

CITY OF DENTON CITY COUNCIL MINUTES

October 21, 2014

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, October 21, 2014 at 2:00 p.m. in the Council Work Session Room at City Hall.

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

ABSENT: None.

1. Citizen Comments on Consent Agenda Items

There were no citizen comments on consent agenda items.

2. Requests for clarification of agenda items listed on the agenda for October 21, 2014.

Council Member Gregory asked on Consent item C how wide Corbin Road was.

Mark Nelson, Director of Transportation, stated that it was a minimum of thirty feet wide.

Gregory also asked about Consent Item E and the upsize of the water line and asked how the City was reimbursed for those costs.

Jim Coulter, Director of Water and Wastewater, stated that it was an investment that the water utility made in a line for future development in the area. As customers came online and paid impact fees then the costs were recovered through that process.

Gregory also asked about Consent Item I regarding the engineering services for the bridges for the pedestrian and bike trails and asked if the money was from a grant that we had received.

John Cabrales, Assistant City Manager, stated that the City had received a large grant from TxDOT that would help with the walkable trail project headed north towards Northpointe Park by UNT Discovery Park across Elm Street by the new Animal Services building and the Roland Vela complex which would connect to the trail system at North Lakes Park.

Council Member Hawkins asked about Consent Item A if there was ever any danger of starting work, issuing the COs later and never finishing the project.

Chuck Springer, Director of Fiscal and Municipal Services, stated that historically that had never occurred but there was the possibility. He stated that with Certificates of Obligation there was a notice of intent and a period where a petition could be given to the City Council that would require a vote.

3. Work Session Reports

- A. ID 14-0652 Receive a report, hold a discussion and give staff direction regarding a proposed convention center.

Jon Fortune, Assistant City Manager, stated that he would provide a quick update and that James Maguire, Vice Chancellor of Facilities from UNT, was here to answer some of the questions the Council had at a previous meeting. He stated that at the last meeting there was a discussion regarding the overall budget of the project that included some elements of the project that included the foundation and the roof that the City preferred. There was also a discussion about whether the school district's participation in the TIRZ would make a difference in the overall project moving forward.

He stated that Council had specifically directed staff to visit with O'Reilly Hospitality Management to determine if OHM still had an interest in the project if the County and School District did not participate in the TIRZ and whether or not they would support the higher budget that had been discussed. Tim O'Reilly had indicated to him that they would be interested in moving forward with the project under those conditions. O'Reilly indicated that he would be sending something in writing to the City.

Fortune stated that the element that was outstanding was whether the City was interested in advancing some of the design funding to keep the project on track; that was \$72,000 that would help the City get to a position where by the end of the year they could have a building permit for the grading and slab issue. He stated that he wanted to be sure that when the City Council issued the bonds to pay for the project, construction costs were set.

James Maguire, Vice Chancellor of Facilities, Planning and Construction for the UNT System, asked if the Council had any questions.

Council Member Roden asked about the possible re-development of the area around the Sack & Save location. He asked what UNT's vision was for that area.

Maguire stated that with respect to the hotel/convention center project, UNT felt it was a great amenity for the City and the campus. With respect to the area around Avenue C where Sack & Save was, UNT hoped it would be re-developed, probably with the widening of I-35 there would be re-development. That area was in the campus master plan as a redeveloped area and a gateway to the campus. The university did not have specific plans or resources available to do that development. The university was open to collaboration in that vicinity to see public/private partnerships or mixed-use developments as a gateway to the campus.

Council Member Ryan asked if the university had approved the drawings of the hotel/convention center project.

Maguire stated that with respect to the size of the facility, the size of the convention center was important to UNT and the ability to have that kind of facility available for the university to have access to was important to the university. With respect to the design, they had been actively involved with the discussions and while they had not issued the final approval, he believed the materials and overall design of the convention center was consistent with the directives with respect to architectural designs that were in the UNT master plan.

Council Member Engelbrecht asked if the university had plans to develop Walt Parker Drive down to Bonnie Brae.

Maguire stated that the university master plan showed a private driveway on the campus that connected to the parking lot on the east side of the stadium and then south to Bonnie Brae.

Engelbrecht stated that was an important element in the whole process to keep traffic out of the neighborhood. He asked what his thoughts were in terms of timing for that and whether the university would allow the convention center and/or hotel to use that as a means of ingress and egress.

Maguire stated that as part of the development agreement, the university had guaranteed all the required access to the convention center site.

Engelbrecht stated that what had been guaranteed was the front access.

Maguire stated that to his knowledge the access at the back of the property had not been part of the discussions.

Engelbrecht wanted to hear about what their timing was and the ability to use Walt Parker Drive to get traffic in and out.

Maguire stated that he would have to bring that information back to the Council.

Watts asked staff to look at what would be involved in making Walt Parker Drive a public thoroughfare.

Fortune stated that at the last Council meeting they had asked that the project be put on hold until O'Reilly had responded. He asked the Council for direction on whether they could move forward with amending the professional services agreement for the design for enhanced drawings in the amount of \$75,000. He stated that staff could bring the necessary pieces to move forward to the November 11 meeting. Fortune stated that he did not want to be in a position of recommending Council pass a bond ordinance without knowing that the project could move forward.

Council discussed different aspects of the project and raised questions about moving forward with the project. The Council wanted to see in writing O'Reilly's commitment to go ahead without the tax breaks and the agreement to the new financing cost. Some of the Council wanted to see O'Reilly's loan commitment documents before moving ahead with the deal. Several Council members wanted to see an updated performa that more accurately reflected the deal that they were suppose to see at the end. Some of the Council wanted to see a new master development agreement before the project moved forward.

Council directed staff to bring back the instrument that would authorize the additional design work along with the additional information that they had requested tonight and at that point they would decide whether they wanted to move forward with the project. Fortune stated that he would try to bring the information back to Council for the meeting next week, however, he would not have the new master development agreement ready until November 11.

- B. ID 14-0679 Receive a report from the Denton County Health Department, hold a discussion and give staff direction regarding Ebola education and preparedness measures in the City of Denton and Denton County.

Mike Penaluna, Emergency Management Coordinator, introduced Matt Richardson, Health Director with the Denton County Health Department, who presented an update on the Ebola Response. He stated that Ebola was a disease caused by the Ebola virus that could lead to severe and often fatal disease in humans. He stated that signs and symptoms included fever, severe headache, muscle pain, diarrhea, vomiting, abdominal pain, unexplained bleeding or bruising. The virus was spread by direct contact with blood and body fluids of a person who was infected with Ebola and had symptoms or who had died from Ebola. Sierra Leone, Liberia, and Guinea were the countries that currently had Ebola outbreaks.

Richardson stated that the Ebola patient that died at the Dallas hospital was the first U.S. case of Ebola. He stated that Denton County was prepared to handle Ebola cases. The Texas State Department of Health Services had provided guidance and procedures for 911 call takers, EMS practices on possible Ebola exposure patients, and hospital and emergency treatment practices for transport of Ebola patients. The Denton Fire Department was prepared to respond as the emergency medical provider to transport a suspected patient or as a hazardous materials team to assist a hospital or other agency in containment of a scene. They had reviewed their operating procedures and treatment protocols for dealing with infectious diseases and found them consistent with the recommendations from the Center for Disease Control.

Additional quantities of cleaning solution and personal protective equipment had been ordered to supplement current stock. Extra screening procedures had been implemented for the 911 call takers to ask of any medical patients. All fire operations personnel had gone through training on signs and symptoms of Ebola infections. Fire command staff had met with Denton County Health Department and Denton County Emergency Services to review CDC guidance for Ebola and determine best practices for Denton County EMS providers.

He stated that it was important to remember that Ebola was not spread through the air or by water. Ebola was spread by direct contact with bodily fluids of a person who was sick with or had died with Ebola, objects contaminated with the virus or infected animals.

- C. ID 14-0640 Receive a report, hold a discussion, and give staff direction regarding innovation districts and a technology recruitment initiative for Denton.

Aimee Bissett, Director of Economic Development, stated that she would give the Council an update on a program called CoDenton. The CoDenton program was a community-driven demand and request from the community to provide a program that was non-existent in Denton. This program supported hi-tech and emerging technology companies in creating them here as well as recruiting existing companies here. There was a component of the program that supported a co-working space with a business incubator. The intent was to create high-wage, knowledge-based jobs to keep our educated workforce in Denton. This program received funding in the 2014-15 budget.

Bissett stated that there were two pieces to this program. The first was entrepreneurship which involved growing new businesses in Denton and utilizing a co-working space as a “hub” for that. It also involved programs and events that supported entrepreneurs and new startups and businesses. She stated that they would talk about having the potential to have a third party operator come in and facilitate that program.

The other piece of this program was recruitment and it was based on what they knew about technology companies, which is that they made their site selection decisions very differently than a manufacturer or a capital-intensive company. These companies tended to be more human capital-intensive with high-paying jobs and high annual payroll, but their site location decision was based on where they could find employees and where their employees wanted to live. They found that Denton was a natural draw for these types of companies because Denton offered an amenitized community that was specifically attractive to a younger workforce.

Bissett introduced some of the collaboration and potential partners that they had been talking with. From a technology infrastructure standpoint, the availability of fiber and wifi and other cutting-edge technology to be able to operate a company was sometimes an afterthought. They were trying to engage potential partners on the front-end to avoid that. They were also looking at education and workforce partnerships. The UNT Innovation Greenhouse had been a core part of the steering committee that has been planning this program. That was their incubator program for starting new businesses for students. They had also been talking with UNT's Discovery Park because there was a research element to this project. They had also been engaged with Denton ISD throughout the process.

Bissett stated that they had also been talking with nonprofit and investment partners including Techmill; the Dallas Entrepreneur Center; Hub and Spoke was a new startup in Denton that provided business support for people who were interested in starting a business that was specifically a social enterprise, a business idea that helped the world in some way. There was also a real estate and development piece.

Bissett stated co-working spaces were a daily or monthly desk rental or an office rental. A business incubator/accelerator component was a program that was used to launch or scale new startup businesses. She stated that there were events that take place in the space from mentoring, guest lectures, and hackathons. There was also an investment component - recruiting/matching venture capital or angel funding. There were different operating models – investment-based space vs. nonprofit/community-based.

Bissett stated that they had a proposal from the DEC (Dallas Entrepreneur Center), to be the third party operator in the space. They had hosted over 100 events in a year. They had 50 companies operating in their space with 120 people fulltime. They had launched multiple programs. Their proposal was to operate the CoDenton space. Ten percent of the revenue would be contributed back to host events and build culture. They would share the cost of marketing, hire a staff member (City, DEC).

TechMill was a local grassroots effort. They had existing co-working space in Denton already.

General consensus of Council was that they supported the partnerships proposed in the program. Council requested additional information on the research phase of the program and more information about the operating model and the third party operator discussed for the co-working space.

Following the completion of the Work Session, the City Council convened in a Closed Meeting at 4:25 p.m. to consider the following.

1. Closed Meeting:

- A. ID 14-0620 Deliberations regarding Real Property - Under Texas Government Code Section 551.072; and Consultation with Attorneys - Under Texas Government Code Section 551.071.

Discuss, deliberate, receive information from staff and provide staff with direction pertaining to the acquisition of real property interests located in the Morreau Forrest Survey, Abstract Number 417, Denton County, Texas, located generally in the 200 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 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 proceedings or potential litigation. (Mayhill Road Widening and Improvements Project: Parcel M085 - CCBV, LLC) [ID 14-0621]

- B. ID 14-0623 Deliberations regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071.

Discuss, deliberate, receive information from staff and provide staff with direction pertaining to the acquisition of real property interests in the in the J. Haney Survey, Abstract No. 515, City of Denton, Denton County, Texas, generally located east of Masch Branch Road and south of FM 1173. 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. (Masch Branch Substation, DME) [File ID 14-0624]

- C. ID 14-0625 Deliberations regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071.

Receive information from staff, discuss, deliberate, and provide staff with direction regarding the site selection process for the DME Hickory substation and the potential acquisition of real property interests. Consultation with the City's attorneys regarding legal issues associated with the condemnation or acquisition of the real property interests where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation.

- D. ID 14-0641 Consultation with Attorneys - Under Texas Government Code Section 551.071; Deliberations regarding Economic Development Negotiations - Under Texas Government Code Section 551.087; and Deliberations regarding Real Property - Under

Texas Government Code Section 551.072.

Receive a report and hold a discussion regarding an economic development incentive agreement for a catalyst project, and a lease of real property where a deliberation in an open meeting would have a detrimental effect on the position of the governing body in negotiations with a third party. This discussion shall include commercial and financial information the City Council has received from the developer which the City seeks to have locate, stay, or expand in or near the territory of the city, and with which the City Council is conducting economic development negotiations and lease negotiations; including the offer of financial or other incentive. Hold consultation with the City's attorneys regarding the above where the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the provisions of the Texas Open Meetings Act, Chapter 551 of the Texas Local Government Code.

- E. ID 14-0565 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.

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

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

2. PROCLAMATIONS/PRESENTATIONS

- A. ID 14-0445 Pulmonary Hypertension Awareness Month

Mayor Watts presented the proclamation for Pulmonary Hypertension Awareness Month.

- B. ID 14-0575 Distinguished Budget Presentation Award for FY 2013-14 Budget

Chuck Springer, Director of Fiscal and Municipal Services, presented the award to the Budget staff.

- C. ID 14-0577 Certificate of Achievement for Excellence in Financial Reporting for FY 2012-13 CAFR

Chuck Springer, Director of Fiscal and Municipal Services, presented the certificate to the Accounting staff.

- D. ID 14-0618 Presentation by Denton High School regarding the donation of a park bench to the City

The Denton High School shop class presented a park bench to the City.

- E. ID 14-0619 Mean Green Fridays

Mayor Watts presented the proclamation for Mean Green Fridays.

- F. ID 14-0675 Reverse Litter Week

Mayor Watts presented the proclamation for Reverse Litter Week.

3. CITIZEN REPORTS

- A. ID 14-0671 Ed Prout regarding noise concerns in the downtown area.

Mr. Prout stated that he and his wife owned Melrose Apartments located at 211 and 215 E. Oak Street and expressed concerns regarding a proposed open air outdoor music amphitheater and restaurant on E. Hickory Street.

4. CONSENT AGENDA

Council Member Hawkins motioned, Council Member Gregory seconded to approve the Consent Agenda and accompanying ordinances and resolutions. 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. 2014-325

- A. ID 14-0578 Consider adoption of an ordinance of the City of Denton, Texas to declare the intent to reimburse capital program expenditures of the Electric Utility (\$67,925,000), Solid Waste (\$6,289,500), Street Improvement (\$600,000) and General Government (\$6,800,000) with Tax Preferred Obligations (Certificates of Obligation) with an aggregate maximum principal amount equal to \$81,614,500; and providing an effective date. The Public Utilities Board recommends approval (5-0).

Ordinance No. 2014-326

- B. ID 14-0580 Consider adoption of an ordinance of the City of Denton, Texas prohibiting parking on both sides of Jim Christal Road from its intersection with West Oak Street to its eastern terminus; 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 (4-0).

Ordinance No. 2014-327

- C. ID 14-0581 Consider adoption of an ordinance of the City of Denton, Texas prohibiting parking on the west side of Corbin Road from its intersection with Airport Road to its intersection with Shelby Lane; 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 (4-0).

Ordinance No. 2014-328

- D. ID 14-0608 Consider adoption of an ordinance of the City of Denton, Texas, Nunc Pro Tunc, correcting an inadvertent mistake in Ordinance No. 2014-287 for water service rates; providing for a savings clause; and providing for an effective date.

Ordinance No. 2014-329

- E. ID 14-0628 Consider adoption of an ordinance approving a water line oversize participation agreement between the City of Denton and Robson Denton Development L.P., for an amount not to exceed \$89,995.32.

Ordinance No. 2014-330

- F. ID 14-0629 Consider adoption of an ordinance authorizing the City Manager or his designee to execute a purchase order through the Buy Board Cooperative Purchasing Network for the acquisition of two (2) backhoes and one (1) dozer for the City of Denton Drainage, Water Distribution, and Street Departments; and providing an effective date (File 5662 awarded to Holt CAT in the amount of \$326,336.04). The Public Utilities Board recommends approval (5-0).

Ordinance No. 2014-331

- G. ID 14-0630 Consider adoption of an ordinance of the City of Denton authorizing the City Manager or his designee to execute a contract with the Houston-Galveston Area Council of Governments (H-GAC) Cooperative Purchasing Program for the acquisition of three (3) Asphalt Rollers for the City of Denton Street Department; and providing an effective date (File 5665-awarded to Kirby-Smith Machinery, Inc. in the amount of \$296,870).

Ordinance No. 2014-332

- H. ID 14-0631 Consider adoption of an ordinance authorizing the City Manager to execute a Cooperative Purchasing Program Agreement with the City of Sherman, Texas under Section 271.102 of the Local Government Code, to authorize City of Denton contracts for

the purchase of various goods and services; authorizing the expenditure of funds therefor; and declaring an effective date (File 5661-Cooperative Purchasing Program Agreement with the City of Sherman).

Ordinance No. 2014-333

- I. ID 14-0632 Consider adoption of an ordinance of the City of Denton, Texas authorizing the City Manager to execute a Professional Services Agreement by and between the City of Denton, Texas and Dunaway Associates, L.P., for design services for the Evers Park Bridge and Trail Project which includes the installation of two (2) pedestrian bridges across Cooper Creek and the extension of Cooper Creek Trail; authorizing the expenditure of funds therefor; and providing an effective date (File 5658 in the amount not-to-exceed \$190,000).

Ordinance No. 2014-334

- J. ID 14-0633 Consider adoption of an ordinance of the City of Denton Texas, authorizing the City Manager to execute the "Third Amendment to Professional Services Agreement" for further engineering services to be utilized in the preparation, development and submittal of a Texas Commission on Environmental Quality (TCEQ) permit application for lateral expansion and associated services pertaining to the City of Denton Landfill (Municipal Solid Waste (MSW) Permit #1590A); authorizing the expenditure of additional funds therefor in an amount not-to-exceed \$248,250; providing an effective date (File 4683-CP&Y, Inc. aggregating an amount not-to-exceed \$1,340,530). The Public Utilities Board recommends approval (5-0).

Ordinance No. 2014-335

- K. ID 14-0634 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for the supply of Soil, Sand, Limestone, and Aggregate Rock for various City of Denton departments; providing for the expenditure of funds therefor; and providing an effective date (RFP 5634-awarded to multiple vendors as shown on Exhibit A in the three (3) year not-to-exceed amount of \$3,900,000).

Ordinance No. 2014-336

- L. ID 14-0635 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for temporary labor services for various City of Denton departments; providing for the expenditure of funds therefor; and providing an effective date (RFP 5556-awarded to Labor Finders in the three (3) year not-to-exceed amount of \$1,400,000).

Ordinance No. 2014-337

- M. ID 14-0636 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for the purchase of one (1) dozer, one (1) water truck, one (1) excavator and one (1) dump truck for the City of Denton Landfill.; providing for the expenditure of funds therefor; and providing an effective date (RFP 5359-awarded to Kirby-Smith Machinery, Inc. in the amount of \$1,949,256). The Public Utilities Board recommends approval (5-0).

Ordinance No. 2014-338

- N. ID 14-0637 Consider adoption of an ordinance authorizing the City Manager or his designee to execute a purchase order through the Buy Board Cooperative Purchasing Network for the acquisition of a Cold Recycler and Soil Stabilizer Machine for the City of Denton Street Department; and providing an effective date (File 5650 awarded to Kirby-Smith Machinery, Inc. in the amount of \$531,378).

Resolution No. R2014-040

- O. ID 14-0639 Consider approval of a resolution appointing members to the Board of Directors of the North Texas Higher Education Authority and declaring an effective date.

Ordinance No. 2014-339

- P. A14-0001d Consider adoption of an ordinance on second reading of the City of Denton, Texas regarding the annexation of 40.33 acres of land, more or less, generally located on the west side of Cooper Creek Road, approximately 800 feet south of Silver Dome Road, and approximately 1,800 feet north of Mingo Road, more specifically described in Exhibits "A" and "B"; approving a service plan for the subject property and temporarily placing the property in the Rural Residential - 5 (RD-5) zoning district; providing for an update to the City Map to include the annexed lands; providing for a savings clause and effective date. (A14-0001)

Approved the minutes listed below.

- Q. ID 14-0673 Consider approval of the minutes of: August 5, 2014 August 12, 2014

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

Ordinance No. 2014-340

- A. ID 14-0621 Consider adoption of an ordinance finding that a public use and necessity exists to acquire through the exercise of the right of eminent domain, fee simple to a 0.535 acre tract (the "Property Interests"), for the public use of expanding and improving Mayhill Road, a municipal street and roadway; generally located in the 200 block of North Mayhill Road, the affected tract located in the Morreau Forrest Survey, Abstract No. 417, City of Denton, Denton County, Texas, as more particularly described on "Exhibit "A", attached to the ordinance and made a part thereof, authorizing the filing and prosecution of eminent domain proceedings to acquire the Property Interests; authorizing the expenditure of funds therefore; making findings; providing a savings clause; and providing an effective date. (Mayhill Road Widening and Improvements project: Parcel M085 - CCBV, LLC)

LuAnne Oldham, Real Estate Specialist, stated that acquisition of this property was necessary for the Mayhill Road Widening and Improvements Project. Negotiations with the affected property owner the land rights had reached an impasse.

Council Member Johnson motioned "I move that the City of Denton, Texas authorize the use of the power of eminent domain to acquire fee simple to a 0.535 acre tract, for the public use of expanding and improving Mayhill Road, a municipal street and roadway; generally located in the

200 block of North Mayhill Road, affected tract located in the Morreau Forrest Survey, Abstract No. 417, City of Denton, Denton County, Texas, as more particularly described on “Exhibit “A”, to the ordinance now under consideration and on the overhead screen being now displayed to the audience, for the public use of expanding and improving Mayhill Road, a municipal street and roadway in the City of Denton, Texas”. Council Member Engelbrecht seconded the motion. 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.

Real property description is attached as Exhibit 1 to the minutes.

Ordinance No. 2014-341

- B. ID 14-0624 Consider adoption of an ordinance finding that a public use and necessity exists to acquire fee simple title to a 15.037 acre tract located in the J. Haney Survey, Abstract No. 515, City of Denton, Denton County, Texas, as more particularly described and depicted on the Exhibits "A" and "B" attachments to the ordinance and located generally south of FM 1173, east of Masch Branch Road ("Property Interests"), for the public use of expansion, construction, maintenance, operation, and improvement of electric transmission and distribution lines, facilities, and structures, including substations and switch stations; authorizing the City Manager, or his designee, to make a final offer to McKee-Krum Properties, LLC, a Texas limited liability company ("Owner") to purchase the Property Interests for the price of one hundred eighty-seven thousand, nine hundred sixty-three and 00/100 dollars (\$187,963.00), and other consideration, as set forth in the Contract of Sale attached as Exhibit 'C' to the ordinance; authorizing the filing of eminent domain proceedings to acquire the Property Interests if the final offer is not accepted; authorizing the expenditure of funds; and providing an effective date.

Phil Williams, General Manager of Denton Municipal Electric, stated that this piece of property was for a proposed Masch Branch substation located to the south of F.M. 1173 and east of Masch Branch Road through the use of eminent domain.

Mayor Pro Tem Engelbrecht motioned “I move that the City Manager, or his designee, is authorized to make a written final offer to the Owner, any and all of Owner’s successors in Interests to the Property Interests, or any other parties who may own any Interests in the Property Interests to purchase a 15.037 acre tract, located in the J. Haney Survey, Abstract No. 515, City of Denton, Denton County, Texas, and located generally south of FM 1173, east of Masch Branch Road, (“the Property Interests”), as more particularly described on “Exhibits “A” and “B”, to the ordinance now under consideration and on the overhead screen being now displayed to the audience for the public use for the expansion, construction, maintenance, operation, and improvement of the City’s electric transmission and distribution lines, facilities, and structures, including substations and switch stations, and (2), if the terms of the written final offer are not agreed to by the owner, any and all of owner’s successors and interest to the property interests or any other parties who may own an interest in the property interests to then use the power of eminent domain to acquire fee simple title to the Property Interests.” Council Member Hawkins seconded the motion. 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.

Real property description is attached as Exhibit 2 to the minutes.

6. ITEMS FOR INDIVIDUAL CONSIDERATION

- A. ID 14-0674 Consider nominations/appointments to the City's Boards and Commissions: Health & Building Standards Commission, Human Services Advisory Committee, Library Board, and Traffic Safety Commission.

The Council did not make any nominations.

7. PUBLIC HEARINGS

Ordinance No. 2014-342

- A. Z14-0006 Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, providing for approval of a detailed plan for 1.37 acres located within Planned Development 12 (PD-12) zoning district; generally located on the North side of Winston Drive, approximately 139 feet East of the intersection of Winston Drive and Waterford Way, in the City of Denton, Denton County, Texas; 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 of this request (7-0).

Brian Lockley, Director of Planning and Development, stated that this request was for approval of a detailed plan for 1.37 acres located within a Planned Development 12 zoning district. The property was located on the north side of Winston Drive approximately 139 feet east of the corner of Waterford Way and Winston Drive. A portion of the site was located within the City of Corinth. The applicant planned to submit an application for a boundary adjustment to move the city limit line to the south, so that the entire site would be located with the Denton city limits. Staff sent out notifications and received one response that was neutral. The Planning and Zoning Commission recommended approval with staff's condition. The condition was that the detailed plan included should be considered the binding site plan. Any modifications to the lot layout, density, or traffic patterns would constitute a major modification to this approval and would require a review and approval by the Planning and Zoning Commission.

The Mayor opened the public hearing.

Greg Edwards, representing the applicant, spoke in support.

The Mayor closed the public hearing.

Council Member Johnson motioned, Council Member Hawkins seconded to adopt the ordinance with the recommended condition. 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. 2014-343

- B. Z14-0015 Hold a public hearing and consider adoption of an ordinance of the City of

Denton, Texas regarding a rezoning from a Neighborhood Residential 3 (NR-3) zoning district and use classification to a Neighborhood Residential 6 (NR-6) zoning district and use classification on approximately 16.03 acres of land generally located north of East University Drive and south of Foxcroft Circle, between Nottingham drive and Old North Road; and providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; providing a severability clause and an effective date. (Z14-0015). The Planning and Zoning Commission recommended approval of this request (6-1).

Brian Lockley, Director of Planning and Development, stated that this was a request for rezoning from NR-3 to NR-6. The property was located north of University and south of Foxcroft Circle between Nottingham Drive and Old North Road. The site was currently developed with one single family residence. Staff sent out notifications and received 12 responses in opposition and three neutral responses. The Planning and Zoning Commission recommended approval of the rezoning request subject to conditions (6-1). Conditions were single-family attached dwellings should not be a permitted use and duplexes should not be a permitted use. The Development Review Committee recommended approval of this request.

Lockley stated that this zoning change would increase the allowed density on the site from 3.5 dwelling units per acre to 6 dwelling units per acre. The applicant was proposing a single-family residential subdivision similar in appearance to the adjacent Old North Park subdivision. Adjacent land uses included: The Northwood Subdivision was developed at three dwelling units per acre. The Nottingham Woods Subdivision to the west was developed at two dwelling units per acre. Old North Park was developed at six dwelling units per acre. The property to the south was zoned NRMU and that allowed for a maximum of 12 dwelling units per acre as well as additional commercial and institutional uses. There was also CM-G which allowed multi-family development with limitations and additional commercial uses.

Lockley stated that per the Denton Development Code, a zoning amendment should be issued only when the following standards were met. The proposed rezoning conformed to the Future Land Use Element of the Denton Plan. The proposed rezoning provided a buffer between the low-density neighborhoods to the north and west and any future denser residential and commercial development to the south. The proposed rezoning facilitated the adequate provision of transportation, water, sewer, schools, parks, other public requirements and public convenience. Engineering, Parks, Fire and Denton ISD had reviewed the proposed rezoning and found that there was adequate capacity.

Council Member Gregory asked about the width of the road.

Earl Escobar, Engineering Development Review Manager, stated that the street requirements were 28 feet wide.

The Mayor opened the public hearing.

Thomas Fletcher, applicant, spoke in support of the rezoning. He stated that they had submitted their preliminary plat and they had gone through all DRC comments and all comments had been addressed. There were a lot of mature trees that they were proposing to keep.

Mary Ann Baker, 2312 Foxcroft Circle, expressed concerns about traffic being dispersed off Northcrest onto Foxcroft and concerns about drainage.

Thomas White, 2202 Foxcroft Circle, expressed concerns that the change in zoning changed the design of what was originally there.

The Mayor closed the public hearing.

Council Member Roden had concerns regarding the drainage for the project.

Escobar stated that this development would have an underground drainage system. They would collect the water from the street through curb inlets and underground storm piping. That storm pipe would discharge into the detention facility that was proposed on the north side and that detention facility would have a pipe system that would connect to the underground storm system that was stubbed out by the development to the north. The street flow to the north should be limited to the back of the residential lots.

The Council also discussed the density, parking and tree preservation.

Council Member Hawkins motioned, Council Member Ryan seconded to adopt the ordinance with conditions. On roll call vote, Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", and Council Member Ryan "aye". Mayor Pro Tem Engelbrecht "nay", Council Member Gregory "nay", and Mayor Watts "nay". Motion carried 4-3.

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

Council Member Hawkins stated that the Day of the Dead Festival was in Downtown Denton on Saturday.

Council Member Roden stated the Neighborhood Empowerment Summit was Saturday. The Halloween Festival was at MLK on Saturday.

Council Member Engelbrecht requested that staff present a report covering a report from the Washington consultants.

Mayor Watts stated that on October 23 there would be a Community Day at Evers Elementary from 5-7 p.m.

With no further business, the meeting was adjourned at 8:23 p.m.

CHRIS WATTS
MAYOR
CITY OF DENTON, TEXAS

JANE RICHARDSON
CITY SECRETARY
CITY OF DENTON, TEXAS