

CITY OF DENTON CITY COUNCIL MINUTES

June 2, 2015

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, June 2, 2015 at 2:00 p.m. in the Council Work Session Room at City Hall.

PRESENT: Council Member Briggs, Mayor Pro Tem Gregory, Council Member Hawkins, Council Member Johnson, Council Member Roden, Council Member Wazny, and Mayor Watts.

ABSENT: None.

1. Citizen Comments on Consent Agenda Items

There were no Comment Cards submitted by citizens for Consent Agenda Items.

2. Requests for clarification of agenda items listed on the agenda for June 2, 2015.

There were no requests for clarification of agenda items by Council.

3. Work Session Reports

A. ID 15-440 Receive an update from the Denton Parks Foundation regarding the Eureka 2 Playground.

Emerson Vorel, Director of Parks and Recreation, introduced Molly Tampke, Executive Director of the Parks Foundation.

Ms. Tampke presented an update on the Eureka 2 Park. There currently were two active areas that the Foundation was working on. One was the marketing area. She presented the information on the different sites available for information on the update of the Park. The second active area was fundraising. Many events were scheduled for fundraising which she reviewed. Members were approaching local businesses for donations and support, working with the schools, developing an on-line campaign through "Go Fund Me", and had a major gifts campaign in progress. Currently the donations amount was approximately \$122,000. By the end of the summer the Foundation would like to be at \$375,000. There was a special opportunity for a donation of \$10,000 to operate a backhoe to take down the old playground equipment. The Foundation was also seeking sponsorships for specific types of equipment, tables, benches, and handprint tiles that were available for purchase with names imprinted on them. She indicated that timing of the consultant to come and work on the site and hoped to start building around November 9th.

B. ID 15-461 Receive a report, hold a discussion and give staff direction regarding City Council committee nominations.

City Secretary Walters reviewed the current Council committee makeup and indicated that several members had provided preferences for the committees.

Council discussed the committees and the current membership. Based on those discussions, the membership of the committees was adjusted.

City Secretary Walters indicated that the list of committee memberships would be revised and available for Council consideration at the regular meeting.

Following the completion of the Work Session, the City Council convened in a Closed Meeting at 2:29 p.m. to consider the specific items listed below under the Closed Meeting section of this agenda.

1. Closed Meeting:

A. ID 15-464 Deliberations regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071.

Receive information from staff, discuss, deliberate, and provide staff with direction regarding real estate matters related to the site selection for the DME Hickory substation, presently located at the intersection of West Hickory and South Bonnie Brae in the City of Denton, Texas, and concerning certain real property within the immediate vicinity, specifically Lots 1, 2, and 3 of the Oak Street Terrace Addition, and the potential acquisition of real property interests. Consultation with the City's attorneys regarding legal issues associated with the condemnation or acquisition of the real property interests where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation. [ID 15-441, ID 15-442, and ID 15-443]

B. ID 15-445 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.

C. ID 15-452 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.

Discuss, deliberate, receive information from staff and provide staff with direction pertaining to legal and economic development issues related to Orison Holdings and economic development incentives and the acquisition of real property interests in the H. Sisco Survey, Abstract No. 1184, Denton, Denton County, Texas, generally located in the 600 block of E. Hickory. This discussion shall include commercial and financial information the City Council has received from Orison Holdings which the City Council seeks to have locate, stay, or expand in or near the territory of the city, and with which the City Council is conducting economic development negotiations; including the offer of financial or other incentive where the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the provisions of the Texas Open Meetings Act, Chapter 551 of the Texas Government Code.

This item was not considered.

- D. ID 15-453 Consultation with Attorneys - Under Texas Government Code Section 551.071 and Deliberations regarding Economic Development Negotiations - Under Texas Government Code Section 551.087.

Receive a report and hold a discussion regarding legal and economic development issues regarding a proposed economic development incentive agreement for Project Ranger One (Denton-Tarrant PRW, LLC). This discussion shall include commercial and financial information the City Council has received from Project Ranger One which the City Council seeks to have locate, stay, or expand in or near the territory of the city, and with which the City Council is conducting economic development negotiations; including the offer of financial or other incentive where the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the provisions of the Texas Open Meetings Act, Chapter 551 of the Texas Government Code.

- E. ID 15-460 Consultation with Attorneys - Under Texas Government Code Section 551.071 and Deliberations regarding Economic Development Negotiations - Under Texas Government Code Section 551.087.

