

CITY OF DENTON CITY COUNCIL MINUTES

March 24, 2015

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, March 24, 2015 at 2:30 p.m. in the Council Work Session Room at City Hall.

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

ABSENT: Mayor Watts

Work Session Reports

A. ID 15-059 Receive a report and hold discussion on the implementation of the Travel Demand Model of the Denton roadway system, and the resulting proposed updates to the current Mobility Plan that are necessary to implement the Road Impact Fees.

PS Arora, Wastewater Division Manager, presented the information concerning the travel demand model of the Denton roadway system.

Authorization - Council authorized the contract with Kimley-Horn and Associates to implement the Road Impact Fees in Denton. The fees would be in lieu of current road exactions that were currently in the Denton Development Code. During the work effort on development of the impact fee project it was determined that it was necessary to update the current Mobility Plan as it had become dated. To develop a Mobility Plan or Master Thoroughfare plan, computer models were used to determine the travel demands for the entire road network. The model was based on actual traffic counts, was calibrated for the existing conditions, and would identify build out needs of the transportation system.

A City Team was formed composed of members from Traffic, Engineering and Traffic Operations, Engineering, Street Department and the Planning Department. The definition of Travel Demand Modeling was reviewed along with traffic count locations placed in 111 locations throughout the City.

Several different scenarios models included existing (baseline), existing + committed projects, 2035 no build + committed projects, 2035 current Mobility Plan, and 2035 proposed Mobility Plan. Levels of service were established with Levels A and B being acceptable, Levels C and D tolerable and Levels E and F unacceptable. Existing or baseline levels of service in terms of acceptable, tolerable and unacceptable were presented.

The existing level of service; existing level of service plus committed projects, the 2035 Level of service plus committed projects, and the 2035 current Mobility Plan were presented. Council discussed these projects and how the projections were developed.

Mobility Plan changes included (1) proposed additions for the Master Plan Community and new streets, (2) upgrade functional classification, (3) downgrade functional classification, and (4) realignment.

The 2035 Proposed Mobility Plan was presented. Many of the problem roads were now corrected. Those not done at this time were part of the TxDOT system waiting for TxDOT to complete the projects.

DCTA Coordination - street section considerations were needed in transit oriented development around the Downtown Station, Downtown, UNT/TWU campus, Medpark Station, new apartments targeting student populations, and construction of sidewalks at bus shelters to meet ADA requirements.

Recommendation for Mobility Plan – staff requested a recommendation for approval of the Travel Demand Model and proposed changes to the Mobility Plan. Public hearings would be scheduled at the Planning and Zoning Commission and the Council for adoption.

Consensus of the Council was to proceed with staff recommendation.

B. ID 15-134 Receive a report, hold a discussion, and give staff direction regarding delivery trucks stopping in the roadway on the Downtown Square.

Deputy Chief Scott Fletcher stated that this issue had been a problem for many years and occurred throughout the city. The main issue was a lack of space area to unload the trucks around the Square. Another area of concern was where to put the vehicles/traffic without taking out parking spaces. Staff worked with merchants for deliveries during non-traffic times. In conjunction with that was the length of time needed to make those deliveries.

Council discussed the challenges regarding parking, requesting that deliveries be made at a certain time of the day, and asking the merchants in the area to determine the best time for making deliveries. A suggestion was consider a voluntary program for the merchants in the area and for the Downtown Task Force to consider the issue.

Consensus of the Council was to move forward with a Downtown Task Force to look at the issue; do a study when the deliveries were made and contact other cities that might have a similar problem as in the Downtown area to see how they were handling the situation.

C. ID 15-191 Receive a report, hold a discussion, and give staff direction regarding the regulation of fees for the nonconsensual towing of vehicles from private property.

