance of the City of Denton, Texas providing for, authorizing, and approving software maintenance for continued vendor support and upgrade to TrakiT9 for planning projects, permits, code cases, inspections, and business license information software system, 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 5636 awarded to CRW Systems, Inc. in the three (3) year not-to-exceed amount of \$212,000).

Ordinance No. 2014-300

X. ID 14-0523 Consider adoption of an ordinance of the City of Denton, Texas providing for, authorizing, and approving software maintenance for continued vendor support and upgrade and sustainment services for Automated Metering Infrastructure (AMI) for the Denton Municipal Electric Metering 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 4485 awarded to Trilliant Inc. in the three (3) year not-to-exceed amount of \$875,000).

Ordinance No. 2014-301

Y. ID 14-0524 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for the supply of Wood Utility Poles for Denton Municipal Electric; providing for the expenditure of funds therefore; and providing an effective date (RFP 5606-awarded to Kisatche Treating, Inc. in the three (3) year not-to-exceed amount of \$1,679,247).

Ordinance No. 2014-302

Z. ID 14-0525 Consider adoption of an ordinance accepting competitive proposals and

awarding a contract for the purchase by the City of Denton, Texas of Load, Price, Weather, Wind Forecasting Services in support of the Energy Marketing Organization of Denton Municipal Electric from Pattern Recognition Technologies, Inc. (PRT, Inc.) in an amount not-to-exceed \$171,000, and WSI Corporation in an amount not-to-exceed amount of \$77,004; providing for the expenditure of funds therefor; and providing an effective date (RFP 5595-awarded to PRT, Inc. in the three (3) year not-to-exceed amount of \$171,000 and WSI Corporation in the three (3) year not-to-exceed amount of \$77,004 for a total award of \$248,004). The Public Utilities Board recommends approval (5-0).

Ordinance No. 2014-303

AA. SI14-0007 Consider adoption of an ordinance establishing administrative fees for the remediation or abatement of public nuisances, including high weeds and grass, trash and debris, stagnant water, securing of dangerous or abandoned buildings, and demolition of dangerous buildings; providing that a schedule of fees shall be maintained in the office of the City Secretary; and providing for an effective date.

Ordinance No. 2014-304

CC.ID 14-0527 Consider adoption of an ordinance of the City of Denton, Texas authorizing and directing the City Manager or his designee to execute on behalf of the City of Denton an Airport Project Participation Agreement with the Texas Department of Transportation relating to design services for construction of a west side runway, connecting taxiways, and apron expansion at the Denton Enterprise Airport; total cost \$550,000 with the City of Denton portion \$55,000; authorizing and directing the City Manager or his designee to expend funds as provided for in said agreement and to execute documents on behalf of the City of Denton in order to implement the project; and providing an effective date. The Airport Advisory Board recommends approval (5-0).

Ordinance No. 2014-305

DD.ID 14-0529 Consider adoption of an ordinance authorizing the City Manager, or his designee, to execute on behalf of the City of Denton an airport lease agreement between the City of Denton, Texas and various tenants for the property located at 2031-2221 Skylane Street, Denton Enterprise Airport. The Council Airport Committee recommends approval (3-0).

Ordinance No. 2014-306

EE.ID 14-0533 Consider adoption of an ordinance authorizing the City Manager, or his designee, on behalf of the City of Denton, Texas, to execute Options to Purchase real property generally located in the 100 block of N. Bonnie Brae St., 2500 block of W. Hickory St., and 2300 block of W. Oak St., Denton, Denton County, Texas, for the public use of expansion, construction, maintenance, operation, and improvement of electric transmission and distribution lines, facilities, and structures, including substations; authorizing the expenditure of funds; and providing an effective date.

Ordinance No. 2014-307

FF.ID 14-0534 Consider adoption of an ordinance authorizing the City Manager or his

designee to expend funds to reimburse Texas Municipal Power Agency ("TMPA") for costs TMPA has already incurred related to the ARCO Substation reconstruction project now assigned to the City. The total amount of reimbursement is not to exceed \$1,020,000.

Resolution No. R2014-037

GG.ID 14-0541 Consider approval of a resolution adopting a revised City of Denton Handbook for Boards, Commissions, and Council Committees; and declaring an effective date.

Approved the noise exception listed below.

HH.ID 14-0542 Consider a request for an exception to the Noise Ordinance for the purpose of the Oktoberfest on Walnut sponsored by the Walnut off the Square Committee. Live music will be played on the 100 block of Walnut Street, on Friday, October 3, 2014, from 5 p.m. to midnight. An exception is specifically requested to increase sound levels from 70 to 75 decibels, and for an extension of hours from 10 p.m. to midnight. Staff recommends approval.

Resolution No. R2014-038

II. ID 14-0543 Consider approval of a resolution allowing DI2-Denton I, LLC, dba Lone Star Attitude Burgers, WABL, LLC, dba Abbey Inn and Denton Sweetwater Grill to be allowed to sell alcoholic beverages at Oktoberfest on Walnut, October 3, 2014, from 5 pm until midnight, upon certain conditions, authorizing the City Manager or his designee to execute an agreement in conformity with this resolution; and providing for an effective date. Staff recommends approval.

Resolution No. R2014-039

JJ.ID 14-0551 Consider approval of a resolution approving the City of Denton's Strategic Plan and Key Performance Indicators for FY 2014-15; and providing for an effective date.

Approved the minutes listed below.

KK.ID 14-0555 Consider approval of the minutes of: July 15, 2014, July 29, 2014, and July 31, 2014

Ordinance No. 2014-308

LL.ID 14-0557 Consider adoption of an ordinance authorizing the City Manager or his designee to execute a Purchase Agreement, by and between the City of Denton, Texas ("City"), as buyer, and Habib Pyarali Arab ("Owner"), as seller, to acquire (I) fee simple title to a 1.398 acre tract; and (II) a slope easement encumbering a 0.151 acre tract, both tracts located in the M.E.P. & P.R.R. Survey, Abstract No. 1469, City of Denton, Denton County, Texas, and being generally located in the 1500 block of North Mayhill Road (the "Property Interest"); for the purchase price of Two Hundred Eighty Seven Thousand Nine Hundred Dollars and No Cents (\$287,900.00), and other consideration, as prescribed in the Purchase Agreement (the "Agreement"), as attached to the ordinance and made a part thereof as Exhibit "A", authorizing the

expenditure of funds therefor; and providing an effective date. (Mayhill Road Widening and Improvements Project: Parcel M026 - Habib Pyarali Arab)

Ordinance No. 2014-309

MM. ID 14-0554 Consider adoption of an ordinance approving an agreement between the City of Denton, Texas, and the Denton Chamber of Commerce regarding an Economic Development Partnership; and providing an effective date (\$227,467).

Item BB was considered.

Council Member Hawkins left the meeting with a conflict of interest.

Approved the agreement and grant application listed below.

BB. ID 14-0526 Consider authorizing the City Manager to execute an agreement and approve a grant application with Royal Seafood LLC, dba Hoochie's Oyster House, represented by Sam Solomon, 214 E. Hickory Street, from the Downtown Reinvestment Grant Program not to exceed \$5,000; and providing for an effective date. The Downtown Task Force recommends approval (11-0).

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

Council Member Hawkins returned to the meeting.

5. ITEMS FOR INDIVIDUAL CONSIDERATION - CONSIDERATION OF THE USE OF EMINENT DOMAIN TO CONDEMN REAL PROPERTY INTERESTS

A. ID 14-0532 Consider adoption of an ordinance finding that a public use and necessity exists to acquire through the exercise of the right of eminent domain (i) fee simple to an approximate 1.074 acre tract (the "Substation Tract") located in the W. Roark Survey, Abstract No. 1087 and the J. Severe Survey, Abstract No. 1164, both in Denton County, Texas, located generally along the east line of U. S. Highway 377 adjacent to and east of the Fort Worth Drive Substation Addition, and (ii) fee simple to an approximate 0.627 acre tract (the "Pump Station Tract") located in the B.B.B. & C. R. R. Co. Survey, Abstract No. 196 and the J. W. Withers Survey, Abstract No. 1343, both in Denton County, Texas, generally located west and adjacent to the G. C. & S. F. Railroad right of way and running to the west right of way line of F. M. Highway 1830, and (iii) an approximate 0.476 acre ingress and egress easement tract located in the J. Severe Survey, Abstract No. 1164, Denton County, Texas, located generally along the east line of U. S. Highway 377 adjacent to and south of the Fort Worth Drive Substation Addition, Denton County, Texas, and (iv) an approximate 1.802 acre electric utility and communication easement located in the W. Roark Survey, Abstract No. 1087, Denton County, Texas, located generally east of the Ft. Worth Drive Substation Addition and running to the west line of a tract of land owned by City of Denton, Texas, called 37.95 acres in Deed recorded in Instrument Number

2014-68891, Deed Records, Denton County, Texas, (the "City tract") and (v) an approximate 1.793 acre temporary construction and access easement located in the W. Roark Survey, Abstract No. 1087, Denton County, Texas, located generally north of and adjacent to 1.802 acre tract; for (A) as concerns the Substation Tract, ingress and egress easement, electric utility and communication easement and the temporary construction and access easement, the public use of expansion, construction, maintenance, operation, and improvement of electric transmission and distribution lines, facilities, and structures; and (B) as concerns the Pump Station Tract, the public use of a wet weather pump station and detention facility project (the "Hickory Creek Detention Facility"); as attached to the ordinance and made a part thereof (I) authorizing the filing and prosecution of eminent domain proceedings to acquire the Property Interests; (II) authorizing the expenditure of funds therefore; (III) making findings; (IV) providing a savings clause; and (V) providing an effective date. (Denton Municipal Electric Fort Worth T1 Addition Expansion, Denton Municipal Electric Fort Worth Drive and FM 1830 Distribution, and Hickory Creek Detention Facility projects: Burch Family Farms Ltd.)

Mayor Watts stated that this item had been postponed until the next council meeting.

Council Member Gregory motioned, Council Member Ryan seconded to postpone the item to the October 7th meeting. 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. 2014-310

A. Z14-0012 Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, providing for an initial zoning and land use classification of Neighborhood Residential 6 (NR-6) on approximately 34.73 acres of land located on the south side of Edwards Road, approximately 500 feet west of Swisher Road, 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 (Z14-0012). The Planning and Zoning Commission recommends approval (6-0).

Ron Menguita, DRC Administrator, stated that this was a request for initial zoning for the property. He provided information on the location map, future land use, vicinity map, site photos, notification map, and criteria for approval according to the Denton Development Code. The Planning and Zoning Commission and the Development Review Committee recommended approval.

Council Member Hawkins asked about the infrastructure improvements.

Menguita stated that the road was on the Mobility Plan for alignment of the street. The actual construction would be the responsibility of the developer. Eventually, if a developer was not required to do the road it would be done with the CIP program.

Council Member Gregory asked how the density was figured based on the upland habitat on a portion of the property.

Menguita stated that the roadway would remove habitat but the applicant would mitigate the removal. Additional easement would be provided through as an easement as part of the mitigation.

Council Member Gregory stated that the area was already part of a habitat.

Debra Viera, Environmental Services, stated that there were 13 acres of upland habitat on the property. The developer was removing 4.8 acres that had to be mitigated and must preserve 50% of the acreage. A conservation easement for 2.4 acres was required to be provided.

Council Member Roden stated that there was an innovative tree preservation park adjacent to the property. He questioned if it was connected to what was needed to be preserved per the City's requirements. It was not included in the site plan.

Menguita stated that the park was east of the potential Post Oak Road. The developer had all the property to Swisher and could utilize that property for the project.

Mayor Watts asked about the mitigation requirement related to the tree ordinance in the sense of removing trees.

Menguita stated that it was completely separate. The ESA was mitigated differently from tree preservation.

Mayor Watts stated that if the property was put in an easement on the upland habitat, it could not be touched for development.

The Mayor opened the public hearing.

Rod Zielke, representing the developer, stated that he was available to answer questions if needed.

Council Member Roden stated that the Villages of Carmel had problems with things promised such as amenities that never came through. He questioned if those would be provided with this development.

Zielke stated that the property was once owned by one developer but now had three separate entities trying to maintain the Village of Carmel concept. One of the owners had met with the HOA and was working with the HOA for an amenity center and pool.

Council Member Roden asked about the innovative tree preservation park.

Zielke stated a portion of the area was already approved as a park and was in a plat with the adjacent property. As the property to the south was platted more of that area of the property would be separated from the ESA area and would be a green space element to the development.

The Mayor closed the public hearing.

Council Member Roden motioned, Council Member Hawkins 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.

Ordinance No. 2014-311

B. MSD14-0001 Hold a public hearing and consider adoption of an ordinance of the City Council of the City of Denton authorizing the acceptance of deed restrictions prohibiting the use of designated groundwater from beneath a 34.06 acre property generally described as 100 and 306 North State Loop 288 and including the full width of adjacent Right of Ways of North State Loop 288, Market Street, and E. McKinney Street (FM 426), generally at the northeast corner of McKinney Street and North State Loop 288, Denton, Texas, to facilitate certification of a municipal setting designation (MSD) of said property by the Texas Commission on Environmental Quality (TCEQ), pursuant to the Texas Solid Waste Disposal Act; and providing for an effective date.

Ron Menguita, DRC Administrator, presented the details of the project which was a request for a municipal setting designation for the property. The property was located on Loop 288 and McKinney.

Kenny Banks, Director of Environmental Quality, stated that a Municipal Setting Designation would certify that contaminated groundwater would not be used as potable water. The Designation was reviewed and approved by the Texas Commission on Environmental Quality but required municipal support. The TCEQ required an applicant to provide a "resolution or ordinance of support" from municipalities in which the MSD was being sought as part of the MSD application process. A restrictive covenant would be placed on the land that the water could not be used as drinking water. The applicant would have to ensure that all other exposure pathways were safe before State granted the application.

Council Member Roden asked what restrictions were on adjacent property that might want to tap into the source.

Banks stated that there were several notifications in the processes. State notification required that anyone with a well within a five mile radius had to be notified. One public hearing had already been held on that notification. The second notification was for adjacent property owners. A second public meeting would be held for area residents.

The Mayor opened the public hearing.

Virgil Strange, developer, requested approval of the designation.

The Mayor closed the public hearing.

Council Member Roden motioned, Council Member Hawkins 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.

Ordinance No. 2014-312

C. CA14-0003 Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, providing for a comprehensive plan amendment from a "Regional Mixed Use Center" future land use designation to an "Industrial Center" future land use designation on approximately 2.95 acres of land generally located on the west side of Worthington Drive, north of Barcelona Street and south of Schuyler Street being Lot 3, Block A of the Hull Addition; and providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; providing a severability clause and an effective date. The Planning and Zoning Commission recommends approval (5-2). (CA14-0003)

Ron Menguita, DRC Administrator, presented the details of the proposal which contained three requirements - a comprehensive plan amendment, a zoning change amendment and a specific use permit. He provided the location map for the property, current future land use map, zoning map, and reviewed the history of the property. Currently the property was operating under a special exception for light manufacturing uses. The use required a heavy manufacturing zoning permit for the property as staff had determined that hot dip galvanization was a heavy manufacturing use due to the use of molten zinc and the potential for pollution. The requestor asked the Zoning Board of Adjustment for an interpretation of heavy manufacturing. On April 28, 2014 the Zoning Board of Adjustment voted 5-2 that hot dip galvanization was a light manufacturing use, however, per the Denton Development Code a vote by six members of the Board was necessary to reverse an administrative decision of the staff. Therefore, hot dip galvanization was still considered a heavy manufacturing use.

Approval criteria and consideration for the comprehensive plan amendment - staff felt it conflicted with the goals of the RMUC zoning district, it conflicted with existing and future surrounding uses, and created an isolated zoning location. Staff recommended denial; however, the Planning and Zoning Commission recommended approval.

The rezoning request had the same criteria for approval. Staff's reasoning and recommendation for denial was the same as for the comprehensive plan amendment but the Planning and Zoning Commission had recommended approval. In terms of the specific use permit, staff felt that the proposal was incompatible and potentially injurious to the use and environment of adjacent properties. It could potentially slow the orderly growth and transition of this area toward a regional mixed use center. Staff recommended denial of the specific use permit; however, the Planning and Zoning Commission recommended approval with conditions. Those conditions stated that the use would be limited to hot dip galvanization, the use was specific to EDSCO Fasteners, and EDSCO had to comply with all building, environmental and safety standards in the Denton Development Code and the Code of Ordinances. The staff had also added the conditions of (1) a 20% tree canopy consistent with RCCD zoning district, (2) follow the residential and mixed use buildings site development requirements regarding orientation, building materials, and parking to help ensure compatibility with existing and future uses in the surround area and (3) operation hours would be limited to 7:00 a.m. to 7:00 p.m.

Council Member Johnson stated that he had talked with the applicant. The zoning for the property was industrial manufacturing when RCC zoning was put on top of the zoning and that there were other industrial uses in the area. The applicant came to staff indicating that instead of outsourcing their process, they wanted to bring it in-house. Galvanizing was not covered in the ordinance with staff interpreting that it was heavy manufacturing. The issue went before the Zoning Board of Adjustment which supported the staff's decision. However, the vote was 5-2 in favor of light manufacturing but a supermajority vote was required to overturn staff's recommendation. It was highly unlikely that this property would develop into a shopping center. The issue all stemmed from an interpretation from light to heavy industrial uses. He felt that staff did not have a choice when looking at the comprehensive zoning change and looking at the site. There were already industrial properties next to the site and industrial sites along it in addition to hotels. He felt it was compatible with what was already being done in the area. If the Zoning Board of Adjustment vote had been a 6-1 vote, the issue would not be before Council. The proposal would be bringing more jobs to city with a use that was already there.

Council Member Roden felt that the staff considered the area transitioning into a mixed use center. He drove the area and asked staff what made them think the area was transitioning as he felt it was an area for industrial type uses.

Menguita stated that current uses also included hotels along I35, a day care north of the site and the truck center located in the area was not heavy manufacturing.

Council Member Roden asked if the owner wanted to expand the operation in order to get this accomplished, would it be grandfather similar to the current operation.

Menguita stated yes as far as light industrial but not into heavy industrial.

Council Member Roden asked what ability did the Council have to review the decision of light versus heavy manufacturing. He questioned if Council had the authority to reopen that discussion.

City Attorney Burgess stated that the agenda had three posted items. If Council wanted to look at the definition/language of heavy manufacturing, it could be brought back to Council to discuss that provision.

Council Member Gregory asked if any of the other operations in the area did not fit into the RCCD.

Menguita stated that some of the existing manufacturing might not but that he was not familiar with what might be other light manufacturing in the area.

Council Member Ryan stated the RCCD would not allow the business to operate as it currently was doing.

Menguita stated that it was operating as light manufacturing and because it was in operation prior to 2002, it was allowed a special exception.

Council Member Ryan felt that the process was light manufacturing, not heavy.

Council Member Johnson asked how light and heavy manufacturing was defined

Menguita stated that a heavy operation involved the use of raw materials. The heating and melting of the zinc was one indication that the process was heavy along with the potential pollutants. Light industrial used already developed products and combined them.

Council Member Engelbrecht felt that the process was heavy manufacturing due to potential environmental impacts.

The Mayor opened the public hearing for Items 6 C, D and E.

Jeff Stewart, representing the applicant, spoke in favor. He stated that they had objections to some of the specific use permit conditions. They did not have a problem with Condition 1 which limited the permit a hot dip only. Condition 2 limited the specific use permit to EDSCO Fasteners. That condition might restrict the sale of the operation in the future if desired. They did not have any problems Condition 3 relative to building standards, etc. Condition 4 which required 20% tree canopy could be very costly for the site. The requested zoning already required a 15% tree canopy and on 3 acre tract the additional percentage could be very costly with other sites in the area not having the same requirement. They had a concern with Condition 5 in terms of complying with the site development requirements regarding orientation, building materials, and parking. That requirement would require stone or masonry sides on all sides of the facing the right-of-way. This would be a burden on the project with it was no applicable to the existing zoning and surrounding area. Parking would not be allowed in the front of the building and would have to be on the side of the building. The final condition of the operational hours was also a burden.

Council Member Roden asked if all of the conditions were suggested by the Planning and Zoning Commission or were some added by staff.

Stewart stated that the first three were placed by the Planning and Zoning Commission as part of their approval. The Commission asked staff to meet with the developer and see what other conditions would be applied.

Council discussed the permit monitoring requirements by TCEQ; orientation of the building and open bays; hours of operation; tree canopy requirements, imposition of special requirements on this proposal as opposed to an adjacent facility that was just built and did not have the same requirements and an explanation of possible expansion of the operation in the future,

The Mayor closed the public hearing for Items C, D and E.

Council Member Roden stated that zoning allowed for orderly development and protected associated properties. The three hotels in the area did not respond to the proposal and it appeared that they were not concerned about being protected.

Council Member Ryan asked what would be process of changing the designation back to light manufacturing.

City Attorney Burgess stated that there would have to be an amendment to the ordinance with regard to the definition. That would require a normal review by staff and back through the Planning and Zoning Commission because of the development code. The Zoning Board of Adjustment would not be in play during the amendment process.

Council Member Ryan expressed a concern that this would be spot zoning.

Council Member Johnson stated that currently was no zoning for heavy manufacturing so the proposal would have to be a specific use permit. If Council was going to allow the process it should not have unreasonable conditions on it. A tree canopy for RCCD for the future was not in line with what was currently there. Limiting the hours of operation was not in keeping with what other businesses may be doing with multiple shifts.

Council Member Roden motioned, Council Member Johnson 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.

Ordinance No. 2014-313

D. Z14-0014 Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, providing for a zoning change from a Regional Center Commercial Downtown (RCC-D) zoning district and use classification to an Industrial Center General (IC-G) zoning district and use classification on approximately 2.95 acres of land generally located on the west side of Worthington Drive, north of Barcelona Street and south of Schuyler Street being Lot 3, Block A of the Hull Addition; and providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; providing a severability clause and an effective date. This is part two of a three-part request including CA14-0003 and S14-0004. The Planning and Zoning Commission recommends approval (5-2).

The public hearing for this item was held in conjunction with Item C.

Council Member Roden motioned, Council Member Hawkins 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.

Ordinance No. 2014-314

E. S14-0004 Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, providing for a specific use permit for a "heavy manufacturing use" in an "Industrial Center General" (IC-G) zoning district and use classification on approximately 2.95 acres of land generally located on the west side of Worthington Drive, north of Barcelona Street and south of Schuyler Street being Lot 3, Block A of the Hull Addition; and providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; providing a severability clause and an effective date. This is part three of a three-part request including CA14-0003 and Z14-0014. The Planning and Zoning Commission recommends approval (7-0).

The public hearing for this item was held in conjunction with Item C.

Council Member Roden motioned, Council Member Johnson seconded to adopt the ordinance with the following conditions: keep Item A, remove Item B, Item C was redundant but harmless, delete Items D, E and F. 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. CITIZEN REPORTS

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

8. CONCLUDING ITEMS

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

Council Member Ryan requested an examination of the current zoning issues in the area of Mesa and Worthington to avoid spot zoning.

Council Member Ryan requested adding the Texas pledge to the screens in the Council Chambers at the beginning of the meeting.

Council Member Roden reminded the audience of the upcoming Bluesfest and Octopia concerts.

Council Member Johnson reminded the audience that Saturday was Family Day at UNT.

Mayor Watts suggested a discussion on developing a task force regarding the issue of homelessness.

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

There was no continuation of the Closed Meeting.

With no further business, the meeting was adjourned at 9:36 p.m.

CHRIS WATTS
MAYOR
CITY OF DENTON, TEXAS

JENNIFER WALTERS
CITY SECRETARY
CITY OF DENTON, TEXAS