Discuss, deliberate, receive information from staff and provide staff with direction pertaining to legal and economic development issues related to a potential economic development project generally located in the 2000 to 3000 blocks of South Interstate 35 East. This discussion shall include commercial and financial information the City Council has received from a prospect which the City Council seeks to have locate, stay, or expand in or near the territory of the city, and with which the City Council is conducting economic development negotiations; including the offer of financial or other incentive where the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the provisions of the Texas Open Meetings Act, Chapter 551 of the Texas Government Code.

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

3. CITIZEN REPORTS

A. ID 15-407 Isabel Cano regarding benches for bus stops.

Ms. Cano stated that she had been working on getting benches at the bus stops for several reasons. People were sitting on the ground or were chaining chairs to nearby poles in order to have a place to sit while waiting for the buses. She asked that benches be placed in the areas of the bus stops. A bench would not cost as much as a shelter and they would be in place faster than the shelters.

Council Member Roden questioned Ms. Cano where she was in the process and what were the obstacles she was facing.

Cano stated that she was trying to raise awareness but the State, DCTA and the City did not help.

Council Member Johnson asked if she had spoken with Jim Klein with DCTA.

Cano replied that DCTA was only interested in constructing bus shelters rather than benches.

B. ID 15-422 Willie Hudspeth regarding Southeast Denton issues.

Mr. Hudspeth was not present at the meeting.

4. CONSENT AGENDA

Council Member Hawkins motioned, Council Member Roden seconded to adopt the Consent Agenda and accompanying ordinances and resolutions. On roll call vote, Council Member Briggs "aye", Mayor Pro Tem Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Wazny "aye", and Mayor Watts "aye". Motion carried unanimously.

Resolution No. R2015-016

- A. ID 15-398 Consider approval of a resolution by the City of Denton, Texas, authorizing the City Manager to sign and submit to the Department of Housing and Urban Development a 2015 - 2019 Consolidated Plan for Housing and Community Development including the 2015 Action Plan for Housing and Community Development with appropriate certifications, as authorized and required by the Housing and Community Development Act of 1974, as amended and the National Affordable Housing Act of 1990, as amended; and providing for an effective date.

Approved the noise exception listed below

- B. ID 15-428 Consider a request for an exception to the Noise Ordinance for the purpose of the fundraiser, Ride for Reid BBQ 2015 Cook-off and Music Concert Benefit, to be held at the North Texas Fairgrounds beginning June 19, 2015, from 6 p.m. to midnight and Saturday, June 20, 2015, from noon to midnight. The 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.

Ordinance No. 2015-155

- C. ID 15-429 Consider adoption of an ordinance of the City of Denton authorizing the City Manager or his designee to execute a contract through the Buy Board Cooperative Purchasing Network for the acquisition of two (2) backhoes, one (1) excavator, one (1) compact excavator, and one (1) roller for the City of Denton Wastewater Collections Department; and providing an effective date (File 5829-awarded to RDO Equipment Company in the amount of \$604,637.35). The Public Utilities Board recommends approval (5-0).

Ordinance No. 2015-156

- D. ID 15-430 Consider adoption of an ordinance accepting competitive bids by way of an Interlocal Agreement with The Cooperative Purchasing Network (TCPN) for the purchase of office furniture for various City of Denton departments; providing for the expenditure of funds therefore; and providing an effective date (File 5817-awarded to Office Depot in the three (3) year not-to-exceed amount of \$500,000).

Ordinance No. 2015-157

- E. ID 15-432 Consider adoption of an ordinance accepting competitive proposals and awarding a public works contract for construction of the Arco Substation Gravity Retaining Wall; providing for the expenditure of funds therefor; and providing an effective date (RFP 5716-awarded to Knight Erosion Control, Inc., in the not-to-exceed amount of \$225,922.80). The Public Utilities Board recommends approval (5-0).

Approved the minutes listed below.

- F. ID 15-436 Consider approval of the minutes of March 2, March 3, March 24, April 6, April 7 and April 14, 2015.

Ordinance No. 2015-158

- G. A15-0013 Consider adoption of an ordinance of the City of Denton, Texas amending Ordinance No. 2015-063 providing for acceptance of additional eligible non-annexation agreements for agricultural, wildlife management or timberland use properties within an area of land adjacent to and abutting the existing city limits of the City of Denton, Texas, generally identified as DH-3 of approximately 421 acres located on the south side of Spring Side Road, north, south and west of Corbin Road, West of I-35 and more specifically identified in Exhibit "A" attached hereto; providing for severability; and providing for an effective date. (A15-0013)

Ordinance No. 2015-159

- H. A15-0014 Consider adoption of an ordinance of the City of Denton, Texas amending Ordinance No. 2015-067 providing for acceptance of eligible non-annexation agreements for agricultural, wildlife management or timberland use properties within an area of land adjacent to and abutting the existing city limits of the City of Denton, Texas, generally identified as PAA1 of approximately 1,171 acres located on the north side of Tom Cole Road, west of Masch Branch Road, and more specifically identified in Exhibit "A" attached hereto; providing for severability; and providing for an effective date. (A15-0014)

Ordinance No. 2015-160

- I. A15-0015 Consider adoption of an ordinance of the City of Denton, Texas amending Ordinance No. 2015-064 providing for acceptance of additional eligible non-annexation agreements for agricultural, wildlife management or timberland use properties within an area of land adjacent to and abutting the existing city limits of the City of Denton, Texas, generally identified as DH-4 of approximately 347 acres located on the east side of Bonnie Brae Street, west of Fort Worth Drive, east and west of Vintage Boulevard, and more specifically identified in Exhibit "A" attached hereto; providing for severability; and providing for an effective date. (A15-0015)

Ordinance No. 2015-161

- J. A15-0016 Consider adoption of an ordinance of the City of Denton, Texas amending Ordinance No. 2015-069 providing for acceptance of additional eligible non-annexation agreements for agricultural, wildlife management or timberland use properties within an area of land adjacent to and abutting the existing city limits of the City of Denton, Texas, generally identified as PAA-3 of approximately 1,075 acres located on the south side of Ganzer Road, east and west of Barthold Road, north of FM 1173, West of I-35, and more specifically identified in Exhibit "A" attached hereto; providing for severability; and providing for an effective date. (A15-0016)

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

Ordinance No. 2015-162

- A. ID 15-441 Consider adoption of an ordinance finding that a public use and necessity exists to acquire fee title to a 0.138-acre tract situated in the E. Pulchalski Survey, Abstract No. 996, legally described as Lot 2, of Oak Street Terrace Addition, an addition to the City of Denton, Denton County, Texas ("Property Interest"), and more particularly described on Exhibit "A", for the public use of expansion, construction, maintenance, operation, and improvement of electrical transmission and distribution lines, facilities, and structures, including substations and switch stations; authorizing the city manager, or his designee, to make an initial offer to Serendipity Business Interests, LLC Property ("Owner") to purchase fee title in and to the Property Interest for the price of Seventy Five Thousand Dollars and no cents (\$75,000.00), and other valuable consideration, as set forth in the contract of sale attached as Exhibit "B"; authorizing the filing of eminent domain proceedings to acquire the Property Interest if the final offer is not accepted; authorizing the expenditure of funds; and providing

an effective date. (Hickory Street DME Substation assemblage tract: Serendipity Business Interests)

Smith Day, Compliance Manager, presented the details of the proposal. The parcel was part of the future Hickory Street Substation. The proposed ordinance would find that a public use and necessity existed to start the eminent domain process. The legal description of the project was displayed on the overhead screen.

Council Member Johnson made the following motion:

“I move that the City Manager, or his designee, is authorized to (1) make a written final offer to the Owner, any and all of Owner’s successors-in-interest to the Property Interest, or any other parties who may own any interest in the Property Interest to purchase a 0.138 acre tract located in the E. Puchalski Survey, Abstract No. 996, City of Denton, Denton County, Texas, and located generally in the 100 block of N. Bonnie Brae St. (the “Property Interest”) 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 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-in-interest to the Property Interest, or any other parties who may own an interests in the Property Interest, to then use of the power of eminent domain to acquire fee simple title to the Property Interest”

Council Member Roden seconded the motion.

On roll call vote, Mayor Pro Tem Gregory "aye", Council Member Johnson "aye", Mayor Watts "aye", Council Member Wazny "aye", Council Member Roden "aye", and Council Member Hawkins "aye"; Council Member Briggs "nay". Motion carried with a 6-1 vote.

Ordinance No. 2015-163

B. ID 15-442 Consider adoption of an ordinance finding that a public use and necessity exists to acquire fee title to a 0.164-acre tract situated in the E. Pulchalski Survey, Abstract No. 996, legally described as Lot 1, of Oak Street Terrace Addition, an addition to the City of Denton, Denton County, Texas ("Property Interest"), and more particularly described on Exhibit "A", for the public use of expansion, construction, maintenance, operation, and improvement of electrical 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 Neblett Property ("Owner") to purchase fee title in and to the Property Interest for the price of One Hundred Twenty Two Thousand Dollars and no cents (\$122,000.00), and other valuable consideration, as set forth in the contract of sale attached as Exhibit "B"; authorizing the filing of eminent domain proceedings to acquire the Property Interest if the final offer is not accepted; authorizing the expenditure of funds; and providing an effective date. (Hickory Street DME Substation assemblage tract: Neblett Property)

Smith Day, Compliance Manager, presented the details of the project which was part of the Hickory Street Substation. He noted the legal description and public use and necessity for the project.

Council Member Hawkins made the following motion:

"I move that the City Manager, or his designee, is authorized to (1) make a written final offer to the Owner, any and all of Owner's successors-in-interest to the Property Interest, or any other parties who may own any interest in the Property Interest to purchase a 0.164 acre tract located in the E. Puchalski Survey, Abstract No. 996, City of Denton, Denton County, Texas, and located generally in the 2300 block of W. Oak St. (the "Property Interest") 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 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-in-interest to the Property Interest, or any other parties who may own an interests in the Property Interest, to then use of the power of eminent domain to acquire fee simple title to the Property Interest"

Council Member Roden seconded the motion.

On roll call vote, Mayor Pro Tem Gregory "aye", Council Member Johnson "aye", Mayor Watts "aye", Council Member Wazny "aye", Council Member Roden "aye", and Council Member Hawkins "aye"; Council Member Briggs "nay". Motion carried with a 6-1 vote.

Ordinance No. 2015-164

- C. ID 15-443 Consider adoption of an ordinance finding that a public use and necessity exists to acquire fee title to a 0.138-acre tract situated in the E. Pulchalski Survey, Abstract No. 996, legally described as Lot 3, of Oak Street Terrace Addition, an addition to the City of Denton, Denton County, Texas ("Property Interest"), and more particularly described on Exhibit "A", for the public use of expansion, construction, maintenance, operation, and improvement of electrical 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 Mankins Property ("Owner") to purchase fee title in and to the Property Interest for the price of Ninety Five Thousand Dollars and no cents (\$95,000.00), and other valuable consideration, as set forth in the contract of sale attached as Exhibit "B"; authorizing the filing of eminent domain proceedings to acquire the Property Interest if the final offer is not accepted; authorizing the expenditure of funds; and providing an effective date. (Hickory Street DME Substation assemblage tract: Mankins Property)

Smith Day, Compliance Manager, presented the details of the tract for the Hickory Street Substation. He noted that there was a public use and necessity associated with the proposal and presented the legal description of the property.

Mayor Pro Tem Gregory made the following motion:

"I move that the City Manager, or his designee, is authorized to (1) make a written final offer to the Owner, any and all of Owner's successors-in-interest to the Property Interest, or any other parties who may own any interest in the Property Interest to purchase a 0.138 acre tract located in the E. Puchalski Survey, Abstract No. 996, City of Denton, Denton County, Texas, and located generally in the 100 block of N. Bonnie Brae St. (the "Property Interest") 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 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-in-interest to the Property Interest, or any other parties who may own an interests in the Property Interest, to then use of the power of eminent domain to acquire fee simple title to the Property Interest".

Council Member Johnson seconded the motion.

On roll call vote, Mayor Pro Tem Gregory "aye", Council Member Johnson "aye", Mayor Watts "aye", Council Member Wazny "aye", Council Member Roden "aye", and Council Member Hawkins "aye"; Council Member Briggs "nay". Motion carried with a 6-1 vote.

6. ITEMS FOR INDIVIDUAL CONSIDERATION

A. ID 15-462 Consider appointments to Council Committees.

City Secretary Walters noted that the revised Council Committee matrix was at the Council's seats for consideration.

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

B. ID 15-472 Discussion to determine whether to repeal Initiative Ordinance No. 2014-01, "Prohibition of Hydraulic Fracturing"; and, if necessary, to consider adoption of an ordinance repealing Initiative Ordinance No. 2014-01; and providing an immediate effective date.

Council Member Roden stated that Council would be trying to answer questions at this meeting, taking questions and determining the best method to answer them.

Council Member Wazny stated that Council would welcome comments from citizens to be part of decision making process.

Mayor Pro Tem Gregory stated that Council would be interested in hearing ideas/suggestions for ways the City could be in the best position to fight for local control which was taken away by the State when HB40 was approved.

Council Member Briggs stated that Council would welcome creative solutions.

Mayor Watts stated that the Council was committed to the best thing for Denton in view of HB40. Council had heard loud and clear in November what the citizens wanted and Council wanted to provide information to citizens on how the situation had changed since then.

The following individuals submitted speaker cards:

Adam Briggie, 1315 Dartmouth Place, Denton, 76201 – opposed – advice from their attorney was for Council to repeal the fracking ordinance.

Council Member Gregory asked if Mr. Briggie could elaborate on the conversations he had with their attorney. He felt Mr. Briggie had indicated that the attorney recommended repealing the ordinance.

Briggie stated that was an accurate summation.

Council Member Gregory asked where there might be better success.

Briggie stated that there were a lot of fights being waged across the state and HB40 activated many cities to action.

Mayor Watts asked Briggie if he had any questions to Council as far as the options and situation.

Briggie stated that people were asking questions about technical aspects such as a way to leave the ban on the books in an unenforced state.

Council Member Hawkins questioned what it meant personally to Briggie to leave the ordinance on the books when it was unenforceable.

Briggie stated that it was more than just symbolism. If left on the books and when HB40 was gone, the ordinance would be there.

Mayor Pro Tem Gregory questioned if there was a way to leave the ban on the books and somehow deal with the pending litigation with the idea of resolution on the part of the Council; perhaps recognizing that HB40 made the ban unenforceable.

City Attorney Burgess stated that the Texas legislature would say that the fracturing ban was preempted by HB40. If left on the books it could affect the two lawsuits in progress. Looking forward to a resolution of them and some kind of consent decree, there needed to be some kind of agreement. To date there had not been any agreement in regards to the language of a Consent Decree.

Ron Seifert, 1400 Morim Drive, Denton - questioned what the City was prepared to do to follow through with the vote of the people. The City goal should be to get as close as possible to keeping fracking out of Denton. The authority and power came from the voters in Denton.

Council Member Johnson stated that was what the Council had been doing since the ordinance passed. Even after finding out that the State had overruled the City, they were still doing everything possible to enforce the ban within the law.

Council Member Roden suggested noting questions as they were presented and have time after all of the citizen comments to organize answers to the questions.

Mayor Pro Tem Gregory stated that the oath of office they all took promised to uphold the laws of the State and the ordinances of City. Now they had an ordinance in conflict with the law of the State. He was curious to hear suggestions on how deal with regaining more local control given the realities of HB40

Seifert replied fight fracking in the courts

Cindy Spoon, 2210 Westwood, Denton - table discussion for more time for a decision and public input.

Council Member Hawkins asked about enacting an ordinance regarding enforcing an ordinance no longer on the books.

City Attorney Burgess stated that staff was researching that issue.

Jim McKinney, 2019 Crestwood Place, Denton, 76209 - enforce the ban and then challenge the constitutionality of HB 40; adopt an ordinance using portions of the restrictive ordinances from Dallas, Fort Worth and Houston and make it more restrictive.

Mayor Pro Tem Gregory asked McKinney if he could pinpoint the provision in the Texas or US Constitution which made HB40 unconstitutional.

McKinney stated that he did not know that that there was a way to equally enforce the bill without problems with larger cities.

Mayor Pro Tem Gregory stated that Council was advised as well as DAG that the ban would lose in Court and questioned how the City would win by losing.

McKinney felt that cities could regulate their zoning especially in terms of health.

Alexandra Ponette, 1600 Highland Park, Denton, 76205 - respect the citizens right to vote, asked for time and fight was worth fighting for.

Will Weste, 1400 Morim Drive, Denton, 6207 - table consideration at this time; keep the ordinance on the books.

Amy Taylor, 2026 Sauls Lane, Denton, 76209 – Mayor read her comments as she did not speak; protect fracking ban and preserve local control

Matthew Fry, 1600 Highland Park, Denton, 76205 – questioned the use of local police to arrest protestors and felt it should be State police as the State had enacted the ban.

Mayor Pro Tem Gregory asked if he would rather have State police take care of the arrests rather than local police.

Fry said yes that it would be the worst case scenario but if the State tied their hands then they needed to take care of it.

Mayor Pro Tem Gregory asked if Fry viewed HB40 as being explicit in preempting municipalities to ban fracking.

Fry stated that he read it the same way but would like to keep the ordinance on the books and have another ordinance indicating that it would not be enforced.

Jennifer Hensley, 517 Cardinal, Denton, 76209 – opposed to the proposed repeal of the fracking ban.

Branden Finley, 806 Denton Street, Denton, 76201 – questioned what the next step was and the need to fight for local control.

Eugene Hargrove, 2025 Houston Place, Denton, 76201 – felt this was a public trust obligation issue

Rebecca and Walter Lindrose, 825 Lynhurst Lane, Denton, 76205 – urged the Council to defend the ban

Michael Briggs, 2311 Houston, Denton – spoke in opposition

Mayor Pro Tem Gregory asked if there were other parts of gas drilling that might be unenforceable under HB40.

City Attorney Burgess stated that many cities were looking at their ordinances to determine if they were enforceable as Denton will have to do.

Mayor Pro Tem Gregory asked if there were areas that were more vulnerable than others.

City Attorney Burgess stated that the law was new and everyone was looking at it.

Ed and Carol Soph, 1620 Victoria, Denton, - spoke in opposition

Riley Briggs, 3108 Broken Bow, Denton – spoke in opposition to repealing the ban; he wanted the ban to stay and Denton to be frack free.

Donna Bloom, 2019 Crestwood Place, Denton - was opposed to repealing the ban.

Mayor Pro Tem Gregory asked Bloom if TxOGA and the Land Commission asked for a summary judgment, would it be in favor or against Denton.

Bloom stated that she did not deal with that type of law but felt it was overbroad and over stepped.

Mayor Pro Tem Gregory asked what would be won if the legal battle was lost.

Bloom stated that it would win the citizens behind them.

Kelsey Fryman, 701 Fort Worth Drive, Denton, 76201 – spoke in opposition to repealing the ban.

Kelli Barr, 701 W. Sycamore, Denton, 76201 – spoke in opposition

Kevin Moffitt, 2332 Salado, Denton – was not present but Mayor Watts read his comments regarding the support of a long term plan to support anti-fracking in Denton.

Paula Collins, 1223 Highland Park Road, Denton – read a letter regarding her opposition to the proposal

Jodi Ismert, 819 Anna, Denton, 76201 – requested Council table the vote

Jonathan Adams, 2210 Westwood, Denton, 76205 – spoke in opposition to repealing the ban

Council Member Briggs asked what the effect would be if the ban were removed from the books.

City Attorney Burgess stated that it could be put back on the books in the future through an initiative process or by action of the Council enacting a ban in the future.

Eric Moll, 2210 Westwood, Denton, 76205 – spoke in opposition

Pauline Raffestin, 2015 Bowling Green, Denton, 76201 – spoke in opposition

Sue Smith, 1819 Crescent, Denton, 76201 – spoke in opposition to repealing the fracking ban.

Deborah Armintor, 2003 Mistywood, Denton, 76209 – spoke in opposition

Tophier Jones, 419 Fulton, Denton, 76201 – spoke in opposition

Mike Sutton 3212 Old Orchard, Denton, 76209 – was not present but Mayor Watts noted that he was in opposition.

Frank Mayhew, 2100 Greenway, Denton, 76207 – spoke in opposition

Sharon Spiess, 7501 Stallion, Denton, 76208 – spoke in opposition

Jonathan Vann, 1803 Wayne, Denton, 76209 – requested to table the discussion for more time to discuss and get community involvement.

Alison Trapp, 3437 Crisoforo Drive, Denton, 76207 – spoke in opposition

Ashleigh Milam, 1221 West Oak, Denton, 76201 – spoke in opposition

Christopher Fuhrmann, 2924 Longfellow, Denton, 76209 – spoke in opposition

Christine Niblo, 700 N. Austin, Denton, 76201 – was not present but Mayor Watts noted that she was in opposition.

Rodney Love, 700 N. Austin, Denton, 76201 – spoke in opposition

Tara Linn Hunter, 2210 Westwood, Denton, 76205 – spoke in opposition

Marshall Smith, 2016 Redwood, Denton, 76209 – spoke in opposition

Rachael Sanders, 200 S. Bonnie Brae, Denton, 6201 – spoke in opposition

Sarah Fredericks, 5801 S. Dorchester, Chicago – spoke in opposition

Nicole Chochrek, 1716 Carlton, Denton, 76201 – spoke in opposition

The following individuals submitted Comment Cards in opposition:

Heidi Thiele, 3908 Fawn Drive, Denton, 76208

Justin Lemons, 809 Emery, Denton, 76201

Rachael Sanders, 200 S. Bonnie Brae, Denton, 76201

Michael Hennen, 724 Thomas, Denton, 76201

Sarah Olivares, 2424 W. Oak, Denton, 76201

Holly Garner, 1201 Bolivar, Denton, 76201

Ken Gold, 2512 Natchez Trace, Denton, 76210

Vivian Casper, PO Box 50272, Denton, 76206

Todd Ellis, 3437 Crisoforo, Denton, 76207

Christopher Walker, 805 Emery, Denton, 76201

Sara Nickel, 804 W. Locust, Denton, 76201

Gillian Murphy, 1905 Whitefish, Denton, 76210
Elizabeth Clinton, 2126 Stella, Denton, 76201
Laura Hernandez, 804 N. Locust, Denton, 76201
Melissa Moffitt, 2332 Salado, Denton, 76209
Dylan Reeves, 6503 Spring Hill, Krum, 76249
Kristin Logue, 6503 Spring Hill, Krum, 76249
Agatha Beins, 1501 Panhandle, Denton, 76201
Stone Curtan, 2015 Bowling Green, Denton, 76207
Jen Bailey, 620 Pierce, Denton, 76201
Sarah Schulwitz, 1713 Carlton, Denton, 76201
Morgan Larson, 2210 Westwood, Denton, 76205
Jennifer Seman, 501 W. Congress, Denton, 76201
Lisa Bubert, 1606 W. Congress, Denton, 76201

Council discussed the questions that they and the citizens had concerning the proposal.

Questions for discussion included whether the State police could help in the situation of the protestors, about the value of a second ordinance on the books stating that the current ordinance would not be enforced, whether the lawsuits would be void if there were not damages, and what the current ordinance looked like in terms of HB40.

City Attorney Burgess stated that the current ordinance had not taken HB40 into consideration. At this point, the lawsuits did not address any additional issues and as pleaded was for injunctive relief.

Council Member Roden questioned what the goal of the Council was. The citizens were asking what the Council's goal was in regards to gas drilling/fracking in the city of Denton. That would determine the future drafting of ordinances. There was a need for a significant policy discussion in the future due to the impact of HB40 on the current ordinance or anticipated changes in ordinance. Council was struggling to write an ordinance that was commercially reasonable to the industry.

Mayor Pro Tem Gregory noted that a citizen initiative could be removed by a simple majority vote of the Council and felt that might need to be reviewed.

Council Member Briggs noted that no one from the gas industry came to the meeting.

Council Member Johnson stated that due to HB40, the conversation had gotten much bigger. There was now the need to think about others, other issues in terms of fracking such as enforcing ordinances. The City needed to think about other cities and their rights to enforce their laws.

Council Member Wazny felt that there were three options. The Consent Decree was off the table because the sides could not agree on the language. A Summary Judgment was frightening as it could be on multiple levels and the City could lose much of what was in the current ordinance. A judge could encompass everything and anything as the City was not in control. The third option was to repeal the ordinance. Adam Briggles and the attorney for DAG recommended repealing the ordinance. For now HB40 was the law of the land so the City was compromised on what options were available.

Council Member Briggs felt another option was writing another ordinance; to possibly totally rewrite the current ordinance due to HB 40.

Mayor Watts stated that he did not want to be constrained by a sense of urgency. He was uncomfortable bringing the item back in two weeks to have the same discussion all over again. He felt it was necessary to create a strategy, communicate that strategy and be comfortable with that strategy. The passage of time might hurt Denton and he was not sure if the course of action had been defined. He was in favor of taking time to work out the issue and think the process through.

Council Member Briggs motioned to table the item to the June 16th meeting. Mayor Pro Tem Gregory seconded the motion.

City Attorney Burgess noted that if no action were taken and no motion to postpone, the item would fail unless the Agenda Committee put it back on a future agenda.

Council Member Johnson stated that if the item were voted on at this meeting and did not pass, the item would not be continued. It would then give time to flush out needed ideas and when the time was right repost it to an agenda.

Council Member Hawkins stated that he did not know the ultimate goal and agreed that it might be best to deny the motion at this meeting. That would provide time to continue to collect data, look at the legal ramifications and assess it when ready.

City Attorney Burgess stated that if Council took no action, the proposal would fail. Another option to consider if the Council did not want to take action was to continue it.

Council Member Wazny stated that she was in favor of having the motion withdrawn and have the proposal not voted on.

Mayor Watts stated that to continue this item to June 16th was mute as in two weeks Council would be looking for different options. If it was continued there would be the same options as presented at this meeting.

Mayor Pro Tem Gregory stated that the option to explore a different ordinance might find that it had flaws and a posting to repeal the ordinance might be necessary.

Council Member Roden stated that an issue from the community was that it was posted Thursday at 5 p.m. which provided only a short time to get engaged in the issue. This would act as a place holder to avoid any posting that might be different and would provide a level of predictability

Council Member Hawkins questioned what would happen if Council was not ready to act on June 16th and if it would then be continued again.

Council Member Briggs asked about a change in wording.

City Attorney Burgess stated that if the item were continued, it would have the same wording. If the item failed it would not be continued and then Council could change the wording as listed.

Council Member Briggs withdrew her motion to continue. Mayor Pro Tem Gregory withdrew his second.

Mayor Watts called for a motion on the item. Hearing no motion, the item failed.

7. PUBLIC HEARINGS

Ordinance No. 2015-165

- A. SD13-0003 Hold a public hearing and consider a Special Sign District for the Golden Triangle Mall. The approximately 69.83-acre subject property is generally located in the area bound by South I-35E to the south, San Jacinto Boulevard to the west, Colorado Boulevard to the north, and South Loop 288 to the east and is located within a Regional Center Commercial Downtown (RCC-D) zoning district. The Planning and Zoning Commission recommends approval (7-0), with conditions.

Aimee Bissett, Interim Director of Planning and Development, stated that this was consideration of a special sign district for the Golden Triangle Mall. She showed the location map and indicated that El Fenix, AT&T and Chase Bank were not included in the district. The sign code was reviewed regarding signs. As written today the Mall could have up to twenty signs. The Special Sign District request was for a package that had a theme consistent with the recent facade upgrades and allowed for a sign of greater height and size in exchange for fewer overall ground signs on the property. The proposal was for six new directional signs and six new entrance signs plus two new multitenant signs. There would be an entry marker by El Fenix. The proposal met the criteria for approval. The Planning and Zoning Commission recommended approval.

The Mayor opened the public hearing.

Jim Greenfield, representing the Mall, presented information on the sign district.

Mayor Watts noted that Comment Cards had been received from David Stautz and Matt Lindemann in support.

The Mayor closed the public hearing.

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

Ordinance No. 2015-166

- B. Z15-0004 Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, regarding a change in the zoning classification from Regional Center Residential 2 (RCR-2) zoning district and use classification to a Regional Center Commercial Neighborhood (RCC-N) zoning district and use classification on approximately 5.99 acres of land generally located on the west side of I-35 E, approximately 730 feet south of Lillian B. Miller Parkway in the City of Denton, Denton County, Texas; adopting an amendment to the City's official zoning map;

providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; providing a severability clause and an effective date. (Z15-0004). The Planning and Zoning Commission recommended approval of this request (7-0).

Aimee Bissett, Interim Director of Planning and Development, stated that this was a zoning case for the Southridge Village Shopping Center. She reviewed the location map, zoning map, proposed and existing zoning, and future land use. The proposal was to allow for indoor recreational uses with two potential uses as a fitness center and indoor trampoline park. The criteria for approval which the proposal met and the notification map were reviewed. The Planning and Zoning Commission and staff recommended approval.

The Mayor opened the public hearing.

No one spoke during the public hearing.

The Mayor closed the public hearing.

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

Ordinance No. 2015-167

- C. S15-0003 Hold a public hearing and consider adoption of an ordinance of the City of Denton repealing Ordinance 2013-328 and approving a Specific Use Permit (SUP) to allow a Basic Utility, a DME electric substation, on approximately 7.334 acres of land within a Neighborhood Residential Mixed Use (NRMU) and Neighborhood Residential Mixed Use 12 (NRMU-12) zoning district classification and use designation, located on the south side of East McKinney Street, approximately 1,300 feet east of Mack Drive and 450 west of Springtree Street. The Planning and Zoning Commission recommends approval (7-0), subject to conditions.

Aimee Bissett, Interim Director of Planning and Development, stated that the Specific Use Permit would allow for a DME electric substation at the location. She reviewed the location map, zoning map, background for the property, as well as the site plan. The Planning and Zoning Commission recommended approval with the condition that a perimeter masonry security wall be constructed with a minimum height of ten feet.

The Mayor opened the public hearing.

No one spoke during the public hearing.

The Mayor closed the public hearing.

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

"aye", Council Member Briggs "aye", Council Member Wazny "aye", Council Member Roden "aye", and Council Member Hawkins "aye". Motion carried unanimously.

Ordinance No. 2015-168

- D. Z15-0003 Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, regarding a change in the zoning classification from a Regional Center Commercial Downtown (RCC-D) zoning district and use classification to an Employment Center Industrial (EC-I) zoning district and use classification on approximately 6.46 acres of land generally located on the Southeast Corner of Worthington Drive and Schuyler Street in the City of Denton, Denton County, Texas; adopting an amendment to the City's official zoning map; providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; providing a severability clause and an effective date. (Z15-0003) The Planning and Zoning Commission recommended approval of this request (7-0).

Aimee Bissett, Interim Director of Planning and Development, stated that this proposal was for a medical center addition. She reviewed the location map, future land use map, proposed zoning map, site photos, criteria for approval, and notification map. The Planning and Zoning Commission and staff recommended approval.

The Mayor opened the public hearing.

No one spoke during the public hearing.

The Mayor closed the public hearing.

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

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.

There were no items suggested by Council.

B. Possible Continuation of Closed Meeting of Closed Meeting topics, above posted

There was no continuation of the Closed Meeting.

With no further business, the meeting was adjourned at 1:00 a.m.

CHRIS WATTS
MAYOR
CITY OF DENTON, TEXAS

JENNIFER WALTERS
CITY SECRETARY
CITY OF DENTON, TEXAS