Deputy Chief Scott Fletcher presented information on the State regulations in the Texas Occupations Code related to this issue. The State set a maximum fee on nonconsensual tows and also set the regulations for Vehicle Storage Facilities. State oversight was done through the Texas Department of Licensing and Regulation which issued licenses for tow truck operators, and vehicle storage facilities.

Local authority was allowed for the regulation of non-consent towing fees. A fee study, representing a fair value of the services was required. The fees were tied to financial and accounting information. Registration and permitting could also be done for tow trucks (except consent tows) and permitting of tow trucks.

Staff recommendations included (1) a comprehensive towing ordinance for non-consent tows, (2) registration/permitting of tow trucks, (3) insurance and equipment requirements, (4) background checks for drivers, (5) maximum fee rates, (6) a fee study procedure, (7) use of VSF within city

limits, (8) signage requirements for property, and (9) property owner/representative present for all tows.

Council Member Johnson asked if any cities required photo evidence of the violation.

Fletcher stated that he did not see anything that mandated photo proof but that it might help with making more legitimate tows.

Council Member Johnson stated that it would be a simple fix to show the violation and would help eliminate illegal tows. That would protect the citizen and still allow the tow companies to make a living.

Council Member Roden stated that he was interested in the concept of having a property owner/representative present for all tows. Interaction involving the property owner with the tows might be an asset to the process.

Council Member Gregory stated that one recommendation was an ad hoc committee to include some of the tow truck operators. He suggested including property owners who tow at their locations.

Fletcher presented recommendations which included (1) Towing Bill of Rights which would provide pertinent information on towing fees, (2) hearings, (3) filing complaints and (4) an Ad Hoc Towing Committee with members who were citizens appointed by Council and City staff from Police, Legal, Community Improvement Services, an ex-officio representative of the towing industry and property owners, The purpose would be development and recommendation of a towing ordinance and development of towing bill of rights.

Consensus of the Council was to proceed with staff recommendations.

D. ID 15-247 Receive a report, hold a discussion, and give staff direction regarding an amendment to the membership of the Economic Development Partnership Board.

Aimee Bissett, Director of Economic Development, stated that the proposed amendment was intended to add diversity to the Board membership. She reviewed the current makeup of the Board and presented the current nomination process. The original amendment as proposed by Mayor Watts was to add a representative from the Black Chamber of Commerce and a representative from the Hispanic Chamber of Commerce. The Economic Development Partnership Board discussed a variety of options to add diversity to the Board and made a recommendation for an alternate option that added two at-large members while taking nominations from the Black and Hispanic Chambers of Commerce. Those nominations would consider the ethnic, racial and gender diversity objective of the City Council.

The recommendation from the EDP Board was to add two at-large members to solicit nominations from broader groups including nominations from the Black Chamber of Commerce and the Hispanic Chamber of Commerce which was Option 2. Nominations would be from those two boards and if there were none, the Nominating Committee would look for diversity in other nominations.

Council Member Ryan stated that the Black and Hispanic Chambers would be his first choice.

Bissett stated that the difference between the options was that Option 1 would have two new board members from the Black and Hispanic Chambers. Option 2 was to solicit recommendations for two at-large members from those bodies and if none were recommended, the Nominating Committee would still look for diversity on the Board.

City Manager Campbell stated that the intent was to not change the responsibility of the Nominating Committee but to include the diversity objectives of the Council. The change would still leave the appointments with the Council from the nominations of the Committee.

Council Member Roden stated that suggestions from those two Chambers could be ignored. He was more comfortable with Option 1 as it helped achieve diversity on the Board more than Option 2. Option 2 left too much opportunity to not achieve the goal of diversity.

Council Member Johnson stated that the Mayor's stated intent was to promote diversity on the Board. The Hispanic Chamber did not even exist at this time. If the goal was to promote diversity have an ordinance but if there was no body, how would that be diversified. He questioned promoting segregation of the different Chambers and felt that those entities should be combined. Diversity should be promoted and should be a main goal but it did not have to do be done by limiting it to specific organizations.

Council Member Roden suggested language that the positions were reserved for nominations for those organizations but if one or both were not in existence, Option 2 would kick in with a preference for those two organizations and if not in existence, go to others.

Council Member Ryan suggested having those two organizations as a priority but if they were not a valid organization, move to separate nominations.

Council Member Gregory stated that Option 1 already had that type of wording for that contingency.

Council Member Johnson questioned what constituted a Chamber membership in that there might be a difference of opinion on whether it was a valid organization.

City Manager Campbell stated that Option 1 did not require the nominee be a member of those two organizations but was a nomination by the two organizations.

Council Member Gregory questioned if a nomination was made by one of those groups and it was not satisfactory to the Nomination Committee, could the Committee go back and ask for a different nomination.

Council Member Ryan asked if the member had to live within the city limits of Denton.

City Manager Campbell stated that they had to live or work in the city limits.

Council Member Johnson stated that Council was having this conversation not to keep any of these organizations off the Board but rather because currently one of the organizations did not exist at this time.

Consensus was to proceed with staff's recommendation.

- E. 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 asked for an Informal Staff Report on University - Bell to Ruddell as to why there were no street lights.

Council Member Roden asked for a status report on bike parking on Hickory.

Council Member Gregory requested a Work Session review of those boards and commissions with more than 7 members to see if all the members were necessary.

Council Member Hawkins requested a Work Session regarding water and what the water situation would be in future.

Following the completion of the Special Called Work Session, the City Council convened in a Special Called Closed Meeting at 4:49 p.m. to consider the specific items listed below.

Closed Meeting

- A. ID 15-222 Deliberations regarding Real Property - Under Texas Government Code Section 551.072; 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 Morreau Forrest Survey, Abstract Number 417, located generally in the 200 block of North Mayhill Road, 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 proceeding or potential litigation. (Mayhill Road Widening and Improvements project - Parcel M085 - CCBV, LLC)

B. ID 15-238 Consultation with Attorneys - Under Texas Government Code, Section 551.071.

Consult with and provide direction to City's attorneys litigation styled In re: Arsenal Minerals and Royalty, et al. v. City of Denton; cause number 4:14-cv-00639, currently pending in the US District Court, Eastern District Sherman Division where a public discussion of these legal matters would conflict with the duty of the City's attorneys under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.

C. ID 15-234 Consultation with Attorneys - Under Texas Government Code, Section 551.071.

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

This item was considered following the completion of the Special Called Meeting.

Special Called 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.

Items for Individual Consideration

Ordinance No. 2015-074

A. ID 15-248 Consider adoption of an ordinance amending Ordinance No. 2003-258, as

amended by Ordinance No. 2011-042 and Ordinance No. 2014-009, relating to the Economic Development Partnership Board ("the Board") to add to the membership of the Board; repealing all conflicting ordinances and portions thereof; and providing an effective date.

Aimee Bissett, Director of Economic Development, presented information on the proposal as discussed in Work Session.

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 Johnson "aye", Council Member Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

Public Hearings

A. DCA14-0009e Continue a public hearing and consider adoption of an ordinance amending Subchapters 5, 7, 16 and 22 of the Denton Development Code, relating to Gas Well Drilling and Production, Definitions and Procedures; amending Ordinance No. 2013-248, relating to planning and development fees and road damage remediation fees relating to gas well drilling and production activities; adding new Subchapter 22A to the Denton Development Code, relating to Oil and Gas Pipelines, Definitions, Procedures; providing a cumulative clause; providing a severability clause; providing for a penalty; and providing for an effective date (DCA14-0009e). The Planning and Zoning Commission recommends denial (4-3). A supermajority vote by City Council is required to adopt a motion to approve this ordinance.

Mayor Watts stated that there would be no staff presentation as this was a continuation of the prior public hearing

The following individuals spoke during the public hearing:

Cathy McMullen - 805 Ector - appreciated the work done by Council and staff at the Legislature last week. She noted that the State might not let the City proceed with its ordinance.

Chance Wilson, 1209 CR 1304, Bridgeport, 76426, representing Devon Energy, spoke in opposition. He suggested adding an exception for negotiated locations of well sites with surface owners.

Gregory asked about some of the sites Wilson showed and asked why Wilson was saying they could not get use of all of the sites when three were very close.

Wilson stated that the wells were not as close as it appeared due to the size of the property.

Council Member Roden questioned what operator would not fall under that exception as the operators would already be negotiating with the surface owners before drilling.

Wilson stated that they wanted to work with the City Attorney to help draft language to be able to use all of their sites which he felt the proposed ordinance would not allow.

Council Member Roden questioned whether that was an economic issue or was it that they could not access the minerals.

Wilson stated that the TCEQ spacing regulations required one well per twenty wells. On the site there would be over 30 wells which was not possible.

Council Member Johnson agreed that Devon had worked well with the City and with the neighborhoods. However, that did not happen with all operators. He questioned how many wells could be safely drilled from one-five acre site plus there could be geological concerns to complicate that.

Wilson stated that he did not know about how many wells. Geological concerns had many different people working on the locations for the wells. Every property was unique based on shape and size.

Council Member Gregory requested Wilson provide staff with how many gas wells could safely be drilled on a five acre pad site and how large the site would have to be to drill 32 wells. He requested that the geological issues also be included and that Wilson provide a scale for the information shown on the map he presented.

Council questioned Mr. Wilson regarding the number of wells Devon had at the Cole Ranch site and the current wells on each of the pad sites shown.

Council Member Gregory stated that he would like to add a section to the proposed ordinance that would require an acoustic blanket 24 feet and no more than 32 feet completely surrounding the drill site if protected uses were within 1500 feet.

Council Member Roden felt that it should be an across the board requirement rather than just for protected uses.

Council Member Gregory stated that the distance requirement should then be taken out of the change.

Council Member Roden suggested adding rezoning to an industrial use as part of the process of requesting a compressor station, together with the SUP requirement.

Council Member Johnson stated that the compressor station would be a pipeline compressor station. He noted that currently the reverse setbacks were 350 feet from well head to a protected use. But when platting a neighborhood it wasn't always known how the layout would look. He suggested changing the distance to 300 feet from well head to the lot line for a single use well.

Mayor Watts stated that if there was just one standard of 350 feet from well head the developer would be put on notice to plat in such a way that each house was 350 feet from the well head. He struggled with two different standards.

Council Member Johnson thought 300 feet to the property line was the standard as the homes would move a few feet here and there but not 350 feet for a second standard. The 300 feet took all the guess work out of the equation.

Mayor Watts stated that the suggestion could be placed in the ordinance and could be discussed when completing the process.

Council Member Hawkins stated that he would like the 1200 foot distance when notifying residents about the notice requirements changed to 2000 feet.

Council Member Gregory stated that he would like the foot requirement for the use of electric generators changed 600 feet.

Council Member Roden requested a copy of the study done by Dallas.

Mayor Watts stated that these suggested changes would be inserted into the ordinance so when the ordinance came to a vote they could be discussed at that time and not be separate amendments.

Mayor Watts suggested considering possible amendments for exceptions for a master planned community in terms of the development of oil and gas regulations.

Council Member Gregory motioned, Council Member Roden seconded to continue the public hearing to the April 7th City Council 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.

Council returned to the Closed Meeting at 7:35 p.m. to consider Item C on the Closed Meeting portion of the agenda.

The Council reconvened in Open session at 8:20 p.m. and with no further business, the meeting was adjourned.

CHRIS WATTS
MAYOR
CITY OF DENTON, TEXAS

JENNIFER WALTERS
CITY SECRETARY
CITY OF DENTON, TEXAS