



# City of Denton

City Hall  
215 E. McKinney St.  
Denton, Texas 76201  
[www.cityofdenton.com](http://www.cityofdenton.com)

## Meeting Agenda

### City Council

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**Tuesday, October 7, 2014**

**3:00 PM**

**Work Session Room & Council Chambers**

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After determining that a quorum is present, the City Council of the City of Denton, Texas will convene in a Work Session on Tuesday, October 7, 2014 at 3:00 p.m. in the Council Work Session Room at City Hall, 215 E. McKinney Street, Denton, Texas at which the following items will be considered:

#### **1. Citizen Comments on Consent Agenda Items**

This section of the agenda allows citizens to speak on Consent Agenda Items only. Each speaker will be given a total of three (3) minutes to address any items he/she wishes that are listed on the Consent Agenda. A Request to Speak Card should be completed and returned to the City Secretary before Council considers this item.

#### **2. Requests for clarification of agenda items listed on the agenda for October 7, 2014.**

#### **3. Work Session Reports**

- A. [SI14-0008](#) Receive a report, hold a discussion, and give staff direction regarding a City of Denton Code of Ordinances amendment and Denton Development Code amendment for the sale of all alcohol within the City's corporate limits.

**Attachments:**      [Exhibit 1-Ordinance 2014-238](#)  
[Exhibit 2-Municipal Regulation of Alcohol Sales in North Texas](#)  
[Exhibit 3-Dallas Merchants v City of Dallas](#)  
[Exhibit 4-Arlington Code Language](#)

Following the completion of the Work Session, the City Council will convene in a Closed Meeting to consider specific items when these items are listed below under the Closed Meeting section of this agenda. The City Council reserves the right to adjourn into a Closed Meeting on any item on its Open Meeting agenda consistent with Chapter 551 of the Texas Government Code, as amended, or as otherwise allowed by law.

#### **1. Closed Meeting:**

- A. [ID 14-0601](#) Deliberations regarding Real Property - Under Texas Government Code Section 551.072; and Consultation with Attorneys - Under Texas Government Code Section 551.071.

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 14-0603]

**B. [ID 14-0562](#)** 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 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 14-0596](#)** Consultation with Attorneys - Under Texas Government Code, Section 551.071

Discuss, deliberate, and receive information from the City's attorneys pertaining to sanitary sewer overflows and resulting enforcement action, and provide the City's attorneys with direction, 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 or legal proceedings.

ANY FINAL ACTION, DECISION, OR VOTE ON A MATTER DELIBERATED IN A CLOSED MEETING WILL ONLY BE TAKEN IN AN OPEN MEETING THAT IS HELD IN COMPLIANCE WITH TEXAS GOVERNMENT CODE, CHAPTER 551, EXCEPT TO THE EXTENT SUCH FINAL ACTION, DECISION, OR VOTE IS TAKEN IN THE CLOSED MEETING IN ACCORDANCE WITH THE PROVISIONS OF §551.086 OF THE TEXAS GOVERNMENT CODE (THE 'PUBLIC POWER EXCEPTION'). THE CITY COUNCIL RESERVES THE RIGHT TO ADJOURN INTO A CLOSED MEETING OR EXECUTIVE SESSION AS AUTHORIZED BY TEX. GOV'T. CODE, §551.001, ET SEQ. (THE TEXAS OPEN MEETINGS ACT) ON ANY ITEM ON ITS OPEN MEETING AGENDA OR TO RECONVENE IN A CONTINUATION OF THE CLOSED MEETING ON THE CLOSED MEETING ITEMS NOTED ABOVE, IN ACCORDANCE WITH THE TEXAS OPEN MEETINGS ACT, INCLUDING, WITHOUT LIMITATION §551.071-551.086 OF THE TEXAS OPEN MEETINGS ACT.

Regular Meeting of the City of Denton City Council at 6:30 p.m. in the Council Chambers at City Hall, 215 E. McKinney Street, Denton, Texas at which the following items will be considered:

### **1. PLEDGE OF ALLEGIANCE**

- A. U.S. Flag
- B. Texas Flag

“Honor the Texas Flag – I pledge allegiance to thee, Texas, one state under God, one and indivisible.”

### **2. PROCLAMATIONS/PRESENTATIONS**

- A. [ID 14-0458](#) Presentation of an award from the Texas Department of Transportation Division to the City of Denton and the Convention and Visitors Bureau.
- B. [ID 14-0544](#) Joy Comes to Denton Day
- C. [ID 14-0593](#) Fire Prevention Week
- D. [ID 14-0595](#) Goodwill Industries of Fort Worth Helping People with Disabilities Day

### **3. CITIZEN REPORTS**

- A. Review of procedures for addressing the City Council.
- B. Receive citizen reports from the following:
  - A. [ID 14-0609](#) Receive a report from Bill Coville regarding restrictions on cutting trees.

### **4. CONSENT AGENDA**

Each of these items is recommended by the Staff and approval thereof will be strictly on the basis of the Staff recommendations. Approval of the Consent Agenda authorizes the City Manager or his designee to implement each item in accordance with the Staff recommendations. The City Council has received background information and has had an opportunity to raise questions regarding these items prior to consideration.

Listed below are bids, purchase orders, contracts, and other items to be approved under the Consent Agenda (Agenda Items A – N). This listing is provided on the Consent Agenda to allow Council Members to discuss or withdraw an item prior to approval of the Consent Agenda. If no items are pulled, Consent Agenda Items A – N below will be approved with one motion. If items are pulled for separate discussion, they may be considered as the first items following approval of the Consent Agenda.

- A. [ID 14-0579](#) Consider adoption of an ordinance of the City Council of the City of Denton, Texas, authorizing the City Manager to execute a third amendment to a contract for professional legal services with Constangy, Brooks and Smith relating to litigation styled Deborah Shaklee v. City of Denton, Cause No. 2013-20132-158; authorizing the expenditure of funds therefor; and providing an effective date.

**Attachments:** [Exhibit 1-Ordinance and Agreement](#)

- B. [ID 14-0582](#) Consider a request for an exception to the Noise Ordinance for the purpose of the Geezerpalooza music event held on Industrial Street and sponsored by the

Geezerpalooza Committee. Live music will be played on the 100 block of Industrial Street on Sunday, October 19, 2014, from noon to 9 p.m. An exception is specifically requested for an increase in sound levels from 70 to 75 decibels and for amplified sound on a Sunday. Staff recommends approval of request.

Attachments: [Exhibit 1-Letter of Request](#)

- C. [ID 14-0583](#) Consider a request for an exception to the Noise Ordinance for the purpose of the Get Out the Vote rally sponsored by the Denton Drilling Awareness and the Pass the Ban groups. Live music will be played in Quakertown Park, located at 321 E. McKinney Street, on Monday, October 20, 2014, from 7 p.m. to 9 p.m. An exception is specifically requested to increase sound levels from 70 to 75 decibels. Staff recommends approval of request.

Attachments: [Exhibit 1-Letter of Request](#)

- D. [ID 14-0584](#) Consider a request for an exception to the Noise Ordinance for the purpose of amplified sound during the Sigma Chi Fraternity 23rd annual Sigma Chi Fight Night. The event will be located in the parking lot behind Lucky Lou's located at 1207 W. Hickory Street beginning at 6 p.m. and concluding at midnight on Thursday, October 23, 2014. This request is for an extension of hours for amplified sound from 10 p.m. to midnight. Staff recommends approving request.

Attachments: [Exhibit 1-Letter of Request](#)

- E. [ID 14-0586](#) Consider adoption of an ordinance of the City of Denton, Texas authorizing the City Manager to execute a First Amendment to a Professional Services Agreement by and between the City of Denton, Texas and CDM Smith, Inc. for engineering services relating to the final design phase of the City of Denton Pecan Creek Water Reclamation Plant Phosphorus Removal Project; authorizing the expenditure of funds therefor; providing an effective date (File 5319 in the additional amount not-to-exceed \$269,240; aggregating a total not-to-exceed \$354,375). The Public Utilities Board recommends approval (5-0).

Attachments: [Exhibit 1-PUB Agenda sheet](#)

[Exhibit 2-PUB Minutes](#)

[Exhibit 3-Ordinance](#)

[Exhibit 4-Contract](#)

- F. [ID 14-0587](#) Consider adoption of an ordinance accepting competitive proposals and awarding a public works contract for Directional Boring Services; providing for the expenditure of funds therefor; and providing an effective date (RFP 5570-awarded to Gardner Telecommunications, Inc. (GTI), in the three (3) year not-to-exceed amount of \$1,531,410). The Public Utilities Board recommends approval (5-0).

Attachments: [Exhibit 1-BAFO Pricing](#)

[Exhibit 2-PUB Minutes](#)

[Exhibit 3-Ordinance](#)

- G. [ID 14-0588](#) Consider adoption of an ordinance awarding a contract under the Texas Multiple Award Schedule (TXMAS) Program for the purchase of mechanical (heating, ventilation and air conditioning), electrical, or plumbing (MEP) services to be

performed at City of Denton facilities as awarded by the State of Texas Procurement and Support Services (Contract TXMAS 03FAC-10-070); providing for the expenditure of funds therefor; and providing an effective date (File 5652-awarded to Brandt Companies, LLC, in the annual not-to-exceed amount of \$1,500,000 for a three (3) year not-to-exceed amount of \$4,500,000).

**Attachments:**      [Exhibit 1-TXMAS Contract](#)  
                                 [Exhibit 2-Ordinance](#)

- H. [ID 14-0589](#) Consider adoption of an ordinance accepting competitive proposals and awarding a contract for the supply of Electric Meters, Current Transformers, Meter Sockets, and Automatic Metering Infrastructure (AMI) Equipment for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (RFP 5584-awarded to HD Supply Power Solutions in the three (3) year not-to-exceed amount of \$4,307,685). The Public Utilities Board recommends approval (5-0).

**Attachments:**      [Exhibit 1-Evaluation and BAFO](#)  
                                 [Exhibit 2-PUB Minutes](#)  
                                 [Exhibit 3-Ordinance](#)  
                                 [Exhibit 4-Contract](#)

- I. [ID 14-0590](#) Consider adoption of an ordinance accepting competitive proposals and awarding a contract for the supply of Electric Utility Overhead and Underground Distribution Transformers for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (RFP 5347-awarded to Techline, Inc. in the three (3) year not-to-exceed amount of \$4,500,000). The Public Utilities Board recommends approval (5-0).

**Attachments:**      [Exhibit 1-Evaluation and BAFO](#)  
                                 [Exhibit 2-PUB Minutes](#)  
                                 [Exhibit 3-Ordinance](#)  
                                 [Exhibit 4-Contract](#)

- J. [ID 14-0591](#) Consider adoption of an ordinance accepting competitive proposals and awarding a contract for the supply of Electric Utility Station Service Voltage Transformers for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (RFP 5596-awarded to ABB HVIT in the three (3) year not-to-exceed amount of \$350,000). The Public Utilities Board recommends approval (5-0).

**Attachments:**      [Exhibit 1-Evaluation and BAFO](#)  
                                 [Exhibit 2-PUB Minutes](#)  
                                 [Exhibit 3-Ordinance](#)  
                                 [Exhibit 4-Contract](#)

- K. [ID 14-0597](#) Consider adoption of an ordinance accepting competitive proposals and awarding a contract for Golf Contractor Services for the City of Denton Parks Department; providing for the expenditure of funds therefor; and providing an effective date

(RFP 5490-awarded to Premier Junior Golf Development, LLC in the three (3) year not-to-exceed amount of \$300,000).

**Attachments:**      [Exhibit 1-BAFO and Pricing Sheet](#)  
                              [Exhibit 2-Ordinance](#)  
                              [Exhibit 3-Contract](#)

- L.    [ID 14-0598](#)    Consider approval of the Public Art Committee's recommendation to select Karmien Bowman as the artist for the outdoor sculptures titled "Leap Frogs" at North Lakes Park as public art for the City of Denton; and declare an effective date. The sculptures will cost \$26,000 and will be consistent with the City of Denton Public Art policy approved by Resolution R2013-021, and will be funded with Hotel Occupancy Tax revenues previously authorized and encumbered for such purpose. The Public Art Committee recommends approval with a vote of 6-0.

**Attachments:**      [Exhibit 1-Public Art Committee Minutes September 4, 2014](#)  
                              [Exhibit 2-Illustration of the sculptures](#)

- M.    [ID 14-0603](#)    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 Burch Family Farm, Ltd., (Owner") as Seller, to acquire (i) fee simple title 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 title 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 (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 the 1.802 acre tract; (the "Property Interests"); all for the purchase price of One Hundred Sixty Six Thousand Five Hundred Eighty Four Dollars and No Cents (\$166,584.00), and other consideration, as prescribed in the Purchase Agreement (the "Agreement"), as attached to the ordinance and made a part thereof as Exhibit "A", (I) authorizing the expenditure of funds therefore; (II) providing a savings clause; and (III) 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.)

Attachments:      [Exhibit 1 - Location Map](#)  
                              [Exhibit 2 - Ordinance](#)

- N. [ID 14-0611](#) Consider adoption of an ordinance of the City of Denton, Texas authorizing the approval of a professional legal services agreement by and between Terry Morgan & Associates, P.C. and the City of Denton, Texas; providing for the expenditure of funds; and providing an effective date.

Attachments:      [Exhibit 1-Ordinance](#)  
                              [Exhibit 2-Letter Agreement](#)

## **5. ITEMS FOR INDIVIDUAL CONSIDERATION**

- A. [ID 14-0599](#) Consider nominations/appointments to the City's Boards and Commissions: Health & Building Standards Commission; Human Services Advisory Committee; Library Board; Parks, Recreation & Beautification Board; Public Art Committee; and Traffic Safety Commission.

Attachments:      [Exhibit 1-Nominations Sheet](#)

## **6. 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.

### **C E R T I F I C A T E**

I certify that the above notice of meeting was posted on the bulletin board at the City Hall of the City of Denton, Texas, on the \_\_\_\_\_ day of \_\_\_\_\_, 2014 at \_\_\_\_\_ o'clock (a.m.) (p.m.)

\_\_\_\_\_  
CITY SECRETARY

NOTE: THE CITY OF DENTON CITY COUNCIL CHAMBERS IS ACCESSIBLE IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT. THE CITY WILL PROVIDE SIGN LANGUAGE INTERPRETERS FOR THE HEARING IMPAIRED IF REQUESTED AT LEAST 48 HOURS IN ADVANCE OF THE SCHEDULED MEETING. PLEASE CALL THE CITY SECRETARY'S OFFICE AT 349-8309 OR USE TELECOMMUNICATIONS DEVICES FOR THE DEAF (TDD) BY CALLING 1-800-RELAY-TX SO THAT A SIGN LANGUAGE INTERPRETER CAN BE SCHEDULED THROUGH THE CITY SECRETARY'S OFFICE